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HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 826, H.D. 2

February 25, 2021
1:00 p.m.
Via Videoconference

RELATING TO ELECTRONIC SMOKING DEVICES

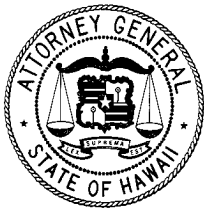
The Department of Budget and Finance (B&F) offers comments on House Bill (H.B.) No. 826, H.D. 2.

H.B. No. 826, H.D. 2, amends Chapter 28, HRS, to: rename the Electronic Smoking Device Retailer Registration Unit to the Electronic Smoking Device Retailer Registration and Enforcement Unit (ESDRREU) within the Department of the Attorney General (AG); expand the scope of the ESDRREU to include the enforcement of compliance of any electronic smoking device with the Federal Food, Drug, and Cosmetic Act, as amended by the Family Smoking Prevention and Tobacco Control Act and its regulations; establish the ESDRREU Special Fund, to be administered by the AG, into which all moneys collected for violations of electronic smoking device compliance shall be deposited; expand the purposes for which moneys in the Tobacco Enforcement Special Fund can be used to include enforcement of Chapter 28, HRS; appropriate an unspecified amount of general funds in FY 22 and FY 23 to establish and hire an unspecified number of full-time equivalent positions and related equipment;

and amend the fine amounts for first and subsequent offenses to undetermined amounts.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding H.B. No. 826, H.D. 2, it is difficult to determine whether the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.



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

ON THE FOLLOWING MEASURE:

H.B. NO. 826, H.D. 2, RELATING TO ELECTRONIC SMOKING DEVICES.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Thursday, February 25, 2021 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 308, Via Videoconference

TESTIFIER(S): Clare E. Connors, Attorney General, or
Richard W. Stacey, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General (Department) opposes sections 2 and 5 of this bill and provides the following comments.

The bill seeks to better regulate electronic smoking devices by amending: (1) section 28-15, Hawaii Revised Statutes (HRS), to expand the purposes for which moneys in the tobacco enforcement special fund may be used to include all functions of the Department (section 2, page 4, line 5, to page 5, line 3); (2) section 28-166, HRS, to require the electronic smoking device retailer registration unit (ESDRR Unit) to “enforce compliance of any electronic smoking device with the Federal Food, Drug, and Cosmetic Act, as amended by the Family Smoking Prevention and Tobacco Control Act and its regulations,” by endowing the ESDRR Unit with the “powers necessary for the enforcement of compliance, including but not limited to inspection warrants, search warrants, warning letters, seizure and disposal, injunction, and criminal prosecution and fines” (section 5, page 6, lines 12 to 15); (3) section 28-166, HRS, to establish a new special fund for moneys collected for violations of electronic smoking device compliance, which could be used to support ESDRR Unit operating expenses (section 5, page 6, line 18, to page 7, line 4); and (4) section 712-1258(6), HRS, to adjust the fines for persons under twenty-one years of age who purchase or possess electronic smoking devices or tobacco products (section 6, page 7, lines 10 to 13). The bill also seeks to appropriate out of the general revenues for fiscal years 2021-2022 and 2022-2023 to establish and hire an as yet unspecified number of full-

time equivalent permanent positions and related equipment within the Department to carry out the additional responsibilities (section 7, page 8, lines 5 to 13).

The Department supports the fight against the vaping epidemic among Hawaii's youth and is committed to fulfilling its statutory responsibilities relating to electronic smoking device compliance. The Legislature expresses its intent "not to compromise existing Master Settlement Agreement mandated enforcement activities . . ." (page 3, lines 4-6), but sections 2 and 5 would do exactly the opposite. The expanded use of tobacco funds as well as the creation of Department enforcement authority in section 2 of this bill would run directly contrary to the obligations established by the 1998 Tobacco Master Settlement Agreement (MSA) and would in turn jeopardize Hawaii's receipt of millions of dollars in tobacco fund moneys.

The tobacco enforcement special fund was created in 2001 via section 28-15, HRS, after Hawaii became a signatory to the MSA. Section 28-15 specifies that the moneys in the fund are to be used "for administering, operating, monitoring, and ensuring compliance with and enforcement" of the MSA, as well as chapter 675, HRS (the Tobacco Liability Act), chapter 486P, HRS (Tobacco Products Reporting), chapter 245, HRS (Cigarette Tax and Tobacco Tax Law), and other statutes or programs relating to the enumerated chapters. The Department's tobacco enforcement unit, created shortly after the MSA was signed, is a team of investigators, attorneys, and staff funded by the tobacco enforcement special fund and tasked with enforcement of the MSA and Hawaii laws related to the MSA as set forth in section 28-15(b), HRS.

To expand the use of the tobacco enforcement special fund to all Department functions, as opposed to only matters relating to the MSA and other laws relating to tobacco regulation, would put Hawaii at risk of being found non-diligent under the terms of the MSA. Continued receipt of MSA funds is contingent upon following the tobacco enforcement requirements of the MSA. Any state found non-diligent faces the loss of all or a portion of its annual MSA payments. Hawaii, for example, could face the loss of over half of its expected annual MSA payment of approximately \$33,000,000 if found non-diligent. Pennsylvania was found to be non-diligent in the most recent completed MSA arbitration and lost over \$116,000,000 of its expected annual MSA payment. The section 2 amendment would expand the use of tobacco

enforcement money to purposes that would likely be deemed contrary to the purposes dictated by the MSA and could therefore jeopardize millions in Hawaii's MSA payments.

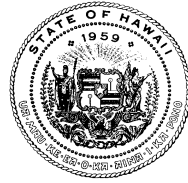
Section 5 changes the responsibilities of the ESDRR Unit from registration only to include enforcement of federal laws relating to electronic smoking device regulation and creates a special fund into which all moneys collected pursuant to such enforcement will be deposited. As currently set up, adding responsibilities to the ESDRR Unit would again potentially stretch the resources of the Department and raise the risk of non-compliance with the MSA, although these concerns could be alleviated if positions are added to the ESDRR Unit, separate from the Tobacco Enforcement Unit, as contemplated by section 7 of the bill. However, these amendments of sections 28-161 and 28-166, HRS, fail to clarify how the ESDRR Unit will conduct such enforcement. Section 5 does not specify the authority by which state agents will enforce federal law so it is not clear whether these enforcement actions must be prosecuted in federal court or which specific federal crimes or violations the ESDRR Unit would be enforcing. This section also fails to clarify how enforcement of federal statutes could result in penalties deposited in the new state special fund. Further, there is no appropriation provision that would enable the Department to spend any funds from the new special fund. Instead of requiring state agents to enforce federal laws, this bill should focus on enforcement of new state laws, if enacted, to address the vaping epidemic, such as pending bills addressing bans on flavored tobacco products, unlawful shipment, and taxation of electronic smoking devices and related items.

The Department suggests adding the word "of" after the word "fine" at page 7, line 9, for grammatical purposes.

For the reasons articulated above, the Department respectfully suggests the deletion of sections 2 and 5 of this bill. The Department appreciates the proposed appropriation for new positions to address the problems posed by the vaping epidemic. If the sections relating to enforcement of federal laws are deleted and replaced with state enforcement requirements, the Department asserts that it will need seven positions: one attorney; one legal assistant, one legal clerk, and four

investigators to effectively regulate electronic smoking devices.

Thank you for the opportunity to provide comments.



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in OPPOSITION to H.B. 826, H.D. 2
RELATING TO ELECTRONIC SMOKING DEVICES**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: 2/25/2021

Room Number: Videoconference

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

3 **Department Testimony:** The DOH opposes House Bill 826, House Draft 2 (H.B. 826, H.D. 2)
4 specifically in regard to the youth penalties and fine amounts for persons under twenty-one years
5 of age who purchase or possess electronic smoking devices (ESDs) or tobacco products.

6 Tobacco purchase and possession penalties for youth are not strategies recommended by
7 public health authorities. They are ineffective in reducing underage tobacco use and are difficult
8 to enforce. Youth penalties shift responsibility away from the tobacco industry and onto young
9 consumers.¹ Such laws stigmatize youth who smoke, whereas the tobacco industry spends
10 millions of dollars deliberately targeting them via promotion and advertising.² The tobacco
11 industry should be held accountable instead of punishing youth who have fallen victim to
12 predatory market practices.

13 Psychologists have found that punishment is not an optimal strategy for behavior change,
14 and even less effective for addictive behaviors.³ Penalties disproportionately affect low-income

¹ ChangeLab Solutions. PUP in Smoke: Why youth tobacco possession and use penalties are ineffective and inequitable. Fact Sheet retrieved January 31, 2020 from <https://www.changelabsolutions.org/product/pup-smoke>

² Ibid.

³ Volkow ND, Baler RD, Goldstein RZ. Addiction: pulling at the neural threads of social behaviors. *Neuron*. 2011;69(4):599-602.

1 communities, youth of color, LGBT youth, youth with disabilities, and boys.⁴ Instead, policies
2 that place responsibility on retailers, youth cessation and education programs, and other tobacco
3 product regulations (e.g., price and flavor restrictions) are proven to be more effective.⁵

4 The U.S. Federal Drug Administration's (FDA) rulemaking, enforcement, and scientific
5 review process has not been sufficiently expeditious to protect keiki in Hawaii from the
6 proliferation and marketing of e-cigarette products. Data shows that from 2017 to 2019, high
7 school use of ESDs increased from 25% to 31%.⁶ The Department requests expanding the
8 existing regulation of combustible cigarettes and other tobacco products to include ESDs to
9 protect the health of children and youth in Hawaii.

10 The preamble of H.B. 826 correctly states the current situation that products on the
11 market have submitted applications, and not yet received thorough scientific review by the FDA
12 to receive authorization and are in a status known as premarket authorization. Further in the
13 introduction, it is stated that the U.S. Postal Office will be promulgating rules for parity to
14 include ESDs in the prohibition of mailing cigarettes, however, there is an exemption for Hawaii
15 and Alaska to allow for intra-state shipping, and also private package services may continue
16 delivering ESDs.

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

18 **Offered Amendments:** None

⁴ ChangeLab Solutions. PUP in Smoke: Why youth tobacco possession and use penalties are ineffective and inequitable. Fact Sheet retrieved January 31, 2020 from <https://www.changelabsolutions.org/product/pup-smoke>

⁵ Ibid.

⁶ Centers for Disease Control and Prevention, Youth Risk Behavior Survey, Hawaii Results 2017 to 2019.



**American
Heart
Association.**

American Heart Association testimony in OPPOSITION to HB 826, HD2 “Relating to Electronic Smoking Devices”

The American Heart Association opposes HB 826, HD2.

One of the stated purposes of the bill is to:

“Curb the use of electronic smoking devices and tobacco products by amending the fine amounts for persons under twenty-one years of age who purchase or possess such devices or products.

Laws that penalize underage youth for purchase, use or possession (PUP) of tobacco products are ineffective in reducing underage tobacco use, difficult to enforce and raise the possibility of selective enforcement against young people of color. The tobacco industry has targeted youths for decades, seeking to create new generations of addicted customers. Instead of holding the industry and the retailers accountable, PUP laws shift the responsibility to their victims – young customers who are purchasing and using a deadly and highly addictive product.

Additionally, PUP laws are unlikely to reduce youth initiation and smoking prevalence at the population level. They are also inequitable because they disproportionately affect youth of color, LGBT youth, youth with disabilities and boys who are more likely to smoke and vape because they have been targeted via advertising and retailer placement by the tobacco industry.

Primary enforcement should focus on retailer compliance not selling to minors rather than on illegal purchases or youth possession. Research has shown that there is differential enforcement of tobacco purchasing laws based on race. One of the reasons that the tobacco industry focuses on criminalizing youthful purchasers of tobacco is to make it difficult or impossible to research and monitor merchant compliance programs. Criminalizing youthful purchases may also help shield tobacco producers from civil liability claims.

Best practices for limiting youth access to tobacco products include having an articulated plan for retailer enforcement, giving enforcement responsibility to a single agency (in Hawaii, the Department of Taxation has a successful record of enforcing against illegal sales of traditional tobacco products to minors that has reduced Hawaii’s youth smoking rates to record low levels), conducting ongoing compliance checks and inspections, allocating funding for enforcement inspections, prosecuting violators, setting high penalties for violations, and practicing effective merchant education. Comprehensive tobacco retailer licensing (TRL) policies, with appropriate funding and enforcement, have proven to be more effective than PUP laws in reducing youth initiation and ongoing tobacco use.

Mahalo for this opportunity to provide testimony on HB 826, HD2.

Respectfully submitted,

Chairman of the Board

Glen Kaneshige

President

Michael Lui, MD

Board Members

Rick Bruno, MD, FACEP

Jackie De Luz

Brandt Farias

Jason Fujita

Mimi Harris

Zia Khan, MD

Brandon Kurisu

Arnold Martines

Michael Rembis, FACHE

Andrew S. Rosen

Timothy Slottow

Jennifer Walker

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Our Mission:

“To be a relentless force for a world of longer, healthier lives.”

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

Donald B. Weisman
Government Relations/Communications Director



Corey Rosenlee
President

Osa Tui, Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON FINANCE

RE: HB 826, HD2 - RELATING TO ELECTRONIC SMOKING DEVICES

THURSDAY, FEBRUARY 25, 2021

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Luke and Members of the Committee:

The Hawaii State Teachers Association **opposes HB 826, HD2**, relating to electronic smoking devices, and would support **with suggested amendments that remove any increase in fines for our youth**. This bill expands the purposes for which moneys in the tobacco enforcement special fund may be used to include all functions of the department of the attorney general. Renames the electronic smoking device retailer registration unit the electronic smoking device retailer registration and enforcement unit. Expands the scope of the unit to include enforcement of compliance of electronic smoking devices with the Federal Food, Drug, and Cosmetic Act. Establishes a special fund for moneys received from enforcement actions. Amends the fine amount for persons under twenty-one years of age who purchase or possess tobacco products or electronic smoking devices. Appropriates funds. Effective 07/01/2060. (HD2)

Although 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. HSTA opposes any increase of fines for youth in 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. **Imposing fines on our youth is not what works to prevent youth vaping; however, raising the price point through taxes and banning flavors does work to reduce youth use.**

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.**

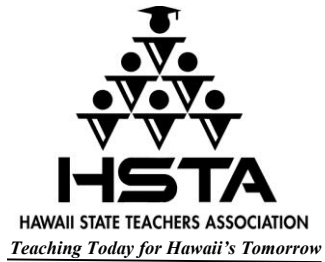
The use of e-smoking products among youth is at epidemic levels. According to data from the Centers for Disease Control and Prevention and the Food and Drug Administration’s National Youth Tobacco Survey, **the percentage of high school-age children reporting past 30-day use of e-cigarettes rose by more 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 trauma system special fund, community health centers special fund, and emergency medical services special fund thus extending protections for our youth and goes hand in hand



Corey Rosenlee
President

Osa Tui, Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

with the regulations 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.

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 **oppose this bill until the increase in fines for our youth is removed.**



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

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Hearing Date: Thursday, February 25, 2021

HB826 HD2 – RELATING TO ELECTRONIC SMOKING DEVICES.

Cynthia Au, Interim Government Relations Director – Hawaii Pacific
American Cancer Society Cancer Action Network

Thank you for the opportunity to **OPPOSE** HB826 HD2: RELATING TO ELECTRONIC SMOKING DEVICES on tobacco enforcement and amends the fine amount for persons under twenty-one years of age who purchase or possess tobacco products or electronic smoking devices.

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 opposes 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. We recommend 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. To truly reduce youth e-cigarette use in Hawaii, the state must regulate these products via taxation, restriction of online sales and ending the sale of flavors in tobacco products.

PUP laws unfairly punish youth, many of whom became addicted at a young age as a result of the tobacco industry's aggressive marketing to kids. As a result, PUP laws shift blame away from the industry's irresponsible marketing, to its victims. PUP laws also minimize the responsibility of the retailer. Instead of treating children as the wrongdoers, youth access laws should focus on limiting access to tobacco products. Rigorous enforcement of restrictions against sales to underage persons is critical to minimizing

the accessibility of tobacco products and, ultimately, reducing youth tobacco use. The most successful youth access programs incorporate routine retailer compliance checks which use underage persons to attempt tobacco purchases.¹

Tobacco companies and their allies have a history of supporting PUP laws as alternatives to other laws that would produce greater declines in youth smoking. In focusing on youth penalties, enforcement resources can divert enforcement officials' attention from stopping retailers from illegally selling tobacco to kids. PUP laws are more difficult to systematically enforce than sanctions against retailers. It is easier and more effective to conduct compliance checks for retailers, who are fewer in number compared to youth and whose locations are both known and constant.²

Thank you for the opportunity to comment on this matter.

¹ Campaign for Tobacco-Free Kids. "Youth Purchase, Use, Or Possession Laws Are Not Effective Tobacco Prevention"

² Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," Tobacco Control, 12(Suppl 1):i6-i13, 2003.



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 25, 2021**

Re: HB 826 HD2 Relating to Electronic Smoking Devices

Good afternoon Chair Luke and members of the House Committee on Finance. 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 **OPPOSE HB 826 HD2** Relating to Electronic Smoking Devices. This measure expands the purposes for which moneys in the tobacco enforcement special fund may be used to include all functions of the department of the attorney general. Renames the electronic smoking device retailer registration unit the electronic smoking device retailer registration and enforcement unit; expands the scope of the unit to include enforcement of compliance of electronic smoking devices with the Federal Food, Drug, and Cosmetic Act; establishes a special fund for moneys received from enforcement actions; amends the fine amount for persons under twenty-one years of age who purchase or possess tobacco products or electronic smoking devices; appropriates funds; and is effective 07/01/2060.

Currently Hawaii has a law in place that states that it is unlawful for a person under the age of 21 years to purchase electronic vaping devices, e-liquids, and tobacco products. However, we are finding that the retailers are not intentionally selling these products and devices to those under the age of 21. With new technology and printers, some of the fake IDs that the minors present to the sales staff upon check out look like the real state IDs.

The majority of the vape shops on our islands are responsible and have a policy that they will not sell a vape device or cigarettes to anyone 21 years old and under. Retailers often go as far as to not selling to the adult that accompanies the minor into the store if it is revealed that the device or product that they are seeking to purchase is for the minor. Retailers have no control over their products once they are sold and the customer walks out the door with them. It is often the case that an adult family member or friend that purchases the vape devices for the minors and gives the device to the minor away from the retail store.

It is not fair to categorize vapor products and e-liquids as a tobacco product. They are not the same. Many E-liquids contain NO tobacco or nicotine, and NO smoke is emitted from Electronic Smoking Devices. 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.

We also wonder if the state has the funds to expand the personnel needed to do the enforcement at a time when the state is in debt.

Many retailers statewide are already operating on a thin margin and face stiff competition. Taking on a “tobacco tax” and permit fee will truly hurt locally owned businesses, especially the small locally owned businesses’.

The retail industry has been one of the hardest hit during the pandemic. Since the pandemic, those retailers who were deemed non-essential were forced to close their businesses for months due to government orders. Those on Oahu were forced to close their businesses a second time with no income from online sales unless they were fulfilling the orders from home. Retailers have also had to endure an almost 50% rate increase in interisland shipping. Many stores who rely directly on the visitors are not opening until the customer base returns – if they can hold on that long. They have also reduced their staff, taken pay-cuts and more to survive. The 3rd Commercial Lease Rent survey from data collected between December 1 and 31, 2020 revealed:

- One in 10 Hawaii businesses permanently closed over the course of the pandemic, and 67 percent were impacted significantly by government restrictions.
- From April through December 2020, 50 percent of businesses did not pay their rent in full.
- Three in 10 businesses expected to miss three full rent payments between October and December 2020, and more than half expected to miss at least one full rent payment between January and June 2021.
- Tourism accounts for at least one-quarter of the overall revenue of 37 percent of Hawaii businesses.
- 86 percent of businesses saw their annual revenue decrease in 2020, and 82 percent expect a decrease in 2021 as well.

Retailers like many businesses are struggling to survive and keep their employees employed. Many cannot afford an increase in doing business.

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

HB-826-HD-2

Submitted on: 2/23/2021 9:25:04 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

We are strongly opposed to this bill because it is harmful to business and to civil liberties. Bills such as hb826 are purely special interest in nature and don't reflect the needs of normal citizens.



HIPHI Board

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*Misty Pacheco, DrPH
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Department of Kinesiology and
Exercise Sciences*

*Garret Sugai
Kaiser Permanente*

Date: February 24, 2021

To: Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Members of the Finance Committee

Re: Opposition to HB 826, HD2, Relating to Electronic Smoking Devices

Hrg: February 25, 2021 at 1:00 PM via Videoconference

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ **opposes HB 826, HD2**, which would expand the Electronic Smoking Device Registration Unit with the Department of the Attorney General to enforce recent federal regulations on electronic smoking devices. The measure also includes unspecified fines on youth under the age of 21 for possession or purchase of tobacco products.

The Coalition opposes laws that focus on penalizing youth use and possession of tobacco products because they don't work and disproportionately hurt communities of color.

Possession of tobacco products by underage persons ("PUP") laws are a known tobacco industry tacticⁱⁱ that shift the blame away from the industry and onto the children who are victims of their aggressive marketing tactics. There are also equity concerns, as these laws disproportionately hurt youth of color or from low-income communities due to the industry's history of targeted advertising in these communities. Even worse, PUP laws are not effective on reducing underage tobacco use and divert policy attention from effective tobacco control strategies and reinforce the tobacco industry's position that parents or guardians are responsible for restricting minors' access to tobacco. Punishment may even deter addicted youth from seeking help to quitⁱⁱⁱ.

The Coalition supports the enforcement of recent federal e-cigarette regulations, but cautions that they are several years too late and do not go far enough to end the youth vaping epidemic.

In 2020, the federal government took much-needed action on e-cigarettes, but these long overdue regulations left loopholes that the tobacco industry can (and will) exploit.

In January 2020, the FDA cracked down on flavored cartridge-based e-cigarettes, popularized by Juul^{iv}. However, the rule exempted menthol, one of the most popular flavors among youth, and disposable e-cigarettes quickly rose in popularity as the industry quickly adapted^v.

After years of delays, the deadline for the FDA’s pre-market tobacco product applications came in September 2020. The deeming rule, which was finalized in 2016, gave FDA the authority to regulate electronic smoking devices as tobacco products^{vi}. With this rule, all electronic smoking devices would need to submit a pre-market tobacco application (PMTA) in order to stay on the market. The FDA now has a year to review the PMTAs to ensure these tobacco products are “appropriate for the protection of public health.” In the meantime, these products can remain on the market, despite the epidemic-levels of youth e-cigarette use driven by the abundance of kid-friendly flavors.


In the last few days of December 2020, Congress passed the “Preventing Online Sales of E-Cigarettes to Children Act.” This legislation expands the 2009 Prevent All Cigarette Trafficking (PACT) Act to cover electronic smoking devices, thus requiring them to age verification by online retailers and private delivery companies, labels on packaging to indicate they contain tobacco products, and compliance with state and local tobacco taxes^{vii}. It also prohibits the shipment of electronic smoking devices through USPS, though there is an exemption for Hawai’i and Alaska to allow for intra-state shipping^{viii}. With this exemption, state action to restrict online sales to licensed wholesalers or retailers is both warranted and necessary to prevent youth from accessing these products online.

States have the authority and opportunity to enact regulations on electronic smoking devices that are more effective than youth penalties.

Instead of criminalizing our children, the focus should be on passing laws that are known to be effective at reducing tobacco use. For several years, the Hawai’i State legislature has considered numerous bills to regulate e-cigarettes, including taxation^{ix}, removing flavors from tobacco products^x, and restricting online sales to licensed tobacco retailers. These proven strategies reduce the appeal of and access to tobacco products by youth, as well as robust cessation and prevention education programs.

Thank you for the opportunity to provide testimony in **opposition to HB 826, HD2.**

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 Wakefield M, Giovino G. Teen penalties for tobacco possession, use, and purchase: evidence and issues Tobacco Control 2003;12:i6-i13; via https://tobaccocontrol.bmj.com/content/12/suppl_1/i6.citation-tools

ⁱⁱⁱ Hrywna, M, et al., "Content Analysis and Key Informant Interviews to Examine Community Response to the Purchase, Possession, and/or Use of Tobacco by Minors," *J Comm Health*, 29(3):209-216, 2004; Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl 1):i6-i13, 2003; Loukas, A, et al., "Examining the Perspectives of Texas Minors Cited for Possession of Tobacco," *Health Promotion Practice*, 7(2):197-205, 2006.

^{iv} U.S. Food and Drug Administration. (2020, January 2). *FDA finalizes enforcement policy on unauthorized flavored cartridge-based e-cigarettes that appeal to children, including fruit and mint* [Press release]. Retrieved from <https://www.fda.gov/news-events/press-announcements/fda-finalizes-enforcement-policy-unauthorized-flavored-cartridge-based-e-cigarettes-appeal-children>.

^v Kaplan, S. (2020, June 2). Lawmakers Say Puff Bar Used Pandemic to Market to Teens. *The New York Times*. Retrieved from <https://www.nytimes.com/2020/06/02/health/puff-bar-teens.html>

^{vi} U.S. Food and Drug Administration. (2020, June 3). Retrieved from <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/fdas-deeming-regulations-e-cigarettes-cigars-and-all-other-tobacco-products>.

^{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} United States Postal Service. PACT Act Update: Priority Mail With Delivery Confirmation for Shipments to APO/FPO/DPO Addresses. Retrieved from <https://about.usps.com/postal-bulletin/2010/pb22292/html/kit.htm>

^{ix} Centers for Disease Control and Prevention. Response to increases in cigarette prices by race/ethnicity, income, and age groups-- United States, 1976-1993. *MMWR Morbidity and mortality weekly report*. 1998;47(29):605-609.

^x Rosshem, M. E., Livingston, M. D., Krall, J. R., Barnett, T. E., Thombs, D. L., McDonald, K. K., & Gimm, G. W. (2020). Cigarette Use Before and After the 2009 Flavored Cigarette Ban. *Journal of Adolescent Health*, 67(3), 432-437. <https://doi.org/10.1016/j.jadohealth.2020.06.022>

Smoke-Free Alternatives Trade Association

1629 K Street NW
Suite 300
Washington, DC 20006



**House of Representatives of Hawaii
COMMITTEE ON FINANCE
(Hearing Date February 25, 2021)
Position: Oppose**

RE: H.B.826 Title: Electronic Smoking Devices; Tobacco Enforcement Special Fund; Electronic Smoking Device Retailer Registration and Enforcement Unit; Special Fund; Attorney General

Chair Rep. Sylvia Luke and Vice Chair Rep. Ty J.K. Cullen and members of the Committee on Finance :

Thank you for the opportunity to submit testimony regarding House Bill 826 (HB 826), AN ACT Expands the purposes for which money in the tobacco enforcement special fund may be used to include all functions of the department of the attorney general.

My name is Mark Anton, and I am the Executive Director of the Smoke-Free Alternatives Trade Association (SFATA), based out of Washington, DC.

SFATA, a 501(c)(6) organization, is a national trade association of businesses that work in, or in service of, the vapor products industry, including manufacturers, distributors, and retailers. SFATA's mission is to advocate for a reasonably regulated U.S. marketplace, which allows its member companies to provide smoke-free products to adult consumers, while promoting a positive public image for vapor products, and educating businesses in our industry. All SFATA members must agree to adhere to the association's Member Code of Responsible Conduct, which includes, among other things, strict marketing and packaging guidelines. That document can be found here:

https://www.sfata.org/content.aspx?page_id=22&club_id=89995&module_id=294336

SFATA also assists its members, which are small companies, with compliance of federal and state regulations. One of the ways we do this is by providing educational webinars regarding the development and building of Pre-Market Tobacco Applications with the Food and Drug Administration (FDA), and how to comply with new federally mandated shipping requirements, based on the PACT Act to prevent youth access to vapor products recently passed in the Omnibus spending bill.

Our members are law-abiding businesses and want to comply, but they are small and lack the resources of big tobacco firms to understand how to comply with federal and state laws, and SFATA helps them accomplish this. They are eager to work to help adult smokers with an alternative to smoking combustible cigarettes and prevent youth access, as they themselves are former smokers.

HB 826 does not distinguish between e-cigarettes and traditional tobacco products, placing both under the same category as "smoking" products, even though e-cigarettes are much safer than the combustible alternative. The scientific evidence from both the United States and European Union has

Smoke-Free Alternatives Trade Association

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Suite 300
Washington, DC 20006



proven beyond any reasonable doubt that e-cigarettes are safer than combustible cigarettes and are significantly more successful in helping smokers quit than traditional nicotine replacement therapies.¹²³

Yale University School of Public Health performed a discreet choice study to determine the likely impacts of an FDA-proposed ban on flavors, on rates of smoking combustible cigarettes, and e-cigarette use. The conclusion found a ban on flavored e-cigarettes alone would likely increase the choice of cigarettes in smokers, arguably the more harmful way of obtaining nicotine.⁴

We must be reminded of the benefits of flavors in vaping products for the consumers of Hawaii and not impose such hardships on the businesses that provide such vital information and quality products to the consumer. Driving small vaping businesses out of the market will just put consumers in peril of not understanding the products and options that might remain.

HB 826 seeks to address enforcement of products and alludes to the harms associated with vapor products. But the legislatures does not distinguish between smoking and vaping clearly. It is disingenuous that lawmakers would purport to protect public health yet restrict access or provide inaccurate information regarding safer products. Rather than restricting access to tobacco harm reduction products and flavored vapor products, lawmakers should encourage the use of e-cigarettes and work towards earmarking adequate funding for smoking education and prevention programs.

Smoking is the issue and we must not overlook this fact. Vaping has and continues to offer alternatives to traditional smoked cigarettes. Has been found to be less harmful by many organizations as well.

¹ Royal College of Physicians. "Nicotine without the smoke: Tobacco harm reduction." London RCP, 2016. <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

² Stephens WE. "Comparing the cancer potencies of emissions from vapourised nicotine products including e-cigarettes with those of tobacco smoke." Tobacco Control 2018;27:10-17. <https://tobaccocontrol.bmj.com/content/27/1/10>

³ Hajek, Peter et al. "A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy." N Engl J Med 2019; 380:629-637 <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

⁴ Buckell J, Marti J, Sindelar JL. "Should flavours be banned in cigarettes and e-cigarettes? Evidence on adult smokers and recent quitters from a discrete choice experiment." Tobacco Control. 2019;28:168-175. <https://tobaccocontrol.bmj.com/content/28/2/168.citation-tools>

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The scientific evidence from both the United States and European Union has proven beyond any reasonable doubt that e-cigarettes are safer than combustible cigarettes and are significantly more successful in helping smokers quit than traditional nicotine replacement therapies.⁵⁶⁷

Yale University School of Public Health performed a discreet choice study to determine the likely impacts of an FDA-proposed ban on flavors, on rates of smoking combustible cigarettes, and e-cigarette use. The conclusion found a ban on flavored e-cigarettes alone would likely increase the choice of cigarettes in smokers, arguably the more harmful way of obtaining nicotine.⁸

To address youth use of age-restricted products, as well as adult use of deadly combustible cigarettes, Hawaii must allocate additional funding from revenue generated from existing excise taxes and settlement payments. It should not seek additional funding from vapor products and the public via additional taxation of far less harmful products. This would be counter intuitive.

We recommend Hawaii's education and health departments must work with tobacco and vapor product retailers to ensure there are no sales of age-restricted products to minors. Any solution to address such strategies must include all actors – not only proponents of draconian prohibitionist policies.

Reasonable regulation is paramount, but HB 826 is not reasonable, as it places extreme requirements on law-abiding businesses and exerts significant burdens on an industry that has the effect of helping smokers' transition or switch to lower risk products. The goal should be harm reduction and quitting smoking, or switching to vapor products, which accomplishes this objective.

Lawmakers' must face the reality of a larger illicit market in the wake of false and misleading campaigns of vapor products – prohibition does not automatically translate into reduced use, just different markets.

A study in the Harm Reduction Journal in 2018 concluded: "Judgements on whether authorizing marketing of flavored e-cigarettes would be appropriate for the benefit and protection of the public health should account for the possibility that adults who have switched completely from smoking cigarettes to using e-cigarettes in non-tobacco flavors may not have attempted to switch to e-cigarettes,

⁵ Royal College of Physicians. "Nicotine without the smoke: Tobacco harm reduction." London RCP, 2016.
<https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

⁶ Stephens WE. "Comparing the cancer potencies of emissions from vapourised nicotine products including e-cigarettes with those of tobacco smoke." Tobacco Control 2018;27:10-17.
<https://tobaccocontrol.bmj.com/content/27/1/10>

⁷ Hajek, Peter et al. "A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy." N Engl J Med 2019; 380:629-637 <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

⁸ Buckell J, Marti J, Sindelar JL. "Should flavours be banned in cigarettes and e-cigarettes? Evidence on adult smokers and recent quitters from a discrete choice experiment." Tobacco Control. 2019;28:168-175.
<https://tobaccocontrol.bmj.com/content/28/2/168.citation-tools>

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or perceived themselves as able to switch, had e-cigarettes only been available in the flavors that are available through conventional cigarettes.”⁹

We believe that the FDA is best suited for making this determination. The PMTA process is the most scientific and appropriate vehicle to make this determination. The applicants, of which many of our Hawaii members have initiated with the FDA, must show toxicology reports on harmful and potentially harmful constituents, as well as clinical reviews on the use of these products.

They also must demonstrate that they are appropriate for use by adult consumers and prove they are only marketing to adults who either vape or smoke currently. They must also show how they are going to prevent youth access and uptake of the products they are marketing.

This application and scientific review are very expensive, as well as exhaustive. Introducing and passing HB 826 would effectively cause significant financial harm to our members, but it would also render the FDA process mute. This would not only be harmful to the businesses trying to comply, but would also put consumers in peril, especially if the FDA finds these products appropriate for the protection of public health.

Many health and public groups have made the false claim that vaping by youth leads to smoking. The following data puts that premise to rest. In 2008, the year vaping was introduced to the general market, the adult smoking rate was 20.6%, and the youth smoking rate in 2011 was 15.8%. However, the smoking rate among adults in 2018 was at 13.7% a 33.5% drop in adults, while the youth smoking rate in most recent data from National Youth Tobacco Survey shows the rate at 4.6%, a huge drop of 71%. The data does not indicate that vaping may lead to youth uptake of smoking. In fact, it is quite the opposite.

SFATA believes that we can accomplish the goal of both restricting youth access while also allowing adult access. This is the best strategy to keep reducing the overall smoking rates of adults.

It is our position to oppose this bill, as it would put many adults at risk of lapsing back to, or not initiating a switch away from, combustible cigarettes. It would put the youth at risk of illicit or underground markets of unknown manufacture and would cost the state of Hawaii considerable revenue.

⁹ Russell, C., McKeganey, N., Dickson, T. *et al.* Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA. *Harm Reduct J* **15**, 33 (2018).
<https://doi.org/10.1186/s12954-018-0238-6>

Smoke-Free Alternatives Trade Association

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SFATA opposes this legislation, and we urge the committee to vote NO on HB 826.

Respectfully,

Mark Anton

Executive Director

HB-826-HD-2

Submitted on: 2/24/2021 10:21:55 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
sean nakayama	Namaste Vapors	Oppose	No

Comments:

Sean Nakayama (Namaste Vapor) I opposed all 3 of these bills. I pay my Federal and State Taxes,how much more do you need?, Theses 3 bills will kill a industry that gives grown ass adults the choice of a cigarette alternative. Don't start killing more small businesses

Minors will always find away to purchase vape related products, cigarettes, alcohol and illegal drugs...and getting pregnant/or making someone pregnant

Sean Nakayama



To: The Honorable Representative Sylvia Luke, Chair
The Honorable Representative Ty Cullen, Vice-Chair
Committee on Finance

Hrg: February 25, 2021 at 1:00pm, Room 308/Zoom

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

RE: **HB826 HD2, Relating to Electronic Smoking Devices - Oppose**

AlohaCare appreciates the opportunity to provide testimony to oppose **HB826 HD2**, which would expand the responsibilities of the Department of the Attorney General to include electronic smoking device retailer registration, enforcement, and compliance. The measure also amends the fines imposed on youth who purchase or possess tobacco products. AlohaCare is in opposition to Section 6, which focuses penalties on youth and policing their behavior, especially when they are already addicted to tobacco products.

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 appreciates the Legislature's intent to address the youth vaping epidemic. However, AlohaCare believes that the proposed solution included in this measure inequitably focuses on youth who are already addicted to tobacco products. Similar to substance abuse, dependence on nicotine among youth negatively impacts many aspects of an individual's life. This can lead to problems at school and at home and develop into lifelong chronic health problems.

AlohaCare supports policies to intervene early in the lives of youth to prevent and treat substance abuse, support young people, and provide them with the tools to choose healthier options. We believe that focusing penalties on youth and policing their behavior does not set them on the right path to health, nor do these policies prevent new youth from using tobacco and getting addicted to nicotine. We recommend pursuing actions proven to prevent tobacco use and encourage the legislature to consider comprehensive action that would create tax parity, require permitting and licensing, restrict online sales, and ban flavors.

Finally, the Centers for Disease Control and Prevention lists the [following strategies](#) known to be effective in reducing youth tobacco use:

- Higher costs for tobacco products (for example, through increased taxes)

- Prohibiting smoking in indoor areas of workplaces and public places
- Raising the minimum age of sale for tobacco products to 21 years
- TV and radio commercials, posters, and other media messages aimed at kids and teens in order to counter tobacco product ads
- Community programs and school and college policies that encourage tobacco-free places and lifestyles
- Community programs that lower tobacco advertising, promotions, and help make tobacco products less easily available

While we are grateful to the Committee for addressing the increasing use of tobacco and electronic smoking devices by youth, it is also important to consider whether enforcement and placing the blame and responsibility on youth will lead to better health outcomes, rather than worsening inequities.

Thank you for the opportunity to testify.



February 24, 2020

To:

Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair

From: Scott Rasak, VOLCANO Vape Shops
Chief Operating Officer

RE HB826– 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 16 locations statewide and employ over 80 full-time 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 HB826 for the following:

- Most recently, the FDA has issued updated guidance on vapor products which create a pathway for them to be brought to market. Currently, all products which are being distributed nationally have been registered under the PMTA pathway and are awaiting pending approval from the FDA. HB826 would add unnecessary burden of enforcement and state level burden since there is already federal oversight into the category.
- 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
o 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
o <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.
o <http://www.washingtonexaminer.com/landmark-e-cigarette-report-explodes-myththat-vaping-is-as-toxic-as-smoking/article/2646804>
o http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-ecigarettes.aspx?utm_source=Hootsuite&utm_medium=Dashboard&utm_campaign=SentviaHootsuite



● 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.

o 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



February 25, 2021

To: Chair Luke
Vice Chair Cullen
House Committee on Finance

RE: **OPPOSITION to HB826 HD2**

Thank you for this opportunity to testify in **OPPOSITION to HB826 HD2**. 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.

Electronic smoking device (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

Despite the many public health concerns tied with ESD use among youth, HB826 HD1 adds youth penalties that are concerning. Rather, the tobacco industry should be held accountable instead of punishing youth who are victim to the predatory marketing of the tobacco industry. Taxation of tobacco products, restriction of online sales, and ending the sale of flavored tobacco products are preferred alternatives to reducing the rates of tobacco use.

Thank you for this opportunity to testify in **OPPOSITION to HB826 HD2**.

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.

HB-826-HD-2

Submitted on: 2/23/2021 1:55:50 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I oppose this bill. Please do not make it harder for people to get off cigarettes.

HB-826-HD-2

Submitted on: 2/23/2021 1:59:57 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

It seems there would be way better places to allocate funds than creating a separate task force for vaping. How about coming up with something logical for all the underage use by fining those parents whose kids get caught with a vape in their possession. Hold parents accountable for their children's actions. In all, I think any extra funding, especially during a pandemic, should be used to feed and house those who so desperately need the help. Residents of Hawaii need to be put first. Mahalo

HB-826-HD-2

Submitted on: 2/23/2021 2:00:13 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I oppose this bill.

To whom it may concern,

I am opposing the current bill (HB826HB476) that will destroy the vaping industry here in Hawaii and put hundreds of people out of jobs. Our goal for public health is to have people quit smoking traditional tobacco cigarette which is the #1 cause of cancer here in America.

Yet our own Government demonize this new technology which has helped millions of Americans make the switch and drastically improving their health. If this bill were to pass, the industry will be dead, business will go out and people will go back to smoking traditional tobacco cigarettes.

The government already has strict guidelines vape shops must follow, or heavy fine will be applied or even jail time. Yet they are somehow made the enemy of public health. Meanwhile alcohol / flavored alcohol can be advertised online/TV Commercials/Super Bowl and sold in supermarkets.

I implore you to take your time and review these bills that could possibly destroy something that in my opinion, a PUBLIC HEALTH MIRACLE. Especially at a time when the PANDEMIC is still killing thousands of people and putting thousands of others out of jobs.

Vinh Tran,

Resident of Honolulu, Hawaii.

HB-826-HD-2

Submitted on: 2/23/2021 2:06:56 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I strongly oppose this bill!

HB-826-HD-2

Submitted on: 2/23/2021 2:09:12 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Aloha,

Please Oppose bill HB826. 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-826-HD-2

Submitted on: 2/23/2021 2:10:58 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Hello,

I would like to oppose this Bill. Due to the Pandemic we are currently suffering. This will create more people to loose there jobs and be forced to move out of State.

HB-826-HD-2

Submitted on: 2/23/2021 2:12:15 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Aloha,

Please Oppose bill HB826. 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

HB-826-HD-2

Submitted on: 2/23/2021 2:21:04 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Randi D	Individual	Oppose	No

Comments:

Aloha,

Please Oppose bill HB826. 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

HB-826-HD-2

Submitted on: 2/23/2021 2:50:50 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I oppose

HB-826-HD-2

Submitted on: 2/23/2021 2:55:19 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Erina Y	Individual	Oppose	No

Comments:

Dear Chair and Committee Members

I am very strongly opposed to all of the vaping bills that are in committees this year.

Cigarettes contain over 4000 chemicals, 43 known carcinogens, and 400 toxins. Science states that it is not the nicotine that kills, it is the tar that sticks to your lungs. Vaping has been proven to be at least 95% less harmful than cigarettes and many new reputable, peer-reviewed scientific studies prove this and these scientists have no agenda as to how the outcome will be. I have yet to figure why the Health Care Organizations want to keep quoting irrelevant science reports.

I am asking you to please put our health and our Adult choices above trying to obtain more revenue from vaping. It saddens me to see all the taxes trying to be imposed on vaping. This could cause vaping to go underground which would mean that Hawaii will get less tax money coming in and will put people's lives in jeopardy by possibly obtaining products that are not safe. I don't want to be forced to buy unsafe products which will put even more burden on our health care system if people get sick or die from using the unsafe products.

If vape shops shut down it will also create even more burden on the system because people will be unemployed, there will be empty storefronts and people will lose the ability to keep on vaping unless they fly to a more vape friendly state. It will also be detrimental to the people who still smoke to be able to have another choice to try to quit along with all the Pharmaceuticals.

For the millions of Americans who find it difficult to quit smoking or are unwilling to forgo nicotine, the answer should not be "quit or die." Instead, policymakers would improve both public health and job creation by embracing a message of harm reduction paired with a respect for consumer choice. I will end by saying, I hope the voice of your community matters and you take their concerns seriously about this issue.

Mahalo,

A considered community member.

HB-826-HD-2

Submitted on: 2/23/2021 3:19:49 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Oppose

HB-826-HD-2

Submitted on: 2/23/2021 3:54:08 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Pili	Individual	Oppose	No

Comments:

Unfavorable.

HB-826-HD-2

Submitted on: 2/23/2021 6:11:00 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Dear Committe members,

I oppose this legislation specifically because it looks to more fining of our youth. To truly reduce youth e-cigarette use in Hawaii, the state must regulate these products via taxation, restriction of online sales and ending the sale of flavors in tobacco products. Please do more to hold the tobacco industry liable for targeting our youth.

Sincerly ,

Mary Santa Maria

HB-826-HD-2

Submitted on: 2/23/2021 6:57:23 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I strongly oppose HB 826, HD2 that would increase the fine amounts for underage youth possession and purchase of tobacco products. The imposition of costly youth penalties in this bill are inappropriate and raise serious concerns. These penalties are ineffective and have not been proven to reduce underage tobacco use.

The tobacco industry continues to target youth with their slick and devious marketing tactics and Hawaii youth have been lured into believing that these addictive and dangerous vapor products are harmless. Hawaii is now experiencing a dangerous youth vaping epidemic. The state must take immediate action to prevent further harm from these tobacco products and focus on holding the tobacco industry accountable for their predatory actions instead of punishing vulnerable youth. Please consider regulating electronic cigarettes by taxation, restriction of online sales and banning flavored tobacco products instead of increasing fines for underage youth possession and purchase of tobacco products.

I am in strong opposition to HB 826, HD2 and respectfully request that the Finance committee members vote to oppose this bill. Please protect the health of Hawaii's youth by making this your top priority. Thank you for your consideration and the opportunity to testify.

HB-826-HD-2

Submitted on: 2/23/2021 7:18:16 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Hoku	Individual	Oppose	No

Comments:

I Oppose this bill.

HB-826-HD-2

Submitted on: 2/23/2021 7:23:34 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
francis luu	Individual	Oppose	No

Comments:

I oppose this bill, but agree with the fine if there under 21 years of age.

HB-826-HD-2

Submitted on: 2/23/2021 9:07:44 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I oppose this bill

HB-826-HD-2

Submitted on: 2/23/2021 9:11:20 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Clayton Silva	Individual	Oppose	No

Comments:

Leave our e-cigs alone. They help me smoke less and help my health. No more tax and no more regulations.

HB-826-HD-2

Submitted on: 2/24/2021 5:55:22 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Chang	Individual	Oppose	No

Comments:

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HB-826-HD-2

Submitted on: 2/24/2021 7:56:22 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Stop wasting MY tax money on redundant laws. Enforce the already strict laws and focus on getting our state open and our economy booming again. You are doing a great disservice by creating more red tape for already struggling small businesss. STOP STOP STOP

HB-826-HD-2

Submitted on: 2/24/2021 8:20:47 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
micah Thronas viluan	Individual	Oppose	No

Comments:

We have other issue that needs to be looked at vaping isn't one of them. They don't cause much harm to others around you and you don't smell of smoke . I believe we should focus on other things besides vaping. It helped me get off of smoking real cigarettes and more. I have an Aunty that uses this now n she said I'm glad I can start hugging you guys now without me smelling of smoke and can hug all your little cousins ... so there much said . We have hasher things like DRUGS such as cocaine ice etc that's taking a tole on people that makes them commute suicide or do other crazy things come on now. Even underage drinking is a problem , so see the difference between that driving drunk or vaping think about that

HB-826-HD-2

Submitted on: 2/24/2021 8:34:17 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
jontae leonard	Individual	Oppose	No

Comments:

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HB-826-HD-2

Submitted on: 2/24/2021 8:35:02 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Katelyn Kapua	Individual	Oppose	No

Comments:

I oppose this bill.

HB-826-HD-2

Submitted on: 2/24/2021 9:09:58 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I oppose this bill because you already put so much taxes on these products, instead we should focus on getting on underage smoking in public like we do with alcohol. Give them a citation along with the parents that are Condoning it.

HB-826-HD-2

Submitted on: 2/24/2021 9:13:42 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I oppose this bill. We don't need more laws, how about open up the economy and just use the laws that are in place. Stop using our tax money for unnecessary rules and regulations.

HB-826-HD-2

Submitted on: 2/24/2021 9:36:26 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Makela Rincon	Individual	Oppose	No

Comments:

Oppose

HB-826-HD-2

Submitted on: 2/24/2021 10:26:18 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Pauline A. Viernes	Individual	Oppose	No

Comments:

Completely oppose.

When this vaping started children of underage was vaping. But do not blame the vape shops bc the adults buy for them and that is how all the kids died or getting bad effects from vaping. They were TOO young and lungs not developed. I think now it has stabilized. Vaping takes away from smoking cigarettes.

HB-826-HD-2

Submitted on: 2/24/2021 10:38:04 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

i oppose this bill!

HB-826-HD-2

Submitted on: 2/24/2021 10:50:44 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Currently ecig products fall under the Hawaii tobacco enforcement unit. Why would the state create another unit just to enforce ecigs? It will only WASTE more of tax payers money!

To all legislators reading this, let's say you have a babysitter. You pay that babysitter \$1500 a month to watch your child. Would you pay an additional \$1500 a month by hiring another babysitter bringing your babysitter bill to a total of \$3000 a month for the same work your original babysitter does? The only difference with the with the second babysitter you hired is you call that person a Child care professional instead of a babysitter! Does this make any sense at all?

Please spend tax payers monies as if it were your own! Stop wasting our money!!!!!!

HB-826-HD-2

Submitted on: 2/24/2021 11:07:31 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Honorable Representatives,

I strongly oppose HB826. Please vote against these unnecessary changes to existing laws. If implemented, these laws and taxes will create an even bigger burden to small business owners who already must follow strict rules and regulations.

Respectfully submitted,

Theresa Revell

HB-826-HD-2

Submitted on: 2/24/2021 11:11:05 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

No

HB-826-HD-2

Submitted on: 2/24/2021 11:16:11 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I oppose to this bill because I think that it is only necessary to fine or give out citation to under age if caught smoking electronic device in public and that they should be the only ones to be punished.

HB-826-HD-2

Submitted on: 2/24/2021 11:22:50 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

I STORNGLY OPPOSE this bill.

The funds that will be used should go to prevent the brazan crimes such as robbery and home invasions occuring during the day.

With the State having a funding short fall prioritize the funding to prevent serious crimes not ecig enforcement.

Registered Voter

Sheldon Miyakado

HB-826-HD-2

Submitted on: 2/24/2021 11:25:44 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Venessa Viernes	Individual	Oppose	No

Comments:

I used to be a heavy smoker and vaping ecigs help me to quit now I save tons of money. And I can walk without breathing hard. I also lost weight too. Ecigs have been a blessing for me, please don't make me go back to smoking.

HB-826-HD-2

Submitted on: 2/24/2021 2:11:31 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maika Michioka	Individual	Oppose	No

Comments:

Question why would make it were almost none of the vape shops have shipment for our electronic devices? You do realize how much people will be struggling with their businesses & will have to shut down & you will be the one to blame for all this & we have a really huge community of vapers that are against this & we will not accept this ever!

HB-826-HD-2

Submitted on: 2/24/2021 5:27:04 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Please don't pass HB826 HD2. It doesn't help anybody.

HB-826-HD-2

Submitted on: 2/24/2021 8:29:13 PM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Dear Representatives:

As a pediatrician and medical director of the Kapi'olani Smokefree Families Program, I would like to comment on this bill.

Flavored nicotine products have been shown to be disproportionately used by young people, especially teenagers, as the flavors make it easier to start using tobacco and nicotine. Once young people are addicted to nicotine, it is extremely difficult to quit.

The main concern with this bill is that it punishes the users. Instead, the penalties should be directed to the tobacco and nicotine industry that targets our youth. Please hold tobacco and e-cigarette companies responsible for this problem, as they want to shift the blame from their billion-dollar industry onto the young people that they have targeted with their deadly and highly addictive product.

A common sense approach would be thorough regulation with taxation, restriction of online sales, banning of flavors, and comprehensive tobacco retailer licensing policies. These measures have proven more effective in reducing youth initiation of tobacco and nicotine.

Mahalo for your consideration.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

HB-826-HD-2

Submitted on: 2/25/2021 5:53:32 AM

Testimony for FIN on 2/25/2021 1:00:00 PM

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

Comments:

Strongly opposed. I will remember what happens here next election.