

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on H.B. 598, H.D. 1
RELATING TO TOBACCO PRODUCTS**

REPRESENTATIVE AARON LING JOHANSON, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Hearing Date: 2/17/2021

Room Number: Videoconference

1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of Taxation
2 (DOTAX) for fiscal implications of implementation and to the Department of the Attorney
3 General (AG) for fiscal implications for enforcement.

4 **Department Testimony:** The DOH offers comments and recommends an amendment, for
5 House Bill 598, House Draft 1 (H.B. 598, H.D. 1). The bill proposes to prohibit online sales
6 through the offense of unlawful shipment of tobacco products, providing for sustainable
7 licensing and permitting, dedicating specific funds for youth prevention and education programs,
8 and eliminating delivery sales of tobacco products.

9 The DOH recommends that language in this measure provide for the definition of
10 “tobacco products” to include electronic smoking devices (ESDs) to provide the necessary
11 regulatory authority to protect consumers and create parity between other tobacco products and
12 ESDs.

13 ESDs have become the most commonly used tobacco product among youth in Hawaii.
14 High school youth experimentation with ESDs grew from 22% in 2015 to 48% in 2019. In 2015,
15 over one in four (25.5%) high school students reported being current users, and today it is almost
16 one in three (30.6%).¹

¹ National Youth Risk Behavior Survey, Hawaii and the United States (2019).

1 Hawaii does not regulate ESDs through licensing, permitting, nor taxation and ESDs are
2 currently not taxed like other tobacco products and often can be purchased at lower prices than
3 cigarettes. According to the U.S. Surgeon General, increasing the price of tobacco products is
4 the single most effective way to reduce consumption.² According to an economic study by the
5 University of Illinois, increasing the price of ESDs by 10% has been shown to lead to a 10% to
6 18% reduction in the demand and consumption of ESDs – a higher price elasticity compared to
7 combustible cigarettes. Increasing the price of tobacco products has the greatest impact on
8 youth, who are particularly price sensitive.³ Further, the imposition of an excise tax equal to
9 70% of the wholesale price of each ESD will be consistent and provide parity with the tax on
10 other tobacco products.

11 Requiring licensure and retail permitting under the DOTAX would bring ESD and
12 vendors in alignment with the traditional tobacco retailers and would provide accurate data for
13 compliance surveillance. As of 2020, 31 states, the District of Columbia, the Northern Mariana
14 Islands, and the U.S. Virgin Islands required retailers to have a license to sell ESDs.⁴ Tobacco
15 licensing is an effective tool for limiting the negative public health consequences of tobacco use
16 by ensuring that wholesalers and retailers comply with responsible sales practices. Increasing
17 the licensure and permitting fees, which have remained unchanged since 1995, despite high
18 tobacco taxes and ever-increasing tobacco industry expenditures in marketing and advertising,
19 would be a further positive move.

20 By preventing the inclusion of ESDs in the definition of “tobacco products” in §245,
21 Hawaii Revised Statutes (HRS), and not attaching a specific ESD tax, there is no clear vehicle to
22 impose a tax on ESDs nor to require licensing and permitting by wholesalers and retailers of

² U.S. Department of Health and Human Services. [Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General](#). Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012 [accessed 2018 Jan 22].

³ Chaloupka, F. Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products, 1 *Nicotine & Tobacco Research* S105 (Supp. 1 1999).

⁴ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, STATE System Licensure Fact Sheet, <https://www.cdc.gov/statesystem/ecigarette.html>

1 ESDs. The intent to provide regulatory authority and to create tax parity between other tobacco
2 products and ESDs has been eliminated.

3 The DOH offers an amendment to Chapter 245, HRS, to restore the original language of
4 H.B. 598 with the definition of “tobacco products” to include ESDs, any component/part/
5 accessory, and any substance used in their consumption as used in the cigarette tax and tobacco
6 tax law.

7 Thank you for the opportunity to testify on this measure.

8 **Offered Amendment:**

9 Section 3, page 8, line 8, add the following:

10 SECTION 3. Section 245-1, Hawaii Revised Statutes is amended as follows:

11 2. By amending the definition of “tobacco products” to read:

- 12 • “Tobacco products” means ~~[tobacco in any form,]~~ any product, other than cigarettes or
13 little cigars, that is ~~[prepared or intended for consumption or for personal use by humans,~~
14 ~~including large cigars and any substitutes thereof other than cigarettes that bear the~~
15 ~~semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe~~
16 ~~tobacco.]~~ made from or derived from tobacco, or that contains nicotine, that is intended
17 for human consumption or is likely to be consumed, whether smoked, heated, chewed,
18 absorbed, dissolved, inhaled or ingested by any other means, including but not limited to
19 a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. “Tobacco products”
20 also means electronic smoking devices and any component or accessory used in the
21 consumption of a tobacco product, such as filters, rolling papers, pipes, e-liquid, and any
22 other substances used in electronic smoking devices, whether or not they contain
23 nicotine. “Tobacco products” does not include drugs, devices, or combination products
24 authorized for sale by the U.S. Food and Drug Administration, as those terms are defined
25 in title 21 United States Code chapter 9.”

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Henry Aaron Ling Johanson, Chair;
The Honorable Lisa Kitagawa, Vice Chair;
and Members of the House Committee on Consumer Protection & Commerce

From: Isaac W. Choy, Director
Department of Taxation

Date: February 17, 2021
Time: 2:00 P.M.
Place: Via Video Conference, State Capitol

Re: H.B. 598, H.D. 1, Relating to Tobacco Products

The Department of Taxation (Department) offers the following comments regarding H.B. 598, H.D. 1, for your consideration.

H.B. 598, H.D. 1, makes numerous amendments to chapter 245, Hawaii Revised Statutes, including creating a new offense for unlawful shipment of tobacco products, repealing a related section dealing with delivery sales of tobacco products, raising tobacco wholesaler license and retailer permit fees, requiring retailers to specify whether they sell electronic smoking devices, modifying tobacco tax allocation, and repealing the Electronic Smoking Device Retailer Registration Unit. The bill has a defective effective date of July 1, 2050.

The Department notes that this measure adds a definition of “electronic smoking device” to chapter 245, HRS, but does not actually tax those devices. As currently written, this measure requires retailers and wholesalers of tobacco products to specify whether they sell electronic smoking devices when applying for a retail permit. Because this requirement only applies on applications, taxpayers with existing retail permits would not be required to notify the Department that they are selling electronic smoking devices. The Department suggests specifying that this requirement apply to applications and renewals of retail tobacco permits. In addition, as a general matter, the Department notes that it is not appropriate to require registration under chapter 245, HRS, if the taxpayer is not subject to that tax.

Finally, the Department appreciates the increased wholesaler/dealer license fees and retail permit fees in sections 245-2 and 245-2.5, HRS, respectively. In most cases, the current fee amount does not cover the cost to the State to issue the license or permit.

Thank you for the opportunity to provide comments.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

H.B. NO. 598, H.D. 1, RELATING TO TOBACCO PRODUCTS.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Wednesday, February 17, 2021 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Delanie Prescott-Tate,
Deputy Attorney General, at 586-1189)

Chair Johanson and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The purposes of this bill are to (1) establish the offense of unlawful shipment of tobacco products; (2) raise the fees for obtaining a tobacco wholesaler/dealer license and a retail tobacco permit; (3) allocate a portion of the excise tax on tobacco products to health education and prevention programs for youth on the dangers of using electronic smoking devices; and, (4) repeal certain provisions of the Hawaii Revised Statutes (HRS) relating to electronic smoking devices.

Section 2 of the bill essentially adopts the wording of section 245-16, HRS, which sets forth the offense of unlawful shipment of cigarettes. The bill replaces the term "cigarettes" with "tobacco products" to create a new offense. On page 2 of the committee report, the Committee on Transportation noted that the measure was amended by removing the definition of "tobacco products" that would have taxed electronic smoking devices and substances used in electronic smoking devices for purposes of the cigarette tax and tobacco tax law. The current definition of "tobacco products" set forth in section 245-1, HRS, which does not include electronic smoking devices or e-liquid, would therefore apply to the new offense. "Tobacco products" is currently defined in section 245-1, HRS, as "tobacco in any form, other than cigarettes or little cigars, that is prepared or intended for consumption or for personal use by

humans, including large cigars and any substitutes thereof other than cigarettes that bear the semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe tobacco."

For clarity and consistency, the newly proposed offense of unlawful shipment of tobacco products should track the text of section 245-16, HRS, and use the same wording throughout the new offense. Specifically, on page 5, lines 19 and 20, the term "person" in subsection (a) should be replaced with the phrase "person or entity" so that subsection (a) reads as follows:

(a) A person or entity commits the offense of unlawful shipment of tobacco products if the person or entity: . . .

Similarly, the term "person" on page 7, line 1, should be changed, so that subsection (e) reads as follows:

(e) For the purposes of this section, a person or entity is a

Use of the phrase "person or entity" in subsection (a) and (e) provides consistency with subsections (a)(2), (c), (d), and (f) of the bill. The terms "person" and "entity" are already defined in section 245-1, HRS.

It should be noted that subsection (b)(1) on page 6, lines 8 to 11, exempts tobacco products "from the applicability of this chapter as provided by section 245-62[.]" Section 245-62, HRS, applies to cigarettes, not tobacco products. The reference to section 245-62, HRS, could be stricken, or section 245-62, HRS, could be amended to include tobacco products. The Department recommends that reference to section 245-62, HRS, be stricken from the new offense.

Additionally, the definition of "electronic smoking device" on page 7, line 16, through page 8, line 7, makes reference to "aerosolized or vaporized nicotine" and a "substance intended to be aerosolized or vaporized during the use of the device" but not e-liquid. The Department suggests that the phrase "or any other substance" be added to page 7, line 17, following the word nicotine, and the phrase "e-liquid or any other substance" be added to page 8, line 1, before the word "substance" so the definition starting on page 7, line 16, reads as follows:

"Electronic smoking device" means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device, including but not limited to an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. "Electronic smoking device" includes any component, part, or accessory of such device, whether or not sold separately, and includes e-liquid or any other substance intended to be aerosolized or vaporized during the use of the device. . . . "

For clarity, a definition of "e-liquid" should be added as a definition to section 245-1, HRS. The following definition of "e-liquid" could be inserted in section 3, starting on page 7, line 13, as follows:

Section 245-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read:

""Electronic smoking device" means . . .

"E-liquid" means any liquid or like substance, which may or may not contain nicotine, that is designed or intended to be used in an electronic smoking device, whether or not packaged in a cartridge or other container. "E-liquid" shall not include prescription drugs; medical cannabis or manufactured cannabis products pursuant to chapter 329D; or medical devices used to aerosolize, inhale, or ingest prescription drugs, including manufactured cannabis products manufactured or distributed in accordance with section 329D-10(a)."

Expanding the definition of "electronic smoking device" to include "other substances" and "e-liquid" adds clarity to the definition and would take into account that not all aerosolized or vaporized substances used in electronic smoking devices contain nicotine.

Finally, based upon this bill's goal of subjecting electronic smoking devices and e-liquids to regulation under chapter 245, HRS, a function already within the purview of the Department of Taxation, this bill would render the Electronic Smoking Device Retailer Registration Unit, created by 28-163, HRS, unnecessary. As such, this bill repeals part XII of chapter 28, HRS. See section 8, page 16, lines 7 to 8. Including

electronic smoking devices and e-liquids within the same regulatory framework as other tobacco products would conserve resources and make the regulation of electronic smoking devices and e-liquids a more efficient process for retailers and the State. However, since the current bill removes the definition of "tobacco products" that would have taxed electronic smoking devices and substances used in electronic smoking devices for purposes of the cigarette tax and tobacco tax law, the Department recommends that the definition be added back in. The Department supports the repeal of part XII of chapter 28, HRS.

Thank you for the opportunity to provide comments.



HB598 HD1 Tobacco Shipping and Taxes

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE:

- Rep Aaron Johanson, Chair; Rep. Lisa Kitagawa, Vice Chair
- Wednesday, Feb. 17, 2021: 2:00 pm: Videoconference

Hawaii Substance Abuse Coalition Supports HB598 HD1:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

Funding for Prevention is needed to address the major concern for the health of our children:

- Given the Surgeon General's warning about the dangers of vaping, especially by the historic rise in its use by youth, allocating taxes to fund a youth prevention campaign is paramount.
- The danger to children is a growing major public health concern.
- Excise taxes and the continuing increase in taxes has proven to help people quit or sustain cessation.

We appreciate the opportunity to provide testimony and are available for questions.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TOBACCO, Include electronic smoking devices, hike fees

BILL NUMBER: HB 598, HD1

INTRODUCED BY: House Committee on Transportation

EXECUTIVE SUMMARY: Establishes the offense of unlawful shipment of tobacco products. Increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products. Increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products. Allocates a portion of funds collected from excise taxes on tobacco products to health education and prevention programs concerning the risks and dangers of the use of electronic smoking devices for youth. Repeals certain provisions of the Hawaii Revised Statutes relating to electronic smoking devices. Effective 7/1/2050.

SYNOPSIS: Adds a new section to chapter 245, HRS, to establish the offense of unlawful shipment of tobacco products.

Amends section 245-1, HRS, to define "electronic smoking device" as any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including but not limited to an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. "Electronic smoking device" includes any component, part, or accessory of such device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. "Electronic smoking device" does not include any battery or battery charger when sold separately. In addition, "electronic smoking device" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in title 21 United States Code chapter 9.

Amends section 245-2, HRS, to raise the annual fee for a tobacco license from \$2.50 to \$250.00.

Amends section 245-2.5, HRS, to raise the annual fee for a retail tobacco permit from \$20.00 to \$300.00.

Amends section 245-15, HRS, to earmark \$750,000 annually to the Hawaii tobacco prevention and control trust fund (section 328L-5, HRS) to support health education and prevention programs concerning the risks and danger of the use of electronic smoking devices for youth.

Repeals part XII of chapter 28, HRS (sections 28-161 through 28-168), relating to Electronic Smoking Device Retailer Registration Unit.

Repeals section 245-17, HRS, relating to delivery sales.

Makes technical and conforming amendments.

EFFECTIVE DATE: 7/1/2050.

STAFF COMMENTS: The question that should be asked is the purpose of the tobacco tax. If the goal is to make people stop smoking by making it cost-prohibitive to smoke, then (a) it's working, as hikes in the cigarette tax have begun to exert downward pressure on collections not only locally but also nationally, but (b) it shouldn't be expected to raise revenue, because of (a). If the goal is really to stop the behavior, why are we not banning it?

As the Foundation's previous President, Lowell Kalapa, wrote in the Tax Foundation of Hawaii's weekly commentary on October 28, 2012:

Lawmakers seem to have a simplistic reaction to solving problems the solution to which plagues their constituents – tax it.

Probably the best example is what people like to call sin taxes, those excise taxes that are levied on tobacco and alcohol products. After all, smoking causes cancer and alcohol causes all sorts of problems including driving under the influence. Lawmakers and community advocates shake their heads and push for higher tax rates, arguing that making these products more expensive will deter folks from using these products.

The problem is that lawmakers also like the revenues that are generated from the sales of these products and, in some cases, they have tried to link the use and sale of these products with noble causes such as the funding of the Cancer Research Center that is currently being built. Again, the argument is that smokers should pay for programs and projects which seek to cure the related ill which in this case is cancer caused by smoking.

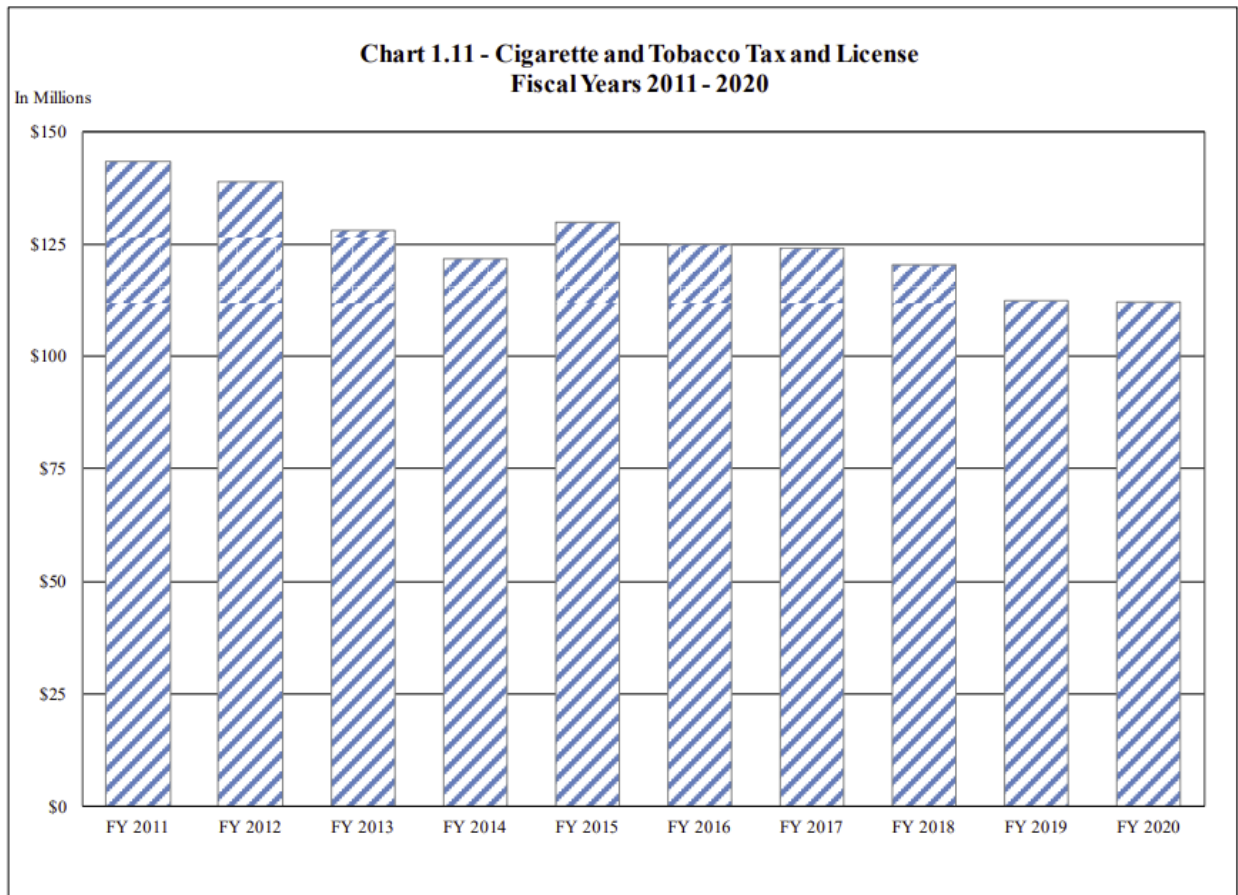
The irony is that arguments to increase the tax on tobacco and, more specifically, cigarettes, is a goal of getting smokers to quit while depending on the revenues from tobacco and cigarette taxes to fund an ongoing program, in this case the Cancer Research Center. So, which is it folks, stop smokers from smoking and if successful, there won't be any revenues to fund the Cancer Research Center?

The fact of the matter is that it appears that both locally and nationally, higher taxes on cigarettes are influencing smokers as tax collections on the sale of cigarettes have fallen. Certainly some of the decline is due to smokers actually quitting, but to some degree one has to suspect that some purchases were made via mail order from exempt Indian reservation outlets while others may be what is called gray market purchases, that is from sources outside the country.

What should come as a surprise is that most of the folks who have quit are of some means as they are more likely to recognize the health hazard caused by use of this product. That means most of those who are still smoking are among the lower-income members of our community. Thus, the tax is regressive, generating less and less collections from middle and higher-income individuals.

As predicted, programs that have been fed by earmarks from the tobacco tax, like the Cancer Research Center, have become a victim of the success of tobacco cessation programs and publicity. Revenues produced by the tobacco tax have been in steady decline over the past few

years despite tax rate increases, and hoisting the smoking age to 21 in the 2015 session certainly didn't reverse the trend.



Source: Department of Taxation Annual Report (2019-2020), page 23.

Fiscal reliance on funds from a sin tax is inadvisable, perhaps outright dangerous. If the goal is to affect social behavior, use of the tax law is not the most effective way to do so.

Digested 2/14/2021



1050 Bishop St. PMB 235 | Honolulu, HI 96813
P: 808-533-1292 | e: info@hawaiiifood.com

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Toby Taniguchi, KTA Superstores, *Advisor*

TO:

TO:

Committee on Consumer Protection and Commerce
Rep. Aaron Ling Johanson, Chair
Rep. Lisa Kitagawa, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 17, 2021
TIME: 2pm
PLACE: Via Videoconference

RE: HB598 HD1 Relating to Tobacco Products

Position: Comments

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

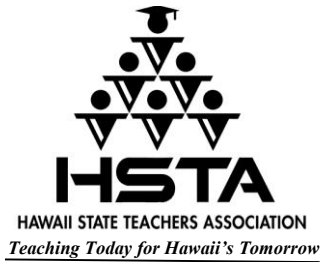
HFIA supports portions of this bill that seek to regulate the shipping of electronic smoking devices and e-liquid. Data¹ shows that the majority of underage people who use electronic smoking devices buy them online or get them from their friends. A relatively small percentage purchase them in stores that sell tobacco products since these businesses already have established and enforced age restriction in place. Regulating the shipping of these products is a common-sense way to keep them out of the hands of young people.

We oppose the section of this bill that seek to increase fees on retail tobacco licenses and permits. This measure would increase the license fee for tobacco by 10,000%, which is excessive and unnecessary.

Hawaii has the second highest tobacco taxes of any state. By attempting to increase license and permit fees, this bill unfairly and misguidedly targets retailers and wholesalers rather than tobacco users.

¹ <https://www.cnn.com/2019/07/03/commentary-convenience-stores-say-teen-vaping-to-worsen-in-fda-plan.html>

There is no nexus between license fees and smoking cessation. Retailer license fees exist to pay for the licensing process and enforcement; these fees were not created to fund other programs. Using licensing fees to fund programs for which they were not intended creates a situation where fees are likely to rise unpredictably, this impedes retailers' ability to budget and creates unnecessary financial and administrative burdens. We thank you for the opportunity to testify.



Corey Rosenlee
President

Osa Tui, Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON CONSUMER
PROTECTION & COMMERCE

RE: HB 598, HD1 - RELATING TO TOBACCO PRODUCTS

WEDNESDAY, FEBRUARY 17, 2021

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Johanson and Members of the Committee:

The Hawaii State Teachers Association **supports HB 598, HD1**, relating to tobacco products, **with suggested amendment, to restore this bill to original language of HB598** to require licensing/permitting for electronic smoking device wholesalers and retailers **and create tax parity between electronic smoking devices and other tobacco products (70% of wholesale price).**

Currently this bill establishes the offense of unlawful shipment of tobacco products. Increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products. Increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products. Allocates a portion of funds collected from excise taxes on tobacco products to health education and prevention programs concerning the risks and dangers of the use of electronic smoking devices for youth. Repeals certain provisions of the Hawaii Revised Statutes relating to electronic smoking devices. Effective 7/1/2050. (HD1)

The Hawaii State Teachers Association supports not only taxing vaping products in the same way that other tobacco products are taxed and regulated, but we also support an amendment to ban flavored vaping products as well.

In September 2009, the FDA banned flavored cigarettes. The ban was intended to end the sale of tobacco products with chocolate, vanilla, clove and other flavorings that lure children and teenagers into smoking. According to Dr. Margaret A. Hamburg, commissioner of food and drugs for the FDA

from 2009 – 2015 “flavored cigarettes are a gateway for many children and young adults to become regular smokers.” **Nevertheless, here we are in 2021 with a proliferation of flavored tobacco in the form of e-liquids luring our children into becoming lifelong and habitual nicotine users.**

The use of e-smoking products among youth is at epidemic levels. According to data from the Centers for Disease Control and Prevention and the Food and Drug Administration’s National Youth Tobacco Survey, **the percentage of high school-age children reporting past 30-day use of e-cigarettes rose by more than 75 percent between 2017 and 2018. Use among middle school-age children also increased nearly 50 percent.** Furthermore, 1 in 5 high school students reported using e-cigarettes in the past month according to the Surgeon General. **Locally, Hawaii’s 2017 Youth Risk Behavior Survey revealed that over 42% of Hawaii high school students have tried using electronic smoking devices and over 25% of Hawaii high school students indicated that they are regular users. Our schools are seeing a rise in cases of e-cig use even in our elementary schools now.**

Adolescence is a time of crucial brain development; it has been documented that nicotine exposure during adolescence and young adulthood can cause addiction and harm the developing brain. Additionally, nicotine is not the only harmful ingredient in electronic smoking devices; other harmful and potentially harmful ingredients include ultrafine particles that can be inhaled deep into the lungs, flavorants such as diacetyl, a chemical linked to serious lung disease, volatile organic compounds, and heavy metals such as nickel, tin, and lead.

The electronic cigarette industry has gone largely unregulated for far too long and has therefore been able to market their products both directly and indirectly to our youth. It is time that regulation of the e-cigarette/vaping industry be on par with the regulation of traditional tobacco products. As such, we should align taxation of electronic smoking device products to that of other tobacco products. Because taxation of tobacco products is a proven strategy to reduce usage among youth, this bill would help deter children from not only trying e-cigarettes but also from becoming habitual users of these products.

Taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. Licensing and permitting of retailers and wholesalers are critical for education and enforcement of existing laws.

Furthermore, the allocation of a portion of excise tax funds to go towards health education, prevention, and nicotine cessation programs extends protections for our youth and goes hand in hand with the regulations



Corey Rosenlee
President

Osa Tui, Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

outlined in this bill as well as a portion of the collections going to our state's general fund to shore up our lost revenue as a state.

We oppose any increase of any fines for youth being added to this bill, as we feel they are the victims in this case. It is the predatory tactics of the vaping industry on our youth that need to be regulated and taxed. So please do NOT add any fines or punishment on our youth who are the victims here.

Because research shows that increasing the cost of tobacco products, through taxes, decreases the amount used by youth. The price point does matter. We respectfully ask you to **support** this bill.



**American
Heart
Association.**

American Heart Association testimony for HB 598, HD 1 “Relating to Tobacco Products” with suggested amendments

The American Heart Association supports the intent of HB 598, HD1, but requests the following amendments. Please restore the bill to its original language of HB 598 which would require licensing/permitting for electronic smoking device wholesalers and retailers, and create tax parity between electronic smoking devices and other tobacco products (70% of wholesale price).

Chairman of the Board

Glen Kaneshige

President

Michael Lui, MD

Board Members

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Cigarette smoking is responsible for more than 480,000 deaths per year in the United States, including more than 41,000 deaths resulting from secondhand smoke exposure. This is about one in five deaths annually, or 1,300 deaths every day. Total economic cost of smoking in the U.S. is more than \$300 billion a year, including nearly \$170 billion in direct medical care for adults. More than \$156 billion in lost productivity due to premature death and exposure to secondhand smoke. In Hawaii alone, it annually claims 1,100 lives each year and \$526 million in healthcare costs are directly attributed to smoking in our state.

Hawaii is in the midst of a youth epidemic concerning the use of electronic smoking devices. Hawaii has the highest rate of middle school-aged student use of those products in the nation, and the second highest high school student usage rate. The American Heart Association is working to combat this problem the same way we have battled health problems for nearly a century: We’re relying on the science.

Even though there is more work needed to fully understand all the dangers of e-cigarettes, there’s plenty of evidence they’re harmful for growing minds and bodies.

Here’s a look at the latest science about vaping and nicotine, as well what science hasn’t uncovered yet.

Safety of vaping vs. cigarettes

One of the most basic things people want to know is whether vaping is better for you than cigarettes. It’s easy to jump to the conclusion that vaping is better. After all, there is no mystery about smoking: It can kill you.

The problem is, no one knows if vaping is safe in the long run because e-cigarettes haven’t been around long enough to be studied deeply. Some diseases can take years and even decades to develop, including cancer and atherosclerosis (artery blockages that can cause heart attacks and strokes).

Another reason it’s difficult to study vaping is that people switch back and forth between smoking, vaping and not using either. We can see short-term effects in animals exposed to one or another, but understanding long-term effects requires long-term studies.

In addition to a lack of sufficient research, some contents of e-cigarettes remain unknown. The Food and Drug Administration – responsible for judging the safety of

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For more information on the AHA’s educational or research programs, visit www.heart.org or contact your nearest AHA office.

things Americans put into their bodies – has not yet evaluated these products for safety.

We do know that the lines between the vaping industry and Big Tobacco have blurred. Altria, the maker of Marlboro and Skoal, has invested more than \$12 billion into Juul, which makes e-cigarettes that are extremely popular with young people. The investment was 35% of Juul’s value at the time of the purchase.

Big Tobacco has a history of misrepresenting facts about nicotine and smoking. So vaping-safety claims from industry or research supported by industry should be met with skepticism. For example, there’s the claim that vaping produces only water “vapor” or aerosols – which sound far healthier than cigarette smoke. But there is a lot more than water in that aerosol.

The aerosols in some e-cigarettes have been found to contain multiple chemicals known to be toxic. Some aerosols contain heavy metals and other toxic ingredients (like the volatile organic compounds you try to avoid in some house paint).

Some of the flavors designed to make e-cigarettes more attractive to children have been shown to harm lung tissue, heart muscle cells, the lining cells of blood vessels, and the cells we need for blood clotting after injury.

These studies have been done in cells from human volunteers, and in some cases, the functions of these cells have been studied in volunteers after they vape.

Even the chemicals used to deliver the aerosol (like propylene glycol or glycerol) can be toxic, as can the heavy metals often produced by these delivery systems themselves. And remember, aerosols are inhaled deep into the lungs, where their effects may be long-lasting.

The idea that vaping is a better way to quit cigarettes than reliable methods using FDA-approved nicotine replacement products isn’t backed up by the weight of science.

Of the small number of studies about this, most show no advantage for e-cigarettes over the temporary use of FDA-approved products such as gum, lozenges and patches. The latter products have been proven helpful as part of an overall program for quitting, which should also include counselling and can include medications to reduce cravings.

One study frequently cited by industry and its supporters did show e-cigarettes to be effective in stopping smoking. However, as is often the case with science, that part of the study’s results doesn’t tell the whole story.

The study, published in The New England Journal of Medicine, was conducted in England. That’s significant because the e-cigarettes in England are far different from those in the U.S. English products have much lower levels of nicotine, and physicians there actually encourage their use to quit smoking.

Two reports from Public Health England are often referenced for stating “e-cigarettes are less harmful than combustible cigarettes.” But those studies did not compare e-cigarette use to zero-nicotine exposure. And, those reports rely on small studies or reviews sponsored by organizations supported by Big Tobacco.

Some U.S. smokers have used e-cigarettes to quit, but a growing body of studies shows that approach doesn’t work for many people. They cut back, but they still smoke while vaping and they remain addicted. That’s called “dual use” in public health literature. The dangers of cigarettes remain, with the added dangers of vaping.

Unfortunately, dual use is a major problem among young people. Dual use also is something the American Heart Association is working to address through our massive new initiative combatting youth vaping called #QuitLying. Research shows some kids who had never smoked but began their exposure to nicotine by vaping later switched to smoking or did both.

The Association advises anyone quitting smoking to get off nicotine products altogether, using FDA-approved tools proven to be effective. We also don’t want anyone to ever start any nicotine-containing product.

When discussing the dangers of e-cigarettes, many people think about the tragic outbreak of vaping-related deaths across the country. As an organization we are extremely concerned about this problem, which is still being investigated and has been linked to vaping THC well as using “off-brand” e-cigarette products.

But nicotine remains a major concern about e-cigarettes. They can contain unusually high levels of nicotine. One e-cigarette refill pod can contain as much nicotine as an entire pack of cigarettes and kids are sometimes vaping 2-4 pods a day. And open pod e-cigarette products popular among Hawaii youths can contain even much more nicotine.

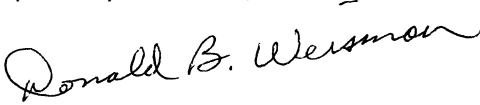
That’s especially troubling because many studies in animals show nicotine is a neurotoxin (a poison affecting the nervous system). It can affect brain development from early fetal life through adolescence, permanently changing the ability to think or reason.

The National Academies of Science, Engineering and Medicine and the World Health Organization believe nicotine delivery via e-cigarettes during pregnancy can adversely affect the development of the fetus and can affect immune system and lung function.

E-cigarettes are now the most popularly used tobacco product among Hawaii’s youth. According to recent Department of Health data, over 40 percent of Hawaii’s youths have tried e-cigarettes, and 30 percent are now regular users. On neighbor islands, regular use of e-cigarettes by youths tops 30 percent.

The American Heart Association of Hawaii urges you to amend HB 598, HD 1, to its original language as a way to create parity between e-cigarette and traditional tobacco product regulations and taxes, and to help reduce Hawaii youth vaping epidemic.

Respectfully submitted,

A handwritten signature in black ink that reads "Donald B. Weisman". The signature is written in a cursive style with a horizontal line above the name.

Donald B. Weisman
Government Relations/Communications Director



HIPHI Board

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*Catherine Taschner, JD
McCorriston Miller Mukai
MacKinnon LLP*

Date: February 15, 2021

To: Representative Aaron Ling Johanson, Chair
Representative Lisa Kitagawa, Vice Chair
Members of the Consumer Protection & Commerce Committee

Re: Comments to HB 598, HD1, Relating to Tobacco Products

Hrg: February 17, 2021 at 2:00 PM via Videoconference

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ **supports the intent of HB 598, HD1**, which aims to (1) establish the offense of unlawful shipment of tobacco products; (2) increase the price of the tobacco license and permit; (3) fund health education and prevention programs relating to risks and dangers of electronic smoking devices (ESDs) youth use; and (4) repeal various statutory provisions relating to ESDs.

The Coalition recommends the original language of HB 598, which includes ESDs in the definition of tobacco products, thus taxing ESDs at 70% of the wholesale price, the same rate of other tobacco products, and required ESD retailers and wholesalers to obtain tobacco permits and licenses. The removal of ESDs from the tobacco definition makes it unclear if ESDs are included in this bill and subject to the restrictions above.

E-cigarette use among youth and young adults has become a public health concern.

In 2019, 1 in 3 (30.6%) public high school students and more than 1 in 6 (18%) public middle school students in Hawai'i reported that they are regularly vapingⁱⁱ. Because ESDs remain unregulated, e-cigarette companies have aggressively marketed their products by glamorizing their use, using celebrities and young adults as endorsers, and making false health claims. E-cigarettes often contain nicotine, which is addictive and harmful particularly to adolescents, whose brains are still developing. A 2016 report by the Surgeon General concluded that cigarettes are dangerous and a health threat to youth and young adultsⁱⁱⁱ. According to an article published by Dr. Jackler and Dr. Ramamurthi, "JUUL has triggered a widespread rush among aerosol purveyors to market e-liquid in unprecedentedly high nicotine concentrations^{iv}."

Electronic smoking devices (ESDs) are the only tobacco product without a tobacco tax.

In 2016, the FDA deemed e-cigarettes, including its components and parts as tobacco products. In a poll^v conducted by Ward Research Inc. for the Coalition in October 2020, 91% of registered Hawai'i voters were in support of taxing e-cigarettes at the same rate as cigarettes or other tobacco products. Because ESDs are not subject to current State tobacco tax laws, they are seen as lower-priced tobacco alternatives with virtually no restrictions that can be appealing to the youth. Raising taxes and increasing the price of tobacco products is a proven strategy to reduce consumption for both adults and youth.

The Coalition supports establishing an ESD tax and appreciates that this measure dedicates a portion of the tax revenue to tobacco prevention and control programs. In the same poll conducted by Ward Research, 95% of registered Hawai'i voters believe it is important to dedicate some of the funding from an ESD tax to tobacco prevention and cessation programs.

COVID-19 Risks

In May 2020, Stanford University published a landmark study^{vi} that found teens and young adults that use e-cigarettes had a five to seven times greater chance of being diagnosed with COVID-19 than those that did not use e-cigarettes. Considering the 2019 YRBS results that documented an increase in youth e-cigarette use, this finding is incredibly concerning. To put this into perspective, there are 52,042 high school students enrolled in Hawai'i public schools. Using the most recent YRBS data, that translates to nearly 16,000 Hawai'i high schoolers that used an e-cigarette in the last 30 days, and may be five to seven times more likely to be diagnosed with COVID-19 than their nonsmoking peers. Global pandemic or not, these numbers are unacceptable, and there is an increased urgency for regulatory action in light of the increased risk of COVID-19. With no end in sight for the COVID-19 crisis, it is imperative that Hawai'i passes comprehensive legislation regulating e-cigarettes to curb usage and protect the health of our keiki.

ESD licensing and permits protect both consumers and merchants.

The Coalition supports requiring ESD sellers and vendors obtain a tobacco permit and/or license which is currently required for any tobacco retailer or wholesaler. This consistency would assist with the communication and enforcement of current tobacco tax and purchase laws. In addition, the Coalition supports the proposed increased fees for the tobacco permit and license.

This measure strengthens federal regulations on the online sales of e-cigarettes.

The "Preventing Online Sales of E-Cigarettes to Children Act" expands the 2009 Prevent All Cigarette Trafficking (PACT) Act to cover electronic smoking devices, requiring age verification by online retailers and private delivery companies, labeling on packaging to indicate they contain tobacco products, compliance with state and local tobacco taxes, and prohibiting shipments of electronic smoking devices through USPS^{vii}. However, private delivery companies like UPS and FedEx to deliver e-cigarettes to consumers. States have the authority to impose stricter regulations, and at least six states have laws that prohibit direct-to-consumer shipments of e-cigarettes. This measure would restrict shipments of ESDs to registered and licensed seller, allowing the State to enforce current tobacco selling and taxation laws. According to the same

independent poll conducted by Ward Research, 82% of Hawai'i registered voters support prohibiting on-line sales of ESDs and e-liquid.

With the COVID-19 pandemic, measures to improve health are of increased importance. We need to take action and regulate electronic smoking devices for our kids. The former Surgeon General, VADM Jerome Adams issued an advisory in December 2018 “emphasizing the importance of protecting our children from a lifetime of nicotine addiction and associated health risks by immediately addressing the epidemic of youth e-cigarette use. The recent surge in e-cigarette use among youth, which has been fueled by new types of e-cigarettes that have recently entered the market, is a cause for great concern. We must take action now to protect the health of our nation’s young people^{viii}.” Hawai'i has made enormous progress on tobacco control and we ask the legislature to take the necessary steps to reverse our youth vaping epidemic in order to save our youth from a lifetime of addiction.

Thank you for the opportunity to testify. We support the intent of HB 598, HD1 and recommend reverting to the original language of the bill.

Mahalo,



Jessica Yamauchi, MA
Executive Director

ⁱ The 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.

ⁱⁱ 2019 Youth Risk Behavior Surveillance System (YRBS). Available at: www.cdc.gov/yrbs. [Accessed on 02/03/2021].

ⁱⁱⁱ U.S. Department of Health and Human Services. *E-cigarette Use Among Youth and Young Adults, a Report from the Surgeon General* (2017). From https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Exec_Summ_508.pdf

^{iv} Jackler RK, Ramamurthi D. Tob Control Epub ahead of print: 2.6.19.doi:10.1136/tobaccocontrol-2018-054796. <https://tobaccocontrol.bmi.com/content/early/2019/01/31/tobaccocontrol-2018-054796>

^v This study by Ward Research, Inc. summarizes findings from a phone survey among n=800 Hawaii registered voters (maximum sampling error +/-3.3%), conducted between September 21 – October 16, 2020.

^{vi} Gaiha SM, Cheng J, Halpern-Felsher B. Association Between Youth Smoking, Electronic Cigarette Use, and COVID-19. *J Adolesc Health*. 2020;67(4):519-523. doi:10.1016/j.jadohealth.2020.07.002

^{vii} Public Health Law Center. (2021, January 27). Deliver us from evil: E-cigarettes and the PACT Act. Retrieved from <https://www.publichealthlawcenter.org/webinar/deliver-us-evil-e-cigarettes-and-pact-act>.

viii Surgeon General Advisory, December 2018, <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

HB-598-HD-1

Submitted on: 2/16/2021 8:59:05 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Anderson	Black Lava Vape	Oppose	No

Comments:

These vaping ban bills are only going to hurt the people of Hawaii. I would implore any of you, especially representatives from my districts to actually come into any vape shop and just talk to the customers before making any decision. It seems that the only constituents that are considered are that of a minority of people. The majority of these individuals do have a valid concern, however. Underage vaping is something we in the vaping community are passionately trying to prevent. Just as the alcohol industry works with the local and federal government to prevent underage drinking, we would love to have the same opportunities afforded to them. How can anyone make an informed decision without talking to the people that actually benefit from using vaping products? I don't think it unreasonable to ask any of you to visit any one of these businesses that, if these laws pass, will ensure they and their employees are out of work. Doing your due diligence by talking to the moms, dads, uncles, aunties, & grandparents that vaping has literally saved their lives will only give you a better understanding of how vaping works. The vape industry is not "Big Tobacco" and doesn't have resources such as the alcohol industry has. If you look at the numbers, 90% - 95% of this industry is run by local, very small businesses. Our business is run by myself, my mom, & my dad. Our employees have families with mouths to feed. Please come and talk to us.



AMERICANS *for* TAX REFORM

February 8, 2021

To: Hawaii House Committee Consumer Protection & Commerce
From: Americans for Tax Reform

Dear Representative,

On behalf of Americans for Tax Reform (ATR) and our supporters across Hawaii, I urge you to reject HB 598 & HB 476, **misguided legislation which seek to implement taxes upon life-saving reduced risk tobacco alternatives such as electronic cigarettes and other vapor products. If enacted, these anti-science bill would have a disastrous impact upon not only businesses, but public health throughout the state, and lead to an increase in tobacco-related deaths.**

Further, **aside from the public health harm caused by increasing taxes on a product proven to save lives, this bill would also cause considerable economic harm, particularly given the present pandemic-related economic downturn.** Even former President Obama remarked when he was in office: "The last thing you want to do is raise taxes in the middle of a recession because that would just suck up, take more demand out of the economy and put businesses in a further hole." **Yet SB 45 flies in the face of that sage advice from President Obama.**

Rather than repeating the failed policies of the past and further punishing low-income smokers trying to quit, the Hawaii Legislature should embrace new methods that are proven to help reduce smoking rates, and facilitate smokers quitting through reduced risk tobacco alternatives such as e-cigarettes. Through delivering nicotine through water vapor, these mimic the habitual nature of smoking, however, the absence of "smoke" leads to the absence of the carcinogens created through the combustion of tobacco. **As a result, these have been overwhelmingly proven to be 95% safer than combustible cigarettes, while at least twice as effective as more traditional nicotine replacement therapies.**

It must be stressed that the negative effects of smoking combustible tobacco come not from the nicotine, a relatively benign, yet highly addictive substance much like caffeine, but rather the chemicals produced during the combustion process – "people smoke for the nicotine but die from the tar." Scientific data clearly shows that the blood levels typically achieved by consuming nicotine via harm reduction products **"does not result in clinically significant short- or long-term harms"** which is why smokers have been using nicotine replacement therapies (NRT) for decades without incident. For this reason, over 30 of the **world's leading public health organizations** have endorsed nicotine vaping as safer than smoking and an effective way to help smokers quit. This list includes Cancer Research UK; the British Medical Association; the British Lung Foundation; the New Zealand Minister of Health; the US National Academies of Sciences, Engineering, and Medicine; the American Association of Public Health Physicians; the Royal Australian College of Physicians; the French National Academy of Pharmacy; and the German Federal Institute for Risk Assessment.

722 12th Street N.W.

Fourth Floor

Washington, D.C.

20005

T:(202)785-0266

F:(202)785-0261

www.ATR.org

To tax safer products at an equal rate, thereby failing to incentivize people to move away from deadly alternatives, goes against every principle of sound public or health policy. As the price of a product increases, it is likely that its use decreases. In previous instances, levying taxes on vaping products has been proven to increase smoking rates as people shift back to deadly combustible cigarettes. **Minnesota is serving as a case study on this already. After the state imposed a tax on vaping products, it was determined that it prevented 32,400 additional adult smokers from quitting smoking.**

Extrapolating from a large-scale analysis by the US's leading cancer researchers and coordinated by Georgetown University Medical Centre, **if a majority of smokers in the state of Hawaii made the switch to vaping, over 40,000 lives would be saved.** In seeking to tax these life-saving products, these bills place these lives in jeopardy. Small increases in projected revenue should never come at the expense of human lives – and make no mistake, if these bills are enacted, it will cost lives.

In addition, we would wish to draw the committee's attention to an amendment to HB 476: "a fifty per cent tax shall be imposed on any product for which a modified risk tobacco product [MRTP] order has been issued by the Secretary of the United States Department of Health and Human Services." As presently written, this amendment would appear to have the potential to *increase* taxes upon products that the Food & Drug Administration has approved for sale under a MRTP. It is suggested that this may be an error in drafting, as increasing taxes upon a product the FDA has approved as having lower health risks would seem contrary to legislative intent. As such, while Americans for Tax Reform opposes these bills in their entirety, were they to be passed, we would recommend modifying the amendment in line with presumed legislative intent.

For the reasons outlined above, in the interests of public health, preventing a boon in criminal activity, and protecting the most vulnerable in society from financial hardship at a time they can least afford it, we call upon the Committee to accept the science and vote against HB 598 & HB 476. Tens of thousands of lives depend upon it.

Sincerely,

Tim Andrews
Director of Consumer Issues
Americans for Tax Reform



To: The Honorable Aaron Ling Johanson, Chair
and Members of the House Committee on Consumer Protection & Commerce

Date: Wednesday, February 17, 2021
Time: 2:00 p.m.
Place: VIA VIDEOCONFERENCE

From: Les Drent
for the Kauai Cigar Company

Re: HB 598, HD1, Relating to Tobacco Products

Dear Aaron Ling Johanson, and Members of the House Committee on Consumer Protection & Commerce,

The Kauai Cigar Company, its employees, and 300 plus Hawaii small business partners kindly ask that you amend HB598 to exclude premium cigars from additional licensing fees, and taxes.

A premium cigar as defined by the United States Food and Drug Administration (FDA) is a cigar that meets all of the following eight criteria: Is wrapped in whole tobacco leaf; contains a 100 percent leaf tobacco binder; contains at least 50 percent (of the filler by weight) long filler tobacco (i.e., whole tobacco leaves that run the length of the cigar); is handmade or hand rolled (i.e., no machinery was used apart from simple tools, such as scissors to cut the tobacco prior to rolling); has no filter, non tobacco tip, or non tobacco mouthpiece; does not have a characterizing flavor other than tobacco; contains only tobacco, water, and vegetable gum with no other ingredients or additives; and weighs more than 6 pounds per 1,000 units.

source: [https://www.fda.gov/tobacco-products/ctp-newsroom/ctp-statement-premarket-authorization-requirements-premium-cigars#:~:text=For%20purposes%20of%20the%20Court's,wrapped%20in%20whole%20tobacco%20leaf%3B&text=Contains%20at%20least%2050%20percent,length%20of%20the%20cigar\)%3B](https://www.fda.gov/tobacco-products/ctp-newsroom/ctp-statement-premarket-authorization-requirements-premium-cigars#:~:text=For%20purposes%20of%20the%20Court's,wrapped%20in%20whole%20tobacco%20leaf%3B&text=Contains%20at%20least%2050%20percent,length%20of%20the%20cigar)%3B)

For years our company has been paying much more than its fair share of taxes as a result of an extremely high cost of production here in the Islands. Our premium cigars as defined by the FDA should not be treated the same as other tobacco products. Premium cigars are not purchased, or consumed by youth.

Therefore, we kindly ask the Committee on Consumer Protection & Commerce add a definition of premium cigar to HB598, and consider lessening the burden on local farms and businesses who sell this adult product.

Sincerely,

Les Drent
Farmer/President

Kauai Cigar Company
6200 Kawaihau Road, Unit B, Kapaa, HI 96746 USA
Ph: 808-822-4495 Fax: 808-822-9731



Hawaii Dental Association

To: House Committee on Consumer Protection & Commerce
Time/Date: 2:00 p.m., February 17, 2021
Location: State Capitol Room 329 and Via Teleconference
Re: HB 598 HD1, Relating to Tobacco Products

Aloha Chair Johanson, Vice Chair Kitagawa, and members of the Committee:

The Hawaii Dental Association (HDA) is a professional association comprised of approximately 950-member dentists. **We are in support of HB 598 HD1**, relating to tobacco products. This bill establishes the offense of unlawful shipment of tobacco products, increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products, and increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products. Among other provisions, it allocates a portion of funds collected from excise taxes on tobacco products to health education and prevention programs concerning the risks and dangers of the use of electronic smoking devices for youth.

HDA expresses its opposition to use of oral tobacco, including vaping nicotine from e-cigarettes, and urges people using any type of tobacco product to quit. Tobacco use is causally associated with higher rates of tooth decay, receding gums, periodontal disease, mucosial lesions, bone damage, tooth loss, jaw bone loss and more. That is why the Hawaii Dental Association, like the American Dental Association, is working with dentists, educators, public health officials, lawmakers, and the public to prevent and, hopefully, eliminate the use of all tobacco products. HDA supports regulatory and legislative action to ban the sale and distribution of all e-cigarette and vaping products, with the exception of those approved by the FDA for tobacco cessation purposes and made available by prescription only. We will continue to support legislation aimed at enhancing and promoting oral health.

HDA is a statewide membership organization representing dentists practicing in Hawaii and licensed by the State of Hawaii's Board of Dentistry. HDA members are committed to protecting the oral health and well-being of the people of Hawaii, from keiki to kupuna and everyone in between.

Mahalo for the opportunity to testify in support of HB 598 HD1.



American Vaping Association | www.vaping.org

6 Landmark Square, 4th Floor, Stamford, CT 06901
(609) 947 - 8059

February 16, 2021

RE: HB 598 HD 1 (companion to SB 621), unlawful shipment of tobacco products and electronic smoking devices

Chairman Johanson, Vice Chair Kitagawa, and members of the Consumer Protection & Commerce Committee:

On behalf of the American Vaping Association, a nonprofit organization that advocates for tobacco harm reduction policies to reduce smoking rates, I am writing to urge the committee to reject HB 598 HD 1. While we understand the legislature's concern about internet sales of vaping products, the combination of existing Hawaii law governing these sales in combination with new federal laws provide ample enforcement power to stop bad actors.

Internet and mail order sales of vaping products will be federally-regulated in the next 45 days.

As you may be aware, Congress recently passed a bill adding vaping products to the federal Prevent All Cigarette Trafficking Act of 2009 (PACT Act). This law strictly regulates the sale of vaping products through the internet and mail and imposes stiff penalties – including prison time – on those who violate the law. The era where internet retailers could be lax with their adherence to state and local laws and regulations is officially over.

Beginning at the end of March, any retailer shipping products to Hawaii will have to register with the state, obtain any necessary licenses, collect and remit any Hawaii taxes, and for consumer sales, perform third-party age verification and ship the product using a delivery service that checks the recipient's proof of age at delivery.

In the continental United States, the USPS will not be permitted to deliver vaping products to consumers. **However, unlike other states, USPS**

regulations contain a special carveout for Hawaii and Alaska that permit the intrastate shipping of vaping products to consumers.

The language of the PACT Act is quite similar to language that is being repealed towards the bottom of this bill (Section 245-17, Hawaii Revised Statutes). Before passing a ban, the committee should ask what efforts have been made over the last several years to enforce this law.

Hawaii's vape businesses and vapers want to be a part of the solution. However, punishing adults by making it harder for them to quit smoking is not the answer. Hawaii should vigorously enforce its numerous existing laws on vaping products, but online sales bans are not the answer.

Again, we urge you to reject this bill.

Sincerely,

A handwritten signature in cursive script that reads "Gregory Conley".

Gregory Conley, J.D., M.B.A.
President, American Vaping Association



**Testimony to the House Committee on Consumer Protection and Commerce
Wednesday, February 17, 2021; 2:00 p.m.
State Capitol, Conference Room 329
Via Videoconference**

RE: HOUSE BILL NO.0598, HOUSE DRAFT 1, RELATING TO TOBACCO PRODUCTS.

Chair Johanson, Vice Chair Kitagawa, and Members of the Joint Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **COMMENTS** on House Bill No. 0598, House Draft 1, RELATING TO TOBACCO PRODUCTS.

The bill, as received by your Committee, would:

- (1) Establish the offense of unlawful shipment of tobacco products;
- (2) Increase the licensing fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products;
- (3) Increase the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products;
- (4) Fund health education and prevention programs concerning the risks and dangers of the use of electronic smoking devices for youth; and
- (5) Repeal various statutory provisions relating to electronic smoking devices.

By way of background, the HPCA represents Hawaii Federally-Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

FQHCs have long seen first-hand how tobacco has literally destroyed the lives of our patients and their families. Because of the ubiquity of cigarettes, chewing tobacco, and now electronic smoking devices, the impacts of tobacco affect our citizenry on a generational basis with people experimenting at even earlier ages.

Pragmatically speaking, tobacco will continue to be consumed regardless of anything done at the Legislature. But, if regulation and a tax increase can serve as a disincentive for consuming these products, then the interests of the general public are served.

And it should be noted that previous tax increases as well as public health media campaigns have been effective in reducing consumption of tobacco in recent years to the point where collections of the Cigarette Tax and Tobacco Tax have steadily diminished.

Proceeds from the Cigarette Tax and Tobacco Tax have served as a dedicated source of revenue for very important public health programs. The one most directly affecting our organization is the Community Health Center Special Fund, which is essential for the operations of most of our member FQHCs. Yet, because collections have decreased each year, there is uncertainty whether outlays for essential programs provided by FQHCs will continue.

While this bill would increase the amount of funds deposited to the CHC Special Fund, among others, we note that the State is facing the worst financial crisis since the Great Depression, and that there is enormous pressure on lawmakers to eliminate special funds and transfer the balances to the General Fund. Numerous bills have been introduced to repeal the CHC Special Fund, among others, and are pending action by other committees.

It is HPCA's position that the continued existence of the CHC Special Fund is essential for the operations of FQHCs in the State. Without it, our member FQHCs, who collectively service more than 160,000 of our residents in the State, would not have a consistent source of revenues to operate at Kalihi-Palama Health Center, Kokua Kalihi Valley Comprehensive Family Services, Koolauloa Health Center, Wahiawa Health, Waianae Coast Comprehensive Health Center, Waikiki Health, Waimanalo Health Center, Bay Clinic, Hamakua Health Center, West Hawaii Community Health Center, Lanai Community Health Center, Hana Health, Malama I Ke Ola Health Center, Molokai Community Health Center, and Kauai Community Health Center.

While we greatly appreciate the intent of this measure, we recognize that much can happen over the next two months, and the financial outlook could brighten to make a measure like this feasible. **But so long as the threat of repeal exists for the CHC Special Fund, our message to lawmakers is this -- please do all that you can to retain this vital financing mechanism.**

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.



American Cancer Society
Cancer Action Network
2370 Nu'uau Avenue
Honolulu, Hi 96817
808.432.9139
www.fightcancer.org

House Committee on Consumer Protection & Commerce
Representative Aaron Johanson, Chair
Representative Lisa Kitagawa, Vice Chair

Hearing Date: Wednesday, February 17, 2021

HB 598 HD1 – RELATING TO TOBACCO PRODUCTS.

Cynthia Au, Grassroots Manager – Hawaii Pacific
American Cancer Society Cancer Action Network

Thank you for the opportunity to SUPPORT and offer amendments to HB 598 HD1 – RELATING TO TOBACCO PRODUCTS.

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, non-partisan advocacy affiliate of the American Cancer Society advocates for public policies that reduce death and suffering from cancer. ACS CAN works with federal, state, and local government bodies to support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

ACS CAN supports regular and significant tax increases on all tobacco products, including e-cigarettes, to reduce tobacco use and recommends defining e-cigarettes as a tobacco product and regulating them as such. To maximize health and revenue gains, simplify tax collections, and make many dangerous and addictive products that are attractive to kids cost prohibitive, ACS CAN recommends taxing all e-cigarettes as a tobacco product at a percent of their price parallel to the cigarette tax rate and to require licensing and permitting for electronic smoking device wholesalers and retailers to create tax parity between electronic smoking devices and other tobacco products (70% of wholesale price).

We have serious concerns in the creation of new categories of products, as some products may be exempt from various tobacco control laws, and as it is defined in the bill may not capture all products. We recommend that the bill be amended to add “electronic smoking devices” to the definition of tobacco products for the purpose of licensing and permitting and for tax parity. Here are our recommended definitions:

“Electronic smoking device” means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or

accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include any battery or battery charger when sold separately. In addition, electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

"Tobacco product" means any product that is made from or derived from tobacco, or that contains nicotine, other than cigarettes or little cigars, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. "Tobacco product" also means electronic smoking devices and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, and substances used in electronic smoking devices, whether or not they contain nicotine. "Tobacco product" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

We recommend that the shipment of tobacco products be shipped directly to in-state licensed tobacco retailers. Any consumer who orders tobacco products online or otherwise should be required to pick-up their order in person at an in state licensed tobacco retailer. Any out of state tobacco retailer delivering products to Hawaii should also be licensed with the state. This will help prevent sales to anyone under the age of 21. On page 7 section "e," we recommend requiring e-cigarette in and out of state retailers to apply and pay for a license and appear on the authorized licensed list published by the department.

Proceeds collected should go toward tobacco prevention and cessation for all tobacco products, including e-cigarettes, according to Centers for Disease Control and Prevention's (CDC) best practices. CDC's evidence-based recommendations for a comprehensive tobacco control program provides states with the needed framework to educate people on the dangers of tobacco use as well as connect people who are already addicted to tobacco to resources to help them quit. Comprehensive tobacco control programs establish smoke-free policies and social norms, promote tobacco cessation and support those trying to quit, prevent initiation of tobacco use among prospective new users including youth and reduce tobacco-related health disparities among disparate populations.¹ When appropriately funded in accordance with CDC recommendations, comprehensive tobacco control programs are able to reduce tobacco use.²

We oppose laws that focus on penalizing youth for the purchase, use, or possession (PUP) of tobacco products. PUP laws are not an effective approach to reducing youth tobacco use and inappropriately shift the blame for underage tobacco use from the tobacco industry and retailers. ACS CAN supports the removal of the youth penalties in section [§245-17] and recommend holding the tobacco industry and tobacco retailers accountable instead of punishing kids who have fallen victim to their predatory marketing tactics.

Thank you for the opportunity to comment on this matter.

¹ CDC, 2014.

² CDC, 2014.

Aloha House Committee on Consumer Protection & Commerce,

Attached is a compilation of testimony for Wednesday, February 17, 2021; 2:00 p.m.; State Capitol, Conference Room 329 in SUPPORT of HB 598 HD1 – RELATING TO TOBACCO PRODUCTS. for the following individuals:

Jenny Hausler, Citizen - Pearl City, 96782

Uri Martos, Citizen - Lihue, Kauai 96766

Gerico Demesillo, UH Undergraduate in Public Health Studies

Tyler Kamisato, UH Undergraduate in Public Health Studies - Mililani, 96789

Madeline Bush, UH Nursing Student - Hilo, 96720

LokeLani Chong - Hilo, 96720

Frank V. Guillermo - Waipahu, 96797

Testimony to House Committee on Consumer Protection & Commerce
Wednesday, February 17, 2021; 2:00 p.m.
State Capitol, Conference Room 329

Dear Chair Aaron Johanson, Vice Chair Lisa Kitagawa, and committee members,

I strongly support HB 598 HD1 – RELATING TO TOBACCO PRODUCTS.

Tobacco killed my husband last March from smoking. He ended up dying from COPD and had lung cancer. He suffered greatly before he passed away and died an early death.

We have 6 grandchildren that I don't want to have the same fate as their grandfather. Our keiki are a vulnerable group and must be protected. Don't make it easy for electronic smoking devices to get into the hands of our kids from accessibility online and for being cheap to buy.

Please pass HB 598 HD1 to save our children for the future.

Sincerely,

Jennifer Hausler
Pearl City, 96782

Testimony to House Committee on Consumer Protection & Commerce
Wednesday, February 17, 2021; 2:00 p.m.
State Capitol, Conference Room 329

Dear Chair Aaron Johanson, Vice Chair Lisa Kitagawa, and committee members,

My name is Uri Martos, and I am writing to express my support for HB 598 HD1 – RELATING TO TOBACCO PRODUCTS to help stop our keiki from using tobacco products.

I work right next to Wilcox elementary school and the Boys & Girls Club on Kauai. Everyday I am seeing more and more of Kauai's kids using e-cigarettes/vapes and it worries me terribly. These flavored tobacco products are targeting our children and hooking them on dangerous nicotine often for life. I'm afraid that Hawaii already has a high incidence of lung cancer and being a breast cancer survivor, I know firsthand the pain of dealing with this disease. I don't ever want our keiki to have to go through the hardship of having cancer or any other tobacco related illness. By simply eliminating these flavored tobacco products we will be able to save hundreds of our youth in Hawaii from becoming lifelong tobacco addicts.

I urge you to support HB 598 HD1. Thank you for the consideration of my testimony.

Mahalo,
Uri Martos
Lihue, Kauai 96766

Testimony to House Committee on Consumer Protection & Commerce
Wednesday, February 17, 2021; 2:00 p.m.
State Capitol, Conference Room 329

Dear Chair Aaron Johanson, Vice Chair Lisa Kitagawa, and committee members,

As part of the generation that was close to getting rid of underage smoking and was later on exposed to the production of e-cigarettes, I support bill HB 598 HD1 – RELATING TO TOBACCO PRODUCTS. As a former vape user, I can confirm that the initial reasoning of consuming product was because everyone in my immediate surrounding was doing it and the flavor was strawberry. I was skeptical at first, but my peers assured me that it was the dosage that had 0 mg of nicotine in it. I was 17 at the time, and I thought it tasted and smelled good. Prior to the legal age of buying vape products being 21, it was 18. And when I had turned 18, my peers were vapers. We discussed how vaping is safer than smoking, and since they sell the 0 mg nicotine we could just buy than and not be addicted. That was when I was given my own e-cigarette, they were small pen looking devices at the time, and any vape product I bought were mainly just flavors, I purchased fruity flavors for me and dessert flavors for my friend.

I hid this part of my life from my family, and keeping it hidden was the most stressful part. It was one of the key reasons why I stopped, I didn't want to hide things from my family, but my dad found out and he told me to just not do it in front of my mom and my siblings. When it came to thinking about my siblings and how they follow me were also the key reasons for me to stop. That is when I got rid of the pen; I broke it and gave it to my friend since they were still into vaping. Another reason I stopped was because of the looks, I notice people looking at me as I vaped, and I didn't like how I was being looked at, being judged.

As the age to purchase tobacco products raised to the age of 21, I had been given another vape product. Around this time, the e-cigarettes went from pen-looking, to big boxes that people called mods. The technology for vaping advanced fairly rapidly and these boxes promised larger intake which means bigger clouds. I was given a tiny version of these mods, and I was tempted to try it. I held onto this mod for almost a year, and then I threw it away, the feelings of guilt came back.

I can also confirm that the use of vape products turned into a gateway for drugs and alcohol. My former peers that kept through the path of vaping, are now out there going to raves and hitting up various of drugs. I see stories on socials of my old high school associates taking acid, doing cocaine, and taking various forms of marijuana products (edibles, smoking, etc.) before or after raves and huge social events. When it came to their day to day activities, it can be seen on their socials that they still use vape products to get them throughout the day. This concerns me because in my studies in personal research and in public health, there are no known long term effects for these products and given that a huge chunk of my generation and younger are consuming this product, I fear it may result in new forms of diseases and complications.

Gerico Demesillo
University of Hawaii at Manoa
Undergraduate in Public Health Studies

Testimony to House Committee on Consumer Protection & Commerce
Wednesday, February 17, 2021; 2:00 p.m.
State Capitol, Conference Room 329

Dear Chair Aaron Johanson, Vice Chair Lisa Kitagawa, and committee members,

Thank you for the opportunity to submit testimony in STRONG SUPPORT of HB 598 HD1 – RELATING TO TOBACCO PRODUCTS. It's important to note the lack of health education geared towards informing our youth about the relative dangers and health harms of using these tobacco products. This bill would allocate a portion of the funds collected from excise taxes on tobacco products to health education and prevention programs, which would be highly beneficial for educating youth. There is a need for school health programs to prevent tobacco use and addiction. Schools are ideal settings in which to provide such programs to all children and adolescents. School-based tobacco prevention education programs that focus on skills training approaches have proven successful in the past by reducing the onset of smoking, according to numerous independent studies. Due to the considerable number of students that begin using tobacco products before the age of 15, it is imperative that school-based programs continue throughout high school.

The use of flavored tobacco products among the youth is now the most commonly used form of nicotine in the U.S. These products have the greatest appeal to the younger generation who are in fact, novice smokers. Tobacco companies are producing and marketing deadly, addictive products that look and taste just like the sweets kids can purchase at a candy shop. The use of these flavoring agents help ease youth into smoking since without it, the tobacco flavor alone could be a deterring factor. I personally see too many of our keiki using these tobacco products with their friends outside of school. Many of them are under the impression that smoking e-cigarettes instead of actual cigarettes is better for their health. They also are unaware that these e-cigarettes contain a high amount of nicotine, which could be detrimental to their health in the future. Hawaii needs to do more if we are to stop this growing epidemic from spreading to younger and younger generations. This bill is an imperative next step in tobacco control if HB 598 HD1 were to be enacted into law. I highly encourage the committee to consider passing HB 598 HD1 for the future of our keiki. Thank you again for the opportunity to testify.

Sincerely,
Tyler Kamisato
Mililani, 96789

Testimony to House Committee on Consumer Protection & Commerce
Wednesday, February 17, 2021; 2:00 p.m.
State Capitol, Conference Room 329

Dear Chair Aaron Johanson, Vice Chair Lisa Kitagawa, and committee members,

My name is Madeline Bush and I **support** HB 598 HD1 – RELATING TO TOBACCO PRODUCTS.

Vaping is an extremely prevalent issue that our country and the world have been facing for over a decade. E-cigarettes were originally created for the purpose of helping people who smoked tobacco cigarettes quit and reduce their exposure to tobacco. However, the companies that created these e-cigarette devices knew if they helped people quit, they would also begin losing money. Their strategy consisted of promoting a form of smoking that was “healthy”, little did people know the contents within these products had equally if not more nicotine than regular cigarettes. In a study that was performed over the course of six years (2012-2018), “The lifetime prevalence of cigarette smokers slightly decreased from 60.9% in 2012 to 56.9% in 2018, whereas the proportion of vaping users substantially increased from 32.9% in 2013 to 52.0% in 2018” (Cerrai et al., 2020). People wanted to quit smoking and many began smoking e-cigarettes when all along they were simply part of a larger plan and were just beginning a new journey of addiction.

The trend to vape quickly became popular among adolescents, high schoolers, and even middle schoolers. According to a study performed in 2019, “About 63.9% of students (16.8 million) reported noticing youth use of e-cigarettes in or around the school, with bathroom or locker room as the most common location” (Dai, 2021). The study goes on to explain that the brand JUUL has significantly spiked in popularity among adolescents due to its shape and size. It is a small pod that resembles a USB drive. They are very easy to hide, therefore many kids bring them to school without hesitation. The company JUUL has shown to specifically cater to this younger population and have made it easier and easier for them to vape in secret. Although there is not enough hard data to validate the long-term effects of vaping, we are seeing an upsurge in hospitalized cases (2,758 cases in US) of vaping associated lung injury (VALI). There have been sixty-four deaths from vaping associated lung injury (VALI) in the United States

alone. These products are being promoted as a “healthy alternative” to smoking when in reality it is killing people and ruining lives. This problem is tremendously widespread not only in our world and nation, but a rising problem within our community here in Hawaii County.

In order to protect the teenagers and young adults within our community regulations and bans on these products absolutely need to be put into action. The companies that sell these products have no interest in what their products are doing to the bodies of their customers. On the island of Hawaii, we are seeing an increase in tobacco and vaping products as well as an increase in respiratory disorders and lung cancer. That is not a coincidence.

Sincerely,

Madeline Bush
Hilo, 96720

Testimony to House Committee on Consumer Protection & Commerce
Wednesday, February 17, 2021; 2:00 p.m.
State Capitol, Conference Room 329

Dear Chair Aaron Johanson, Vice Chair Lisa Kitagawa, and committee members,

I support HB 598 HD1 – RELATING TO TOBACCO PRODUCTS.

My father-in-law was severely affected from Tobacco use. He developed stage 4 oral cancer and almost lost his life. Luckily, he survived but there are many people who are not as lucky.

Tobacco use does not just affect the person who is using it, but their whole family. I do not want to see my friends and family using tobacco products. Young adults, teenagers, and kids are easily fooled by these new and fruity flavors. They think that it cannot be bad for you if it tastes like fruits or candy. I see many underage teenagers selling E-cigarettes that have exotic flavors and using those products on social media. E-cigarettes and tobacco products need to have more strict regulations, so they do not fall into our youth's hands.

Please pass HB 598 HD1 to save many children and adult lives.

Sincerely,

LokeLani Chong
Hilo, 96720

Testimony to House Committee on Consumer Protection & Commerce
Wednesday, February 17, 2021; 2:00 p.m.
State Capitol, Conference Room 329

Dear Chair Aaron Johanson, Vice Chair Lisa Kitagawa, and committee members,

My name is Frank V. Guillermo and I am in my last semester of my bachelor's program at University of Hawaii at Hilo School of Nursing. I am writing this letter to strongly support HB 598 HD1 – RELATING TO TOBACCO PRODUCTS.

My 11th grade brother once told me, "I always see students vaping everywhere like in school bus, hallway, and even in class. It looks so cool and smells so good. I want to try it!" As a future healthcare provider, I am obligated to educate my brother about the harmful effects of vaping and discourage him from vaping. My brother's statement and the increasing rate of high-school e-cigarette/vape users in Hawaii shows a lack of regulations, health education, and prevention programs of e-cigarettes.

I deeply care about the health of Hawaii people and I urge you to pass HB 598 HD1. Thank you for this opportunity to testify.

Sincerely,

Frank V. Guillermo
Waipahu, 96797

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Aaron Ling Johanson, Chair
Rep. Lisa Kitagawa, Vice Chair

Wednesday, February 17, 2021 2:00 PM

Testimony in Support with Amendments for House Bill 598 House Draft 1 Relating to Tobacco Products

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education, and advocacy. The work of the American Lung Association in Hawaii and across the nation is focused on four strategic imperatives: to defeat lung cancer; to improve the air we breathe; to reduce the burden of lung disease on individuals and their families; and to eliminate tobacco use and tobacco-related diseases.

The American Lung Association in Hawaii supports the intent of this legislation and asks for the following amendments:

1. **Restore the amendment to the definition of “tobacco products” that was part of the original draft of this legislation.** The original draft of this legislation amended Chapter 245 definition of tobacco products to include the definition of all devices used to delivery aerosolized or vaporized nicotine and its components that are used in the consumption of tobacco products. By adding the definition of tobacco products to include all electronic smoking devices and their components, we can bring tax parity amongst the various tobacco products. Research has shown that increasing taxes on tobacco products is a deterrent for tobacco use, particularly in youth.

The need for Hawaii to protect youth from tobacco is more urgent than ever, with youth e-cigarette use reaching epidemic levels. According to the Centers for Disease Control, in 2019 nearly every 1 in 3 high schoolers in Hawaii vape regularly. This is an over 70% increase in youth vaping rates since 2017. Native Hawaiians and Pacific Islanders have even higher vaping rates than the youth state average. ¹

The American Lung Association in Hawaii urges legislators to continue to support and advocate for policies to protect youth from tobacco use through tax parity. We support the intent of House Bill 598 House Draft 1 and welcome the suggested edits to make this bill even stronger.



Pedro Haro
Executive Director
American Lung Association in Hawaii
pedro.haro@lung.org



February 16 , 2020

To: The Honorable Aaron Ling Johanson, Chair

Rep. Lisa Kitagawa, Vice Chair

From: Scott Rasak, VOLCANO Vape Shops
Chief Operating Officer

RE HB598 – oppose.

Thank you for the opportunity to submit testimony.

VOLCANO is the largest independent retailer & wholesaler of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 15 locations statewide and employ over 80 fulltime workers to support sales of our products not only here in Hawaii, but to most USA states as well as over 30 International countries. We stand in opposition to HB598 or the following:

- HB598 will deny current combustible tobacco smokers who live in remote areas of Hawaii vital products needed to help them quit smoking. Removing their ability to safely purchase vapor products will put them at risk of being sent back to combustible tobacco usage as their products are no longer obtainable.
- An online sales ban would open up a black market “Do it yourself” market due to the massive adult population who currently use these products in Hawaii. Currently, all products being distributed online are through reputable age verified purchases as required by the FDA currently. The black market conditions which would arise from the passing of this bill would inflict a huge quality void in the market and expose the adult population to greater risks. The unintended consequences of this bill outweigh the hypothetical gain.
- Vapor products and e-liquids contain NO tobacco, sometimes contain NO nicotine, and ultimately emit NO smoke when vaporized; HB598 deceptively refers to vapor products as “Electronic Smoking Devices” to mislead the public and creates a false perception of the nature of these products. This misclassification establishes the idea that vapor products are the same as tobacco products and thus, should be viewed, controlled, and perceived the same way as traditional tobacco products. This is a complete disregard of the fact that vapor products are fundamentally different from tobacco products in every way.
- HB598 states in its justification that the bill and its regulations are needed to curb youth usage. However, it fails to mention the latest available CDC report that shows youth use of all tobacco products, including e-cigarettes are at the lowest levels ever. Furthermore, a study done the following year at the University of Michigan found that the majority of youth who have reported using ecigarettes are not using e-liquids that contain nicotine - further suggesting that youth who do use ecigarettes are doing so to replace the use of traditional tobacco.
o <https://www.cdc.gov/media/releases/2017/p0615-youth-tobacco.html>



- The most Recent CDC report has shown e-cigarettes have supplanted all other traditional nicotine replacement therapies and are now the most commonly used product by consumers to quit using traditional tobacco cigarettes

- http://www.journalnow.com/business/business_news/local/cdc-report-shows-moresmokers-try-to-quit-with-e/article_a33383f3-5300-5178-9f14-28b52884c45c.html

- A recent study published by the New England Journal of Medicine concluded that ECigarettes are twice as effective for smoking cessation than traditional nicotine replacement therapy products which are not taxed or controlled the same way this bill proposes to tax and control E-Cigarettes. The state should be creating easier access for these products, not tighter regulations that steers vapers back towards tobacco cigarettes

- <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

- A recent study by the National Academy of Sciences, Engineering, and Medicine stated: "there is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users' exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes." The findings add to the already weighty body of evidence showing vaping to be far less hazardous than smoking.

- <http://www.washingtonexaminer.com/landmark-e-cigarette-report-explodes-myththat-vaping-is-as-toxic-as-smoking/article/2646804> ○

- http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-ecigarettes.aspx?utm_source=Hootsuite&utm_medium=Dashboard&utm_campaign=SentviaHootsuite

- HB598 States in its justification that the use of licensing and permit fees will help “protect consumers, such as requiring retailers of e-liquids to obtain a retail tobacco permit”. We fail to see how requiring retailers to obtain a permit will translate to ‘protecting the public’. Rather, it will simply burden the 50+ small businesses operating in the vapor products industry with unnecessary fees and bureaucratic hurdles.

- Vapor Products are not the same as tobacco products, and thus, should not be regulated in the same fashion. Vapor products have not been demonstrated to have the same detrimental effects of combustible tobacco products and have otherwise been shown in recent studies to be as much as 95% less toxic than traditional Cigarettes. Creating extraneous regulations that aim to limit access only serves to protect deadly tobacco markets.

- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

It is our belief that this continuing unjustified classification and requirements are not in the best interests of the State of Hawaii. Thank you for your time and consideration. If you have any questions, please feel free to contact me directly.

Sincerely,

Scott Rasak
Chief Operating Officer

VOLCANO Vape Shops
197 Sand Island Access Rd. #213 Honolulu,
HI 96819 scott@volcanoecigs.com



ALOHACARE

To: The Honorable Representative Aaron Ling Johanson, Chair
The Honorable Representative Lisa Kitagawa, Vice-Chair
Committee on Consumer Protection and Commerce

From: Trish La Chica, Community and Government Relations Manager, External Affairs

Hrg: February 17, 2021 at 2:00pm, Room 329/Zoom

RE: **HB598 HD1 Relating to Tobacco Products – Support with Comments**

AlohaCare appreciates the opportunity to provide testimony in **support** of **HB598 HD1**, which is a measure to regulate e-cigarettes by closing the online purchasing loopholes, require permitting and licensing, and dedicate funds for tobacco prevention and education programs. This measure no longer taxes electronic smoking devices.

Founded in 1994, AlohaCare is a community-rooted, non-profit health plan serving 73,000 Medicaid and dual-eligible health plan members on all islands. Our mission is to serve individuals and communities in the true spirit of aloha by ensuring and advocating access to quality health care for all. We believe that health is about supporting whole-person care, including access to housing and food security, to build a stronger, healthier Hawaii.

AlohaCare offers the following comments. AlohaCare applauds this measure's approach to regulate electronic smoking devices and protect public health. AlohaCare believes that taxation in addition to regulating the online shipment of tobacco products is necessary to improve the health of Hawaii's keiki and protect them from becoming the next generation addicted to nicotine. AlohaCare respectfully requests that the existing tax rate of 70% on wholesale products be applied to all electronic smoking devices and e-liquids as it is important to treat all ESDs and e-liquids as tobacco products for the protection of public health. Increasing prices through taxation is a proven strategy to reduce consumption and initiation of tobacco products. Tobacco consumption results in health problems that creates hundreds of millions in added health care costs for the State and contributes to health disparities and poor health outcomes.

AlohaCare believes that this measure will help to regulate an industry that has contributed to the public health crisis that resulted in an outbreak of 2,807 e-cigarette or vaping product use-associated lung injury (EVALI) cases or deaths. [A 2020 Stanford study](#) has found that young adults who vape were five to seven times more likely to get the COVID-19 virus.

Hawaii has been experiencing a youth vaping epidemic and we appreciate the Legislature's actions to protect our young people's health from the vaping and tobacco industry's efforts to get them addicted to life-threatening habits. Mahalo for this opportunity to testify in **support of HB598 HD1**.



February 16, 2021

To: Chair Aaron Ling Johanson
Vice Chair Lisa Kitagawa
House Committee on Consumer Protection and Commerce

RE: **STRONG SUPPORT for HB598 HD1**

Thank you for this opportunity to testify in **SUPPORT** of **HB598 HD1**. Blue Zones Project was brought to Hawai'i by HMSA to help increase overall well-being of our communities and to make Hawai'i a healthier, happier place to live, work, and play. To accomplish that goal, we work to lower rates of obesity, tobacco use, and chronic disease.

ESD use by youth is on an upward trend; from 2017-2019, ESD use more than doubled among high school students and tripled among middle school students.¹ Locally, 27% of middle school students and 42% of public high school students acknowledged trying electronic smoking devices in 2017.²

Data from local and national sources, including the Centers for Disease Control and Prevention (CDC), cite numerous safety and public health concerns with its use. According to the CDC, "young people who use e-cigarettes may be more likely to smoke cigarettes in the future."³

Given the many public health concerns tied with ESD use among youth, we urge you to pass HB598 HD1 and restore the original language requiring licensing/permitting for ESD wholesalers and retailers and create tax parity between ESD and other tobacco products.

Thank you for this opportunity to testify in **strong support** of **HB598 HD1**.

Sincerely,

Colby Takeda, MPH, MBA
Senior Manager

¹ Wang, T. W., et al. (2019). Tobacco Product Use and Associated Factors Among Middle and High School Students. Centers for Disease Control and Prevention. *Surveillance Summaries*, 68(12);1–22

² 2017 Hawai'i Youth Risk Behavior Survey.

³ Dunbar, M. S., Davis, J. P., Rodriguez, A., Tucker, J. S., Seelam, R., & D'Amico, E. J. (2018). Disentangling Within- and Between-Person Effects of Shared Risk Factors on E-cigarette and Cigarette Use Trajectories from Late Adolescence to Young Adulthood. *Nicotine & Tobacco Research*, nty179.



Cigar Rights of America, Hawai'i

TO: The Honorable Aaron Ling Johanson, Chair
and Members of the House Committee on Consumer Protection & Commerce

DATE: February 17, 2021, 2:00 p.m.

FROM: Johnathon Myers, Hawai'i Ambassador, Cigar Rights of America

RE: HB 598, HD1, Relating to Tobacco Products

Dear Chair Johanson and Members of the House Committee on Consumer Protection & Commerce,

On behalf of Cigar Rights of America (CRA), and more than 500 local members across the State, we write in reference to HB 598 that is being heard this week in the Hawai'i House Consumer Protection & Commerce Committee. This bill relates to taxation of Modified Risk Tobacco products, which will be taxed at a lower rate of 50 cents per product vs. 50%, which is the current tax on premium cigars. In January of 2020, the Food & Drug Administration (FDA) acknowledged that premium cigars are the lowest enforcement priority of tobacco products because of their lack of appeal to youth. In addition to this fact, the FDA and National Institute of Health PATH Study indicate that the average premium cigar smoker has the same health risk as a non-smoker due to infrequent consumption.

The Cigar Rights of America, the Premium Cigar Association (PCA), and Hawai'i Cigar Association (HCA) believe that a tax cap for premium cigars should also be included in this bill of 50 cents per premium cigar. This tax cap would apply to tobacco products meeting the FDA definition of a premium cigar:

“Premium” cigars means a type of cigar that: (1) is wrapped in whole tobacco leaf; (2) contains a 100 percent leaf tobacco binder; (3) contains at least 50 percent (of the filler by weight) long filler tobacco (i.e., whole tobacco leaves that run the length of the cigar); (4) is handmade or hand rolled (i.e., no machinery was used apart from simple tools, such as scissors to cut the tobacco prior to rolling); (5) has no filter, nontobacco tip, or nontobacco mouthpiece; (6) does not have a characterizing flavor other than tobacco; (7) contains only tobacco, water, and vegetable gum with no other ingredients or additives; and (8) weighs more than 6 pounds per 1,000 units.”

source: [https://www.fda.gov/tobacco-products/ctp-newsroom/ctp-statement-premarket-authorization-requirementspremium-cigars#:~:text=For%20purposes%20of%20the%20Court's,wrapped%20in%20whole%20tobacco%20leaf%3B&text=Contains%20at%20least%2050%20percent,length%20of%20the%20cigar\)%3B](https://www.fda.gov/tobacco-products/ctp-newsroom/ctp-statement-premarket-authorization-requirementspremium-cigars#:~:text=For%20purposes%20of%20the%20Court's,wrapped%20in%20whole%20tobacco%20leaf%3B&text=Contains%20at%20least%2050%20percent,length%20of%20the%20cigar)%3B)

This tax cap would benefit the many small businesses in Hawai'i that sell legal products to legal adults and result in more revenue for the state overall with a tax cap in place.

PCA-- "The State of Hawaii can anticipate collecting 2-5% more in annual OTP collections, as a result of enacting a .50 cap on the sale of premium handmade cigars, defined herein. This is as a result of allowing local small businesses to capture sales, that otherwise would go to lower cost alternatives for purchases."

On behalf of all those who enjoy cigars, we thank you for your consideration and kindly ask that you amend this bill to exclude premium cigars as defined by the FDA.

Sincerely,
Johnathon Myers
Ambassador, Cigar Rights of America

For More Information on Cigar Rights of America (CRA) please visit

cigarrights.org



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 17, 2021**

Re: HB 598 HD1 Relating to Tobacco Products

Good afternoon Chair Johanson and members of the House Committee on Consumer Protection & Commerce. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

We are in STRONG OPPOSITION to HB 598 HD1 Relating to Tobacco Products. This measure establishes the offense of unlawful shipment of tobacco products. Increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products; increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products; allocates a portion of funds collected from excise taxes on tobacco products to health education and prevention programs concerning the risks and dangers of the use of electronic smoking devices for youth; repeals certain provisions of the Hawaii Revised Statutes relating to electronic smoking devices; and is effective 7/1/2050.

Many retailers statewide are already operating on a thin margin and face stiff competition. Retail is one of the hardest hit industries during this pandemic. We see almost daily stores closing around our neighborhoods due to the affects this pandemic is having on our economy.

It is not fair to categorize vapor products and e-liquids as a tobacco product. They are not the same. Many E-cigarettes contains NO tobacco, and NO smoke is emitted when vaporized. The New England Journal of Medicine published an article last year that found that e-cigarettes were nearly twice as effective as conventional nicotine replacement products, like patches and gum, for quitting smoking. The study was conducted in Britain and funded by the National Institute for Health Research and Cancer Research UK.

Retail has changed over the years in how products are purchased. We are seeing a surge in online sales for all types of merchandise. It almost impossible for anyone under the age of 21 to purchase vape products from reputable law abiding local online or at a brick-and-mortar retail store. The online verifications vetting process is intense to ensure those purchasing is 21 or older.

Raising the tobacco tax and permit fee will truly hurt locally owned businesses, especially the small locally owned businesses' and may potentially force some of them to close. This would mean many small local businesses like the convenient corner store and locally owned vape stores would be gone and leaving our friends, family, and neighbors out of work.

Retailers like many businesses are struggling to survive and keep their employees employed. Many cannot afford an increase in doing business. We hope that you will hold this bill.

Mahalo again for this opportunity to testify.

HB-598-HD-1

Submitted on: 2/16/2021 4:50:11 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

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

Comments:

We oppose this unneeded and business harmful bill.

HB-598-HD-1

Submitted on: 2/12/2021 7:54:45 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sheldon Miyakado	Individual	Oppose	No

Comments:

STRONGLY OPPOSE

Date: February 13, 2021

To: The Honorable Aaron Ling Johanson, Chair
The Honorable Lisa Kitagawa, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

Re: **Strong Support for HB598 HD1**, Relating to Tobacco Products

Hrg: February 17, 2021 at 2:00 PM via Videoconference in Conference Room 329

Aloha House Committee on Consumer Protection & Commerce,

As a parent, community member and healthcare professional I am writing in **strong support of HB598 HD1**, which establishes the offense of unlawful shipment of tobacco products; increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products; increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products; allocates a portion of funds collected from excise taxes on tobacco products to health education and prevention programs concerning the risks and dangers of the use of electronic smoking devices for youth; repeals certain provisions of the Hawaii Revised Statutes relating to electronic smoking devices.

HB598 HD1 will help build on Hawai'i's success of reducing smoking by requiring in-person sale of cigarettes and supporting health education and prevention programs for youth.

However, **Hawai'i is in the midst of a youth vaping epidemic**. Approximately 31% of Hawai'i high school students and 18% of Hawai'i middle schoolers are current e-cigarette users. For Native Hawaiian and Pacific Island youth these numbers climb to 40% for high school and 30% for middle school students.

It is time for all of us to come together to effectively address and reverse the youth vaping epidemic in Hawai'i using all available tools.

I respectfully ask that you **restore HB598 HD1 to the original language of HB598** to include e-liquid and electronic smoking devices within the definition of "tobacco products", as used in the cigarette tax and tobacco tax law and require licensing/permitting for electronic smoking device wholesalers and retailers and create tax parity between electronic smoking devices and other tobacco products (70% of wholesale price).

In addition, I respectfully ask that this bill be **amended to end the sale of all flavored tobacco products, including the flavor menthol** – these flavors, including menthol, entice youth, while the nicotine hinders critical brain development and keeps them hooked for life.

I **strongly support HB598 HD1** and respectfully ask you to amend and pass this bill out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Kea'au, HI

HB-598-HD-1

Submitted on: 2/15/2021 8:45:57 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
mary santa maria	Individual	Support	No

Comments:

I support this bill and recommend the restoration from sthe original bill that creates tax parity between electronic smoking devices and other tobacco products, as well as restoring the section that requires all retail and wholesale establishments to have a permit/liscense. .

Sincerely,

Mary Santa Maria

Public Health Educator, Maui

HB 598, HD 1
Committee on Consumer Protection and Commerce
February 17, 2021

Good Afternoon
Chair Johanson, Vice Chair Kitagawa, Members

I am Julian Lipsher, a member of the Coalition For Tobacco Free Hawaii, testifying as a private citizen

I am testifying in support of HB 598, HD 1 with suggested amendments.

The bill proposes to:

- * Prohibit the online sale of tobacco products
- * Increase the fee for tobacco permits and licenses
- * Dedicate funds (\$750K/year) to the Tobacco Prevention & Control Trust Fund for youth education on e-cigarette prevention and education

The Hawaii State Legislature has enacted numerous pieces of legislation on traditional tobacco prevention and control measures that have resulted in significant declines in both adult and youth smoking rates, some of the lowest in the nation, saving both money and lives. Now we are faced with the challenges presented by the tobacco industry on vaping, e-cigarettes and new methods of nicotine delivery systems.

To maximize the preventive impacts of this measure, it is suggested that HB 598, HD 1 restore the original language from HB 598 as it applies to:

- * Amending definition of "Tobacco Products" to include e-cigarette devices and e-cigarette products
- * Requiring licensing and permitting for e-cigarette wholesalers and retailers
- * Instituting a 70% tax rate on all "Other Tobacco Products" for consistency and parity in the tax structure

The Legislature is encouraged to apply what has been successful strategies for traditional tobacco products, to the new electronic smoking devices and the epidemic of vaping among our youth.

Thank you for the opportunity to testify.

HB-598-HD-1

Submitted on: 2/15/2021 11:20:59 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

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

Comments:

Respectfully, House of Representatives Committee members and Senate Committee members:

You cannot ban/restrict electronic cigarettes on one hand [HB598 (HD1), HB992, HB993, HB1327, HB1328, SB63, SB621, SB1146, SB1147], and on the other hand impose taxation on the very same electronic cigarettes [HB476 (HD1), HB630, HB826 (HD1), HB1329, SB894]!

This is a gross misuse of House Committee members', Senate Committee members', and constituents' time and resources.

I recommend reading and understanding the peer-reviewed journals, CDC articles, and UK's longitudinal studies/research presented in the testimony submitted by Mr. Scott Rasak (COO, Volcano Vape Shops).

Sincerely,
Johnathon Myers
Concerned Constituent

HB-598-HD-1

Submitted on: 2/15/2021 1:27:24 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shelly Ogata	Individual	Support	No

Comments:

Chair Johanson and members of the Committee on Consumer Protection & Commerce:

I support HB 598 WITH AMENDMENTS. Please restore to the original language of HB598 to require licensing/permitting for electronic smoking device wholesalers and retailers and create tax parity between electronic smoking devices and other tobacco products.

Shelly Ogata, RN, MPH

HB-598-HD-1

Submitted on: 2/15/2021 2:02:47 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bryan Mih	Individual	Support	No

Comments:

Dear Representatives:

As a pediatrician and medical director of the Kapi'olani Smokefree Families Program, I support this bill with amendments.

Electronic smoking devices are used in a similar manner as cigarettes, yet are not taxed as such. The American Academy of Pediatrics strongly supports regulation and taxation of electronic smoking devices to prevent initiation of use, especially by young people.

Hawaii has one of the highest rates of middle schoolers (18%) and high schoolers (31%) currently using e-cigarettes. For Native Hawaiian and Pacific Island youth the rates are even higher: 30% for middle schoolers and 40% for high schoolers.

Nicotine is a highly addictive drug that impacts the adolescent brain, reducing impulse control and affecting mood. Those who use e-cigarettes are four times more likely to smoke regular cigarettes later on. The e-cigarette industry claims these are cessation devices, but a recent study has shown that even if one adult can quit with these devices, the trade-off is 81 young people who will start the habit in their place. This is completely unacceptable.

Once young people are addicted to nicotine, it is extremely difficult to quit.

I strongly support an amendment to restore bill to the original language of HB598, requiring licensing and permitting for electronic smoking device wholesalers and retailers and creating tax parity between electronic smoking devices and other tobacco products. Appropriately regulating and taxing these electronic nicotine devices just brings these products in line with laws regarding other tobacco products. This is a common sense solution that is long overdue and which will improve the health of many, especially our keiki and young people.

Mahalo for your consideration and support of this important measure.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

HB-598-HD-1

Submitted on: 2/15/2021 2:05:47 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
ASHLEY MATTOS	Individual	Oppose	No

Comments:

I oppose this bill

HB-598-HD-1

Submitted on: 2/15/2021 2:15:34 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Heaukulani	Individual	Oppose	No

Comments:

I strongly oppose this bill!

HB-598-HD-1

Submitted on: 2/15/2021 2:36:14 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Naomi Muronaka	Individual	Oppose	No

Comments:

I oppose

HB-598-HD-1

Submitted on: 2/15/2021 3:55:52 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Weiner	Individual	Comments	No

Comments:

I am writing in regard to HB 598 HD regarding e-cigarette regulation. This bill has several admirable portions: prohibition of on-line sale of tobacco products, increasing fees for tobacco permits and licenses, and dedicating \$750,000 per year to the Tobacco Prevention and Control Trust Fund for youth e-cigarette prevention and education programs. I firmly support those proposals. However, I strongly urge the House to restore the original language in HB598 to require licensing and permitting for electronic smoking device wholesalers and retailers and create equal taxation between electronic smoking devices and other tobacco products, which is 70% of the wholesale price. Electronic smoking devices, because of their nicotine concentration, are equally detrimental to both youth and adults, and have been associated with severe, and sometimes fatal, lung disease in young adults. In addition, e-cigarettes are very addictive and research has shown they are a gateway drug for regular cigarette smoking. Therefore, taxing electronic products equally will be a disincentive for teens to start using these products in the first place, which is everyone's goal.

Linda Weiner, MD

Pediatrician

Kalaheo, Kauai

HB-598-HD-1

Submitted on: 2/15/2021 4:24:31 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
HANALEI BENN	Individual	Oppose	No

Comments:

What bill should be passed is giving citations to underaged smoking in public. Just like us adults get for drinking in public, instead of punishing ones of age that aloud to. Why have a age of you trying to stop all products from coming in.

HB-598-HD-1

Submitted on: 2/15/2021 5:18:24 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Kim	Individual	Oppose	No

Comments:

Stop attacking the vaping community!

HB-598-HD-1

Submitted on: 2/15/2021 5:29:02 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
dillon rellez	Individual	Oppose	No

Comments:

These e-cigarettes have been helping people and there are no reasons that we should be paying extra to just ship something over to the Big Island. I believe if done the right way these products can't stop addiction and there is no reason to put a stop on something that truly helps.

HB-598-HD-1

Submitted on: 2/15/2021 5:49:25 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

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

Comments:

I'm still opposed to this overregulation.

HB-598-HD-1

Submitted on: 2/15/2021 8:44:37 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
candice costales	Individual	Oppose	No

Comments:

I oppose to HB598 because I think it is unnecessary to rise tobacco shipping licensing costs to wholesalers. We are going through a pandemic and this should not be happening to businesses.

HB-598-HD-1

Submitted on: 2/15/2021 11:32:48 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Monique gunn	Individual	Oppose	No

Comments:

Oppose

HB-598-HD-1

Submitted on: 2/16/2021 7:02:58 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John A. H. Tomoso	Individual	Support	No

Comments:

02-16-21

RE:HB598 HD1

As a Social Worker and Priest, I support this Bill with its amendments and the repealing of HRS provisions relating to electronic smoking devices. This Bill not only establishes offense categories but also increases fees and allocates funds for education and prevention programs. In my view, this is good and balanced public policy, leading to mitigation and prevention of an ongoing public health crisis in our community..

Mahalo,

John A H Tomoso+, MSW

51 Ku'ula Street, Kahului, HI 96732-2906

808-280-1749, john.a.h.tomoso@gmail.com

cc: CTFH-Maui

HB-598-HD-1

Submitted on: 2/16/2021 7:51:30 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Erin Alicia Wiggins	Individual	Oppose	No

Comments:

HB-598-HD-1

Submitted on: 2/16/2021 9:13:40 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Koga	Individual	Support	No

Comments:

I am in support of HB598, HD1 which improves the regulations on electronic smoking devices by prohibiting online sales of tobacco products, increasing fees for tobacco permits and licenses and dedicating funds to the Tobacco Prevention and Control Trust Fund for youth e-cigarette prevention and education programs. However, I respectfully request amending this measure to restore the bill to the original language of HB598 to require licensing and permitting for electronic smoking device wholesalers and retailers and equivalent taxes for e-cigarettes and other tobacco products. The original definition includes electronic smoking devices and e-liquids within the definition of “tobacco products” as used in the cigarette tax and tobacco tax law and would strengthen this bill.

The youth vaping epidemic in Hawaii is a serious public health crisis. Please pass HB598 HD1 with the requested amendment to protect young people from becoming addicted to these harmful tobacco products and to ensure the future health of our communities.

Thank you for this opportunity to testify.

hawaiiCigar

ASSOCIATION

To: The Honorable Aaron Ling Johanson, Chair
and Members of the House Committee on Consumer Protection & Commerce

Date: Wednesday, February 17, 2021
Time: 2:00 p.m.
Place: VIA VIDEO CONFERENCE

From: Les Drent
for the Hawaii Cigar Association

Re: HB 598, HD1, Relating to Tobacco Products

Dear Aaron Ling Johanson, and Members of the House Committee on Consumer Protection & Commerce,

The Hawaii Cigar Association (HCA), and its members oppose HB598 in its current form. The HCA would like to provide the following comments ,and proposes that the bill be amended to exclude licensees who sell only premium cigars.

A premium cigar as defined by the United States Food and Drug Administration (FDA) is a cigar that meets all of the following eight criteria: Is wrapped in whole tobacco leaf; contains a 100 percent leaf tobacco binder; contains at least 50 percent (of the filler by weight) long filler tobacco (i.e., whole tobacco leaves that run the length of the cigar); is handmade or hand rolled (i.e., no machinery was used apart from simple tools, such as scissors to cut the tobacco prior to rolling); has no filter, non tobacco tip, or non tobacco mouthpiece; does not have a characterizing flavor other than tobacco; contains only tobacco, water, and vegetable gum with no other ingredients or additives; and weighs more than 6 pounds per 1,000 units.

source: [https://www.fda.gov/tobacco-products/ctp-newsroom/ctp-statement-premarket-authorization-requirements-premium-cigars#:~:text=For%20purposes%20of%20the%20Court's,wrapped%20in%20whole%20tobacco%20leaf%3B&text=Contains%20at%20least%2050%20percent,length%20of%20the%20cigar\)%3B](https://www.fda.gov/tobacco-products/ctp-newsroom/ctp-statement-premarket-authorization-requirements-premium-cigars#:~:text=For%20purposes%20of%20the%20Court's,wrapped%20in%20whole%20tobacco%20leaf%3B&text=Contains%20at%20least%2050%20percent,length%20of%20the%20cigar)%3B)

The HCA contends that premium hand made cigars are rarely, if ever, possessed or consumed by minors and therefore pose negligible risk to them. Children are not attracted to premium non flavored cigars, and their cost between \$10 and \$30 apiece on average prices them far beyond the reach of minors.

The HCA is committed to protecting the freedom of legal-age adults to enjoy cigars. Pursuant to that aim, HCA is also committed to revising the burdensome Hawaii tax code, which disadvantages local cigar retailers, and the Kauai grown cigar industry by requiring it to pay far more than its fair share in licenses and taxes for their artisanal products. The current wholesale tax of 50% also incentivizes Hawaii consumers to buy cheaper cigars from unlicensed sources outside the state.

On behalf of all those who enjoy cigars, we thank you for your consideration and kindly ask that you amend this bill to exclude premium cigars as defined by the FDA.

Sincerely,



Les Drent
for the Hawaii Cigar Association

For More Information on the Hawaii Cigar Association please visit

hawaiicigarassociation.org

HB-598-HD-1

Submitted on: 2/16/2021 9:40:05 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mariner Revell	Individual	Oppose	No

Comments:

Every year legislators create new laws that take away the rights of FREE individuals. Please create laws that help the people instead of taking our freedoms away! There are many dumb laws in Hawaii please fix them not create more!

HB-598-HD-1

Submitted on: 2/16/2021 10:29:38 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Riley	Individual	Oppose	No

Comments:

Nope

HB-598-HD-1

Submitted on: 2/16/2021 10:53:31 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
AJ McCabe	Individual	Oppose	No

Comments:

I have been living in Hawaii my entire life and never written a testimony ever so my first testimony in my life is to oppose Bill HB598.

HB-598-HD-1

Submitted on: 2/16/2021 11:27:38 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Sarabia	Individual	Oppose	No

Comments:

I oppose this bill.

HB-598-HD-1

Submitted on: 2/16/2021 11:37:33 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mikhaila Millikan	Individual	Oppose	No

Comments:

Prohibition on shipping of tobacco product would only hinder our communities access to these products. It could have a detrimental impact on those trying to quit traditional cigarettes, as it seems that is going to become the only available product with all of these bills in session. People have worked so hard to quit, this is not fair to them.

HB-598-HD-1

Submitted on: 2/16/2021 11:55:39 AM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
VALENTINO MIRANDA-KEPA	Individual	Oppose	No

Comments:

Aloha,

Please Oppose bill HB598. We do not need a Tax Increase for Vaping I feel if the State put forward a Strict Possession Law for Under Age for Tobacco or Vape products that will hinder under age use. Do not punish law abiding Adults for an under age epidemic.

Thanks

Valentino Miranda-kepa

HB-598-HD-1

Submitted on: 2/16/2021 12:04:34 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andy Takaaze	Individual	Oppose	No

Comments:

We don't need any more taxes or costs put on already struggling small businesss. We don't need anymore laws, We need to enforce the laws in place. STOP WASTING MY TAX DOLLARS ON NONENSENSE!

Date: February 17, 2021
To: The Honorable Aaron Johanson, Chair
The Honorable Lisa Kitagawa, Vice Chair
Members of the Committee on Consumer Protection and Commerce

From: HeNaniNoOeKaWahineU‘ioIkePono Wandasan
Re: Strong support for HB598, HD1, Relating to Tobacco Products
Hearing: Wednesday, February 17, 2021, at 2:00 pm at Capitol Room 329

Mahalo for the opportunity to submit testimony in SUPPORT of HB598, HD1, which establishes the offense of unlawful shipment of tobacco products, including e-liquid and electronic smoking devices.

Popular electronic smoking devices like Juul have made it clear that these products are addicting a generation of keiki (youth). The Surgeon General has declared youth e-cigarette use as an epidemic, and there is a need to protect our keiki from a lifetime of health risks associated with nicotine addiction.

According to the Centers for Disease Control and Prevention, Hawai‘i’s high schoolers rank the second highest in the nation for reported usage of e-cigarettes, while our middle schoolers rank the highest. This emphasizes the severity of the e-cigarette epidemic among youth.

Although electronic smoking devices are classified as a tobacco product under the Food and Drug Administration, they are the only product that does not have a tobacco tax. Research on tobacco control policy has shown that the increase in price of electronic smoking products is a strategy that discourages access to these products. Furthermore, allocating a portion of the tobacco taxes towards health education and prevention programs could prevent our keiki from starting to use e-cigarettes, or help them quit. Therefore, I urge you to support this measure, for the sake of our keiki’s and public’s health.

Mahalo,

HeNaniNoOeKaWahineU‘ioIkePono Wandasan
Master of Social Work Candidate
University of Hawai‘i at Mānoa

HB-598-HD-1

Submitted on: 2/16/2021 1:55:19 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
tania faris	Individual	Oppose	No

Comments:

oppose this bill

HB-598-HD-1

Submitted on: 2/16/2021 5:41:32 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

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

Comments:

Vaping products help people quit. This bill doesn't help anyone.