

STAND. COM. REP. NO.

2448

Honolulu, Hawaii

FEB 17 2022

RE: S.B. No. 2278
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committees on Health and Commerce and Consumer Protection, to which was referred S.B. No. 2278 entitled:

"A BILL FOR AN ACT RELATING TO TOBACCO PRODUCTS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the offense of unlawful shipment of tobacco products;
- (2) Include electronic smoking devices within the definition of "tobacco products", as used in the cigarette tax and tobacco tax law;
- (3) Increase the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products;
- (4) Increase the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products;
- (5) Repeal certain provisions of existing law relating to electronic smoking devices; and



- (6) Provide for the disposition of fines paid for the unlawful shipment of tobacco products into the Hawaii Tobacco Prevention and Control Trust Fund.

Your Committees received testimony in support of this measure from the Department of the Attorney General; Department of Health; American Cancer Society Cancer Action Network; Hawaii COPD Coalition; Hawai'i Public Health Institute; American Academy of Pediatrics, Hawaii Chapter; American Heart Association; American Lung Association in Hawaii; Hale Opio Kauai, Inc.; Hawaii Children's Action Network Speaks!; Hawai'i Primary Care Association; Hawaii State Teachers Association; Pediatric Therapies Hawai'i; The Man Cave; We Are One, Inc.; and fifty-nine individuals. Your Committees received testimony in opposition to this measure from Retail Merchants of Hawaii; Cigar Association of America, Inc.; Hawaii Smokers Alliance; JOCOR Enterprises, LLC; Tear Drip Holdings, Inc.; VOLCANO eCigs; and thirty-five individuals. Your Committees received comments on this measure from the Department of Taxation, Hawaii Food Industry Association, Tax Foundation of Hawaii, Taxpayers Protection Alliance, Hawaii Petroleum Marketers Association, and one individual.

Your Committees find that the use of e-cigarettes and vaping has seen a dramatic increase in popularity among Hawaii teenagers. In December 2020, the United States Congress passed a law prohibiting the shipment of e-cigarettes directly to consumers. However, intrastate shipments in Alaska and Hawaii are exempt from the law, allowing youth to purchase e-cigarettes online. This measure prohibits the shipment of tobacco products directly to consumers.

Your Committees acknowledge the testimony of the Department of the Attorney General and Department of Health, which offer amendments to the measure for clarity and consistency with existing law. Your Committees also acknowledge the testimony of the Department of Taxation, which recommended changing the effective date to January 1 so that the tax proposed by the measure does not go into effect mid-year.

Therefore, your Committees have amended this measure by:

- (1) Amending the proposed new section and definitions of "electronic smoking device" and "tobacco products", and

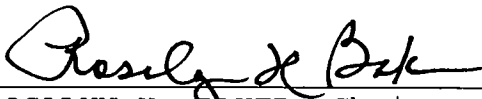


adding a definition of "e-liquid" for clarity and consistency with existing tobacco regulation;

- (2) Inserting an effective date of January 1, 2023, to support the administration and enforcement of the measure; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Health and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2278, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2278, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Health and
Commerce and Consumer
Protection,



ROSALYN H. BAKER, Chair



JARRETT KEOHOKALOLE, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

**Record of Votes
 Committee on Health
 HTH**

Bill / Resolution No.:*	Committee Referral:	Date:
SB2278	HTH/CPN, JDC/WAM	2-10-2022

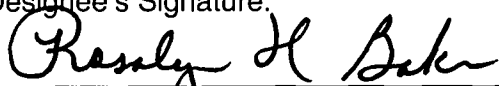
The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
MORIWAKI, Sharon Y.	✓			
SAN BUENAVENTURA, Joy A.	✓			
FEVELLA, Kurt	✓			
TOTAL	5	-	-	-

Recommendation: Adopted Not Adopted

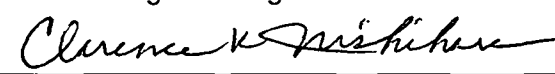
Chair's or Designee's Signature:


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* Only one measure per Record of Votes

The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB 2278	Committee Referral: HTH/CPN, JDC/WAM	Date: 02-10-2022		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
CHANG, Stanley (VC)	/			
DECOITE, Lynn	/			
NISHIHARA, Clarence K.	/			
RIVIERE, Gil	/			
SAN BUENAVENTURA, Joy A.	/			
FEVELLA, Kurt	/			
TOTAL	7			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes