



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Written Testimony Only in SUPPORT of S.B. 1244, SD1
RELATING TO THE SALE OF TOBACCO PRODUCTS**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: February 26, 2019

Room Number: 016

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health is in STRONG SUPPORT of Senate Bill
3 1244, Senate Draft 1 (S.B. 1244, SD1) that clearly establishes the legal responsibility of the
4 retailer who sells tobacco products and the liability incurred when illegal tobacco sales are made
5 to anyone under twenty-one years of age.

6 S.B. 1244, SD1 removes the ambiguity of simply referring to a “person” rather than
7 specifying the retailer, permittee, or registrant who violates, or whose employee violates the law
8 by illegally selling to someone under twenty-one years of age, or fails to display the legally
9 required signage. The fine remains at \$500 for the first offense and any subsequent offenses
10 shall subject the retailer or permittee to a fine not less than \$500 nor more than \$2,000.

11 The focus of fines on the retailer/permittee/registrant provides a greater incentive to
12 comply with tobacco sales laws by holding the licensees responsible for the actions of their
13 employees, and employee training and education. Precedent for this clarification to the proposed
14 amendment to §712-1258, Hawaii Revised Statutes (HRS) is in §712-1250.5(1), HRS, where the
15 person, including any licensee is identified in committing the offense of promoting intoxicating
16 liquor to a person under the age of twenty-one. The Honolulu Liquor Commission (HLC) takes
17 civil action against a licensee as defined in §281-1, HRS, as “all agents, servants, and employees
18 of the holder of a license.” The State Legislative Actions on Tobacco Issues (SLATI) database
19 in the Institute of Medicine Report summarizes information on states that have passed laws

1 requiring that tobacco retailers and permittees are penalized for illegal tobacco sales. Four states
2 have penalties for the employee or person that violates the law, eleven states penalize the
3 licensee, and seven states provide penalties for both the employee and the licensee.¹ The
4 proposed change also aligns with the U.S. Food and Drug Administration that addresses warning
5 letters on inspection violations, corrective action, and possible regulatory action to the retailers,
6 not employees.

7 Thank you for the opportunity to provide testimony.

8 **Offered Amendments:** None

¹ IOM (Institute of Medicine). 2015. *Public health implications of raising the minimum age of legal access to tobacco products*. Washington, DC: The National Academies Press



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 26, 2019**

Re: SB 1244 SD1 Relating to the Sale of Tobacco Products

Good morning Chairperson Rhoads and members of the Senate Committee on Judiciary. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) as founded in 1901 and is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

While we recognize the intent of this measure we are still OPPOSE SB 1244 SD1 Relating to the Sale of Tobacco Products. This measure would clarify that liability for illegally selling tobacco products to persons under 21 is borne by the retail entity or individual who holds a valid permit to sell tobacco products, as opposed to an employee.

The majority of the employer who sell tobacco and vape products have ongoing training for their employees that includes NOT selling these products to those under 21 years of age, but also carding people to verify their age.

To some extent, the employee needs to also be responsible not just make a sale but to card the customer and ensure that they are indeed 21 years of age or older. We recognize that there are some very realistic fake ID cards that may even stump someone with a vigilant eye.

The legitimate law abiding retailers are not the ones intentionally selling the cigarettes and the vaping devices to those who are under 21 years of age. Many of who are underage are obtaining their cigarettes and vaping devices from their parents or older friends or purchasing them on the black market. We have seen a significant spike in theft and tobacco products are a favorite to be stolen. Those selling the stolen goods do not card to see how old someone is.

We urge you to hold this measure. Mahalo for this opportunity to testify.

February 26, 2019

RE: **Support of SB1244 SD1** Relating to Tobacco

Aloha Chairs Rhoads and Dela Cruz, and Members of the Committees:

Blue Zones Project–Hawaii supports SB1244 SD1, shifting the responsibility from an individual person to the retailer or permittee who or whose employee violates the Tobacco 21 laws will incur the fine. This shift of responsibility will create the need for employees to receive education and direction on our state law, and it will ensure retailers keep closer oversight of the sale activities in their stores.

This change puts the majority of the responsibility on the entity with the greater power to ensure our Tobacco 21 laws are being upheld at the point of sale. To provoke meaningful change, it is necessary to leverage the places that have the broader scale effect.

Mahalo for this opportunity to testify in support of SB1244 SD1. It is one more way to make sure we are protecting our youth from the adverse effects of tobacco.

Sincerely,

Peggy Mierzwa

Peggy Mierzwa
Blue Zones Project—Hawaii

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Testimony in **strong support of SB1244, SD1**

Senate Joint Committee on Judiciary & Committee on Ways & Means

Decision-Making scheduled Tuesday, February 26, 2019 @ 9:00am

February 24, 2019

To: Senate Committee on Judiciary

Senator Karl Rhoads, Chair, Senator Glenn Wakai, Vice Chair

By: Valerie Chang, JD, Executive Director

Hawaii COPD Coalition, www.hawaiicopd.org, copd.hawaii@yahoo.com

700 Richards Street, Suite 2410, Honolulu, HI 96813; (808)699-9839

Re: **Supporting SB1244, SD1: Relating to Sale of Tobacco Products**

Dear Chair Rhoads, Vice Chair Wakai and Members of the Committee:

My name is Valerie Chang. I am Executive Director of the Hawaii COPD Coalition. Our organization provides services and support to Hawaii's people affected by Chronic Obstructive Pulmonary Disease (COPD), more commonly known as emphysema, chronic bronchitis and similar conditions. **We strongly support SB1244, SD1 relating to sale of tobacco products.**

COPD has risen to the third leading cause of death in the US and is also the second leading cause of disability in the US; many COPD patients have multiple chronic health conditions and out of pocket expenses for these medications can be HUGE. The 2011 data reported by the Hawaii Department of health estimates that over 46,015 (or 4.4%) of Hawaii adults have been diagnosed with COPD; likely an equal or greater number remain undiagnosed. The report also estimates over \$55.9 million each year in Hawaii hospitalizations due to COPD. It is estimated that 32 million people in the United States suffer from COPD, with at least half of them not yet diagnosed.

Thank you for this bill to make it clear that the responsibility and liability of selling tobacco products illegally to underage youth rests with the employer or retail establishment rather than the employee. This will make it clearer for enforcement of this very important law. This will make the law consistent with the sale of other substances that are restricted by age, such as alcohol.

The recent study is one of the FIRST study to show an independent association of e-cigarette use with chronic respiratory disorders and it's a Hawaii study. The citation is <https://www.ncbi.nlm.nih.gov/pubmed/30472577> Drug Alcohol Depend. 2019 Jan 1;194:363-370. doi: 10.1016/j.drugalcdep.2018.10.004. Epub 2018 Nov 7, E-cigarette use and respiratory disorder in an adult sample. [Wills TA](#)¹, [Pagano I](#)², [Williams RJ](#)³, [Tam EK](#)⁴.

Accordingly, on behalf of the Hawaii COPD Coalition, we are proud to urge the passage of SB1244, SD1, which will allow our state to properly regulate electronic smoking products and keep unlawful e-liquid products from being shipped into our state. **Please vote to pass SB1244, SD1!**



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Date: February 24, 2019

To: Senator Karl Rhoads, Chair
Senator Glenn Wakai, Vice Chair
Members of Judiciary Committee

Re: Support for SB1244 SD1, Relating to Tobacco Taxes

Hrg: February 26, 2019 at 9:00am at Conference Room 016

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **Support of SB1244 SD1** which clarifies that liability for illegally selling tobacco products to persons under 21 is borne by the retail entity rather than the employee.

The Coalition supports SB1244 SD1, shifting the responsibility from an individual employee to the retailer or permittee who or whose employees to receive education and direction on our state law, and it will ensure retailers keep closer oversight of the sale activities in their stores. This change places majority of the responsibility on the entity with the power to ensure compliance with Hawaii's Tobacco 21 law.

Thank you for the opportunity to testify. We support SB1244 SD1 and respectfully ask you to pass this measure out of committee.

Mahalo,

A handwritten signature in black ink that reads 'Jessica Yamauchi'.

Jessica Yamauchi, MA
Executive Director

ⁱThe Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) that is dedicated to reducing tobacco use through education, policy, and advocacy. With more than two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including being the first state in the nation to prohibit the sale of tobacco and electronic smoking devices to purchasers under 21 years of age.

The Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

SB-1244-SD-1

Submitted on: 2/25/2019 3:58:04 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Testifying for Hawaii Smokers Alliance	Oppose	No

Comments:

We oppose this bill unless it would make regulations milder and more reasonable.

Date: February 22, 2019

To: The Honorable Karl Rhoads, Chair
The Honorable Glenn Wakai, Vice Chair
Members of the Senate Committee on Judiciary

Re: **Strong Support of SB1244 SD1**, Relating to the Sale of Tobacco Products

Hrg: February 26, 2019 at 9:00 AM in Capitol Room 016

Aloha Senate Committee on Judiciary,

I am writing in **strong support of SB1244 SD1**, which clarifies that liability for illegally selling tobacco products to persons under 21 is borne by the retail entity or individual who holds a valid permit to sell tobacco products, as opposed to an employee.

Responsible tobacco retailers who follow the age rules for tobacco sales are put at a great disadvantage by retail establishments in which tobacco products are sold to underage purchasers.

By shifting responsibility from sales employees to the retail entity or permit holder, SB1244 SD1 provides meaningful incentive for tobacco retailers to effectively train and guide employees in lawful tobacco sales policies and procedures, and, uphold the minimum age of purchase requirement throughout the community.

By increasing tobacco retailer responsibility, SB1244 SD1 reduces youth access to tobacco products, helps prevent our youth from using and becoming addicted to nicotine, and as a result, avoid the long-term health harms of tobacco.

I **strongly support SB1244 SD1** and respectfully ask you to pass this bill out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Kea'au, HI

SB-1244-SD-1

Submitted on: 2/23/2019 10:31:27 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Santiago	Individual	Oppose	No

Comments:

SB-1244-SD-1

Submitted on: 2/24/2019 10:15:48 AM

Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jason Park	Individual	Oppose	No

Comments:

SB-1244-SD-1

Submitted on: 2/24/2019 5:44:46 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Wells	Individual	Oppose	No

Comments:

SB-1244-SD-1

Submitted on: 2/24/2019 6:18:14 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael S. Nakasone	Individual	Oppose	No

Comments:

SB-1244-SD-1

Submitted on: 2/24/2019 8:03:07 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicholas Winters	Individual	Oppose	No

Comments:

SB-1244-SD-1

Submitted on: 2/24/2019 10:47:18 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kirstin Kahaloa	Individual	Support	No

Comments:

LATE

SB-1244-SD-1

Submitted on: 2/25/2019 10:32:58 AM

Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Laksmi M Abraham	Individual	Support	No

Comments:

SB-1244-SD-1

Submitted on: 2/25/2019 11:34:51 AM

Testimony for JDC on 2/26/2019 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Patterson	Individual	Oppose	No

Comments:

SB-1244-SD-1

Submitted on: 2/25/2019 12:02:15 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Chris C.K. Arakaki	Individual	Oppose	No

Comments:

LATE

SB-1244-SD-1

Submitted on: 2/25/2019 12:46:57 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Johnathon G. Myers	Individual	Oppose	No

Comments:

SB-1244-SD-1

Submitted on: 2/25/2019 2:55:37 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Lani Hernandez	Individual	Oppose	No

Comments:

SB-1244-SD-1

Submitted on: 2/25/2019 6:52:33 PM

Testimony for JDC on 2/26/2019 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
April Pacheco	Individual	Oppose	No

Comments:

LATE

SB-1244-SD-1

Submitted on: 2/25/2019 9:31:53 PM
Testimony for JDC on 2/26/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kimo Cruz	Individual	Oppose	No

Comments: