

STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony in OPPOSITION to H.B. 1570, H.D. 1
RELATING TO THE YOUTH VAPING EPIDEMIC

SENATOR JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON HEALTH

SENATOR MICHELLE N. KIDANI, CHAIR
SENATE COMMITTEE ON EDUCATION

Hearing Date: 3/18/2022

Room Number: 225 and
Videoconference

1 **Department Testimony:** The Department of Health (DOH) opposes House Bill 1570, House
2 Draft 1 (H.B. 1570, H.D. 1) and recommends that the original language of H.B. 1570 be restored
3 with amendments. The H.B. 1570, H.D. 1 version has nine amendments that are unreasonable
4 and make the current version untenable.

5 The DOH supports the intent of the original measure H.B. 1570, to address the youth
6 vaping epidemic and protect Hawaii's next generation from lifelong addiction to tobacco use by
7 prohibiting the sales, distribution, and mislabeling of all flavored tobacco and synthetic nicotine
8 products, and recommends that the original language of H.B. 1570 be reinstated including the
9 preamble, which provides justification for this act.

10 Additionally, the Department requests amendments to align the definition of "tobacco
11 products" with the passage of H.R.2471, "Consolidated Appropriations Act, 2022" which
12 provides authority to the U.S. Food and Drug Administration (FDA) to regulate synthetic
13 nicotine products as tobacco products. Under the new law, an FDA-regulated "tobacco product"
14 will now include "any product made or derived from tobacco or containing nicotine from any

1 source that is intended for human consumption, including any component, part, or accessory of a
2 tobacco product.¹

3 Thank you for the opportunity to testify on the measure.

4 **Offered Amendment:**

5 1) Delete all H.D. 1 amendments as follows:

6 Part I, Section 1

7 Part II, Sections 2, 3, and 4

8 Part III, Section 5

9 Part IV, Section 6

10 Part V, Sections 9 and 10

11 Part VI, Section 11

12 Part VII, Section 12

13 2) Reinstate Section 1 from H.B. 1570 preamble for justification for the public health policy.

14 3) Amendments offered to align and clarify definitions are based on H.B. 1570 and submitted as
15 Attachment 1.

16 a. Sections 1, 2, 3, 4, 5, 6, 9, 10, 11, and 12 from H.D.1 are already deleted from text.

17 b. Restores Section 1 preamble from H.B. 1570 version.

18 c. Amends original language from H.B. 1570 by including synthetic nicotine in the
19 definition of tobacco products to align with FDA regulatory language. Changes
20 shown in red font.

¹ Consolidated Appropriations Act, 2022, Page 1861, Division P--Health Provisions, Title I—Public Health, Subtitle B—
Synthetic Nicotine: <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR2471SA-RCP-117-35.pdf>

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO. 1570 PROPOSED SD2

A BILL FOR AN ACT

RELATING TO THE YOUTH VAPING EPIDEMIC.

- | |
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| <ol style="list-style-type: none"> 1. Deleted: HB1570 HD1 Sections 1-6, 9-12 2. Restores Section 1 preamble. 3. Amends original HB1570 version by including synthetic nicotine in tobacco products definition; changes shown in red font. |
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that tobacco use remains
 2 the leading cause of preventable disease and death in the United
 3 States and in Hawaii. Tobacco use is a serious public health
 4 problem that results in loss of life and financial burdens on
 5 society and the health care system. Annually, \$526,000,000 in
 6 health care costs are directly attributed to smoking in the
 7 State.

8 The legislature further finds that, while there has been a
 9 decline in the use of combustible cigarettes over the last
 10 decade, there has been a dramatic increase in the use of
 11 electronic smoking devices by Hawaii's youth. Between 2011 to
 12 2015, the proportion of youth experimenting with electronic
 13 smoking devices increased six-fold among middle school youth and
 14 four-fold among high school youth. In 2017, twenty-seven per
 15 cent of middle school students and forty-two per cent of public
 16 high school students tried electronic smoking devices. Today,
 17 sixteen per cent of middle school students and more than a

1 quarter of high school students use electronic smoking devices.
2 Current use of electronic smoking devices by county is even more
3 problematic, with figures exceeding thirty per cent in Hawaii,
4 Maui, and Kauai counties. These rates are higher than the
5 national average, demonstrate a disturbing trend of youth
6 nicotine use, and threaten to undermine the historic decline in
7 combustible cigarette use.

8 The popularity of electronic cigarettes among youth is
9 especially concerning because these products contain nicotine.
10 The United States Surgeon General noted in the 2016 report
11 titled "E-Cigarette Use Among Youth and Young Adults" that
12 "[b]ecause the adolescent brain is still developing, nicotine
13 use during adolescence can disrupt the formation of brain
14 circuits that control attention, learning, and susceptibility to
15 addiction."

16 Use of an electronic smoking device also puts the user at
17 risk for lung injury and even death. In 2019, following more
18 than one thousand reported cases of lung injury and eighteen
19 confirmed deaths associated with the use of electronic cigarette
20 or "vaping" products nationwide, the department of health issued
21 a health advisory urging everyone to stop vaping. Given the

1 apparent association between electronic smoking devices and lung
2 injury, the legislature believes that the use of such devices is
3 especially dangerous during times of widespread respiratory
4 illness, such as the ongoing coronavirus disease 2019 (COVID-19)
5 pandemic.

6 The legislature also finds that a significant driver to
7 increased youth use of electronic smoking devices is the
8 availability of flavored tobacco products. While a 2009 federal
9 law, the Family Smoking Prevention and Tobacco Control Act,
10 prohibited characterizing flavors, including fruit and candy
11 flavorings, in cigarettes, it did not ban the use of
12 characterizing flavors in other tobacco products, such as
13 electronic smoking devices. The tobacco industry and electronic
14 smoking device industry have in recent years significantly
15 increased the introduction and marketing of flavored non-
16 cigarette tobacco products for electronic smoking devices.

17 Adding flavoring to tobacco changes the taste and reduces
18 the harshness of the otherwise unflavored tobacco product,
19 making smoking more appealing and easier for beginners to try --
20 and ultimately become addicted. According to a recent survey,
21 eighty-one per cent of youth who have ever used a tobacco

1 product reported that the first tobacco product they used was
2 flavored.

3 It is no coincidence that the number of electronic
4 cigarette flavors has skyrocketed in recent years, with more
5 than fifteen thousand unique electronic cigarette flavors
6 identified in a 2018 study. Hawaii has experienced the
7 heightened promotion of electronic cigarette products that offer
8 flavors designed to appeal to the State's youth, such as candy,
9 fruit, chocolate, mint, Kona coffee, Maui mango, shaka
10 strawberry, and Molokai hot bread. Additionally, many of the
11 packages are designed to resemble popular candies, such as Jolly
12 Ranchers and Sour Patch Kids. The legislature additionally
13 finds that young people are disproportionately using flavored
14 tobacco products, including menthol. In Hawaii, seventy-eight
15 per cent of Native Hawaiian and Pacific Islander adult smokers
16 and forty-two per cent of Caucasian adult smokers consume
17 menthol cigarettes. Menthol cigarette use is high among
18 Filipinos as well. Current estimates predict that menthol
19 cigarette smoking will contribute to more than three hundred
20 thousand deaths by 2050.

1 Given the significant threat to public health posed by
2 flavored tobacco products, including menthol, twenty-six local
3 jurisdictions in four states--California, Colorado,
4 Massachusetts, and Minnesota--have enacted legislation to
5 prohibit the sale of flavored tobacco products, including
6 menthol. The legislature concludes that Hawaii should also take
7 steps to regulate flavored tobacco and synthetic nicotine
8 products to reduce tobacco- and smoking-related health
9 disparities and address the youth vaping epidemic.

10 Accordingly, the purpose of this Act is to prohibit the
11 sale or distribution of all flavored tobacco and synthetic
12 nicotine products in the State.

13 This Act shall be known and may be cited as the Reversing
14 the Youth Vaping Epidemic Act of 2022.

15 SECTION 2. Chapter 712, Hawaii Revised Statutes, is
16 amended by adding a new section to part IV be appropriately
17 designated and to read as follows:

18 "~~§712- Sale or advertising of flavored tobacco~~~~-and~~
19 ~~synthetic nicotine~~ products; retail sales; e-liquid products.

20 (1) Beginning January 1, 2023, it shall be unlawful for any
21 retailer or any agent or employee of the retailer to:

1 (a) Sell, offer for sale, or possess with the intent to
2 sell or offer for sale, a flavored tobacco ~~or~~
3 ~~synthetic nicotine~~ product;

4 (b) Mislabel as nicotine-free, or sell or market for sale
5 as nicotine-free, any e-liquid product that contains
6 nicotine; or

7 (c) Market, advertise, or promote any electronic smoking
8 device in a manner that is designed to appeal to an
9 individual under twenty-one years of age.

10 (2) A statement or claim directed to consumers or the
11 public that the tobacco product ~~or synthetic nicotine product~~ is
12 flavored, including text, color, or images on the tobacco
13 product's ~~or synthetic nicotine product's~~ labeling or packaging
14 that is used to explicitly or implicitly communicate that the
15 tobacco product ~~or synthetic nicotine product~~ has a flavor other
16 than tobacco made by a retailer or manufacturer or an agent or
17 employee of the retailer or manufacturer in the course of the
18 person's agency or employment, is prima facie evidence that the
19 tobacco product ~~or synthetic nicotine product~~ is a flavored
20 tobacco ~~or synthetic nicotine~~ product.

1 (3) Any flavored tobacco ~~or synthetic nicotine~~ product
2 found in the retailer's possession that is in violation of this
3 section shall be considered contraband, promptly seized, and
4 subject to immediate forfeiture and destruction and shall not be
5 subject to the procedures set forth in chapter 712A.

6 (4) For the first offense, any retailer that violates this
7 section may be subject to an administrative fine of not more
8 than \$500 and any agent or employee of the retailer who
9 knowingly violates this section may be subject to an
10 administrative fine of not more than \$500. Any subsequent
11 offenses shall subject the offender to an administrative fine of
12 not less than \$500 nor more than \$2,000. Each flavored tobacco
13 ~~or synthetic nicotine~~ product in the retailer's possession shall
14 be considered a separate violation. All fines shall be paid to
15 the department of health and deposited into the Hawaii tobacco
16 prevention and control trust fund established pursuant to
17 section 328L-5.

18 (5) Notwithstanding any other law to the contrary, any
19 county may adopt a rule or ordinance that places greater
20 restrictions on the access to flavored tobacco ~~or synthetic~~
21 ~~nicotine~~ products than provided for in this section. In the

1 case of a conflict between this section and any county rule or
2 ordinance regarding access to flavored tobacco ~~or synthetic~~
3 ~~nicotine~~ products, the more stringent restrictions shall
4 prevail.

5 (6) For the purposes of this section:

6 "Distinguishable" means perceivable by either the sense of
7 smell or taste.

8 "Electronic smoking device" has the same meaning as defined
7 in section 712-1258(7).

8 "E-liquid" means any liquid or like substance, including
9 heated smoking products, which may or may not contain nicotine,
10 that is designed or intended to be used in an electronic smoking
11 device, whether or not packaged in a cartridge or other
12 container. "E-liquid" does not include prescription drugs;
13 medical cannabis or manufactured cannabis products; or medical
14 devices used to inhale or ingest prescription drugs, including
15 devices sold at a licensed medical cannabis dispensary.

16 "Entity" means one or more individuals, a company,
17 corporation, a partnership, an association, or any other type of
18 legal entity.

1 "Flavored tobacco ~~or synthetic nicotine~~ product" means any
2 Tobacco product ~~or synthetic nicotine product~~ that contains a
3 taste or smell, other than the taste or smell of tobacco, that
4 is distinguishable by a consumer either prior to or during the
5 consumption of a tobacco product ~~or synthetic nicotine product,~~
6 including but not limited to any mentholated tobacco product or
7 a product that contains a taste or smell relating to fruit,
8 mint, menthol, wintergreen, chocolate, cocoa, vanilla, honey, or
9 any candy, dessert, alcoholic beverage, herb, or spice.

10 "Labeling" means written, printed, pictorial, or graphic
11 matter upon a tobacco product ~~or synthetic nicotine product~~ or
12 any of its packaging.

13 "Packaging" means a pack, box, carton, or container of any
14 kind, or if no other container, any wrapping, including
15 cellophane, in which a tobacco product ~~or synthetic nicotine~~
16 ~~product~~ is sold or offered for sale to a consumer.

17 "Retailer" means an entity that sells, offers for sale, or
18 exchanges or offers to exchange for any form of consideration
19 tobacco products ~~or synthetic nicotine products~~ or e-liquids to
20 consumers. "Retailer" includes the owner of a tobacco retail
21 location.

~~1 "Synthetic nicotine product" has the same meaning as
2 defined in section 712-1258(7).~~

~~3 "Tobacco product" means any product containing, made of, or
4 derived from tobacco or containing nicotine from any source
5 that is intended for human consumption or is likely to be
6 consumed, whether smoked, heated, chewed, absorbed, dissolved,
7 inhaled, or ingested by other means. "Tobacco product"
8 includes but is not limited to a cigarette, cigar, pipe tobacco,
9 chewing tobacco or smokeless tobacco, snuff, snus, heated smoking
10 product, or an electronic smoking device. "Tobacco product" does
11 not include drugs, devices, or combination products approved for
12 sale by the United States Food and Drug Administration, as those
13 terms are defined in the Federal Food, Drug, and Cosmetic Act."~~

~~14 has the same meaning as defined in section 712-1258(7).~~

~~15 "Tobacco retail location" means any premises where tobacco
16 products are sold or distributed to a consumer, including but
17 not limited to any store, bar, lounge, cafe, stand, outlet,
18 vehicle, cart, location, vending machine, or structure."~~

~~19 SECTION 3. Section 712-1258, Hawaii Revised Statutes, is
20 amended to read as follows:~~

~~21 "§712-1258 Tobacco products, synthetic nicotine products,~~

~~1 and electronic smoking devices; persons under twenty-one years
2 of age. (1) It shall be unlawful to sell or furnish a tobacco
3 product or synthetic nicotine product in any shape or form or an
4 electronic smoking device to a person under twenty-one years of
5 age.~~

~~6 (2) All persons engaged in the retail sale of tobacco
7 products, synthetic nicotine products, or electronic smoking
8 devices shall check the identification of tobacco product,
9 synthetic nicotine product, or electronic smoking device
10 purchasers to establish the age of the purchaser if the
11 purchaser reasonably appears to be under twenty-seven years of
12 age.~~

~~13 (3) It shall be an affirmative defense that the seller of
14 a tobacco product, synthetic nicotine product, or an electronic
15 smoking device to a person under twenty-one years of age in
16 violation of this section had requested, examined, and
17 reasonably relied upon a photographic identification from the
18 person establishing that person's age as at least twenty-one
19 years of age prior to selling the person a tobacco product,
20 synthetic nicotine product, or an electronic smoking device.
21 The failure of a seller to request and examine photographic~~

~~1 identification from a person under twenty-one years of age prior
2 to the sale of a tobacco product, synthetic nicotine product, or
3 an electronic smoking device to the person shall be construed
4 against the seller and form a conclusive basis for the seller's
5 violation of this section.~~

~~6 (4) Signs using the statement, "The sale of tobacco
7 products, synthetic nicotine products, or electronic smoking
8 devices to persons under twenty-one is prohibited", shall be
9 posted on or near any vending machine in letters at least one
10 half inch high and at or near the point of sale of any other
11 location where tobacco products, synthetic nicotine products, or
12 electronic smoking devices are sold in letters at least one-half
13 inch high.~~

~~14 (5) It shall be unlawful for a person under twenty-one
15 years of age to purchase or possess any tobacco product,
16 synthetic nicotine product, or electronic smoking device, as
17 those terms are defined in subsection (7). This provision does
18 not apply if a person under the age of twenty-one, with parental
19 authorization, is participating in a controlled purchase as part
20 of a law enforcement activity or a study authorized by the
21 department of health under the supervision of law enforcement to
22 determine the level of incidence of tobacco product, synthetic~~

~~1 nicotine product, or electronic smoking [devices] device sales
2 to persons under twenty-one years of age.~~

~~3 (6) Any person who violates subsection (1) or (4), or
4 both, shall be fined \$500 for the first offense. Any subsequent
5 offenses shall subject the person to a fine not less than \$500
6 nor more than \$2,000. Any person under twenty-one years of age
7 who violates subsection (5) shall be fined \$10 for the first
8 offense. Any subsequent offense shall subject the violator to a
9 fine of \$50, no part of which shall be suspended, or the person
10 shall be required to perform not less than forty-eight hours nor
11 more than seventy-two hours of community service during hours
12 when the person is not employed and is not attending school.~~

~~13 Any tobacco product, synthetic nicotine product, or electronic
14 smoking device, as those terms are defined in subsection (7), in
15 the person's possession at the time of violation of subsection
16 (5) shall be seized, summarily forfeited to the State, and
17 destroyed by law enforcement following the conclusion of an
18 administrative or judicial proceeding finding that a violation
19 of subsection (5) has been committed. The procedures set forth
20 in chapter 712A shall not apply to this subsection.~~

~~21 (7) For the purposes of this section:~~

~~22 "Electronic smoking device" means any electronic product~~

~~1 that can be used to aerosolize and deliver nicotine or other
2 substances to the person inhaling from the device, including but
3 not limited to an electronic cigarette, electronic cigar,
4 electronic cigarillo, [or] electronic pipe, or heated smoking
5 product, and any cartridge or other component of the device or
6 related product.~~

~~7 "Heated smoking product" means a product that produces an
8 inhalable aerosol by:~~

~~9 (1) Heating the tobacco, nicotine, or other substance by
10 means of an electronic smoking device without
11 combustion of the tobacco, nicotine, or other
12 substance; or~~

~~13 (2) Heat generated from a combustion source that only or
14 primarily heats rather than burns the tobacco,
15 nicotine, or other substance.~~

~~16 "Synthetic nicotine product" means any product not derived
17 from the tobacco plant that contains nicotine or other
18 substances and is intended for human consumption or is likely to
19 be consumed, whether smoked, heated, chewed, absorbed,
20 dissolved, inhaled, or ingested by other means. "Synthetic
21 nicotine product" includes but is not limited to a cigarette,~~

~~1 cigar, snuff, or snus not derived from or containing any tobacco
2 leaf; a heated smoking product; or an electronic smoking device.
3 "Synthetic nicotine product" does not include prescription drugs
4 or drugs, devices, or combination products approved for sale by
5 the United States Food and Drug Administration, as those terms
6 are defined in the Federal Food, Drug, and Cosmetic Act.
7 Tobacco product" means any product made or derived from
8 tobacco that contains nicotine or other substances and is
9 intended for human consumption or is likely to be consumed, whether
10 smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested
11 by other means. "Tobacco product" includes but is not limited to a
12 cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus,
13 heated smoking product, or an electronic smoking device. "Tobacco
14 product" does not include drugs, devices, or combination products
15 approved for sale by the United States Food and Drug
16 Administration, as those terms are defined in the Federal Food,
17 Drug, and Cosmetic Act."~~

18 SECTION 4. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

23 SECTION 6. This Act shall take effect on July 1, 2022.

16

INTRODUCED BY: _____

Report Title:

Flavored Tobacco Products; ~~Synthetic Nicotine Products;~~
Electronic Smoking Devices; Heated Smoking Products; Retail
Sale; Advertising; Labeling; Ban; Penalties

Description:

Beginning 1/1/2023, bans the sale of flavored tobacco ~~and
synthetic nicotine products;~~ prohibits mislabeling of e-liquid
products containing nicotine; and prohibits the marketing,
advertising, or promoting of electronic smoking devices to
appeal to individuals under twenty-one. Establishes fines and
penalties for violations. ~~Includes heated smoking products
among the electronic smoking devices that are subject to
restrictions under law.~~

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



ALOHACARE

Date: March 18, 2022

To: The Honorable Jarrett Keohokalole, Chair
Senate Committee on Health

The Honorable Michelle N. Kidani, Chair
Senate Committee on Education

From: Peggy Mierzwa, Community & Government Relations

RE: **HB1570 HD1** Relating to the Youth Vaping Epidemic- Support

AlohaCare appreciates the opportunity to provide testimony requesting the language of HB1570 HD1 be restored to the original language in HB1570. In its current state, this measure does not provide the strong consumer protections or the evidence-based policies that were part of the original version of the bill. HB1570 was written to end the sale of all flavored tobacco products, including menthol cigarettes and synthetic nicotine products in Hawai'i. To address the youth use, it all also subjected synthetic nicotine and heated tobacco products to age restriction.

Founded in 1994, AlohaCare is a community-rooted, non-profit health plan serving 80,000 Medicaid and dual-eligible health plan members on all islands. It is the only state health plan exclusively serving Medicaid patients. 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 Hawai'i.

Flavored tobacco products, including flavored vaping products are designed and marketed to entice youth. There are no consumer protections in place to address this tactic by the tobacco companies. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product.ⁱ Hawai'i is experiencing a youth vaping epidemic. We must do all we can to protect our young people's health from the vaping and tobacco industry's efforts to get them addicted to life-threatening habits.

AlohaCare applauds this measure's focus to improve the health of Hawai'i's keiki and protect them from becoming the next generation addicted to nicotine. The majority of youth are attracted to the many fruit flavors that are combined with menthol flavoring to create flavors like "Raspberry Ice". Alone, menthol has been used to mask the harshness of tobacco in traditional cigarettes, making it easier to start and harder to quit. Here in Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers smoke menthol cigarettes compared to 42% of White smokersⁱⁱ.

The public health harms caused by menthol flavored tobacco products have disproportionately impacted our youth, Native Hawaiians, and Pacific Islanders, in Hawai'i.

Thank you for this opportunity to provide testimony on HB1570 HD1.

ⁱ https://www.cdc.gov/tobacco/data_statistics/surveys/nyts/index.htm

ⁱⁱ <https://www.hawaiinewsnow.com/2021/03/08/an-effort-protect-their-future-youth-activists-call-ban-menthol-flavored-cigarettes/>



American Cancer Society
Cancer Action Network
2370 Nu'uuanu Avenue
Honolulu, Hi 96817
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Senate Committee on Health and Education
Chair Jarrett Keohokalole, Committee on Health
Chair Michelle Kidani, Committee on Education

Hearing Date: March 18, 2022

ACS CAN OPPOSES HB 1570 HD1 – RELATING TO THE YOUTH VAPING EPIDEMIC

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

Thank you for the opportunity to OPPOSE HB1570 HD1: Relating to the Youth Vaping Epidemic. We support any and all efforts to invest in comprehensive policies that would strengthen the health infrastructure in Hawaii to prevent kids from starting to use tobacco and help adults already addicted to tobacco to quit.

The American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN supports policies that would ban the sale of all flavored tobacco products sold at all retailers.

The current bill title “Relating to the Youth Vaping Epidemic” is too narrow to address comprehensive best practices to protect the people of Hawaii. If the state is serious on addressing the issue and making the reforms needed to impact healthy outcomes, they must end the sale of all flavors including menthol for all tobacco products including cigarettes, cigars, and chewing tobacco by all retailers. ACS CAN does not think that this can be accomplished with this vehicle to address the youth use of tobacco products in Hawaii.

These are various vehicles that have broad enough titles that could conceivably be used as vehicles for this purpose. These include:

- House Bill No. 227, House Draft 2, RELATING TO HEALTH.
- House Bill No. 598, House Draft 2, Senate Draft 1, RELATING TO TOBACCO PRODUCTS.
- House Bill No. 1823, House Draft 2, RELATING TO HEALTH.
- House Bill No. 2293, House Draft 1, RELATING TO HEALTH.; and
- House Bill No. 2392, House Draft 1, RELATING TO HEALTH.

The epidemic of e-cigarette use by youth and young adults, aggressive marketing tactics by their manufacturers, including the use of flavors appealing to youth, and under-regulation of these products requires the public health community to take action to protect youth, young adults, and the public at-

large. After years of decline, in 2018 there was an increase in tobacco use among youth nationwide, largely due to skyrocketing rates of e-cigarette use. In Hawaii, 30.6% of high school students currently use e-cigarettes.¹

To strengthen the health infrastructure in Hawaii, the legislature should look at policies that would address online sales by requiring all tobacco retailers selling in Hawaii to be licensed and prohibit delivery directly to consumers and require consumers to pick up deliveries at licensed brick and mortar retailers. In addition, all tobacco products including e-cigarettes should be taxed at a rate parallel to the tax on cigarettes and other tobacco products. Tracking the tax revenue would be more reliable than simply monitoring online sales. And having the ability to revoke the licenses of bad acting retailers would be a more effective way to hold retailers accountable than a simple fine.

If the legislature wants meaningful reforms and good policy outcomes to protect youth and people of Hawaii, ACS CAN stands ready to work with lawmakers to address these issues starting with comprehensive model language.

Thank you for the opportunity to comment on this matter. Should you have any questions, please do not hesitate to contact Cynthia Au at 808.460.6109, or Cynthia.au@cancer.org.

Attached for your reference "E-Cigarettes Are Tobacco Products".

¹ Centers for Disease Control. High School YRSB "Hawaii 2019 and United States 2019 Results"

E-cigarettes Are Tobacco Products



Courts Have Ruled E-cigarettes Are Tobacco Products

In 2008 and 2009, the U.S. Food and Drug Administration (FDA) stopped shipments of e-cigarettes into the United States. The FDA claimed the products were unapproved drug-device combination products under the Federal Food, Drug, and Cosmetic Act (FD&C Act) that were intended to help treat the withdrawal symptoms of nicotine addiction. Two e-cigarette importers and distributors, Smoking Everywhere, Inc. and Sottera, Inc. doing business as NJOY, sued the FDA requesting a preliminary injunction. They claimed the products were tobacco products for “smoking pleasure,” not drug-device combination products, and therefore FDA could not take them off the U.S. market.

Between the filing of the lawsuit and a decision for a preliminary injunction, Congress passed the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) and the President signed it into law. The District Court granted the preliminary injunction and entered judgment in favor of Smoking Everywhere and NJOY. The District Court’s Judge Richard Leon ruled that Congress did not intend tobacco products to be drugs merely because they deliver nicotine—if this were true, traditional cigarettes would also be a drug-device combination product.ⁱ The court also found that the intended use of an electronic cigarette is to encourage nicotine use, rather than prevent or mitigate it.

FDA appealed the decision and the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) affirmed in *Sottera, Inc. v. Food & Drug Administration*, 627 F.3d 891 (D.C. Cir. 2010). The D.C. Circuit found that under the Tobacco Control Act, all products made or derived from tobacco and intended for human consumption that are “marketed for therapeutic purposes” are subject to FDA’s drug and/or device provisions, whereas “customarily marketed tobacco products” are subject to regulation as “tobacco products” by FDA.ⁱⁱ

The FDA decided not to appeal the decision to the Supreme Court and instead issued a statement of its intent to regulate e-cigarettes as a tobacco product.

The court stated that products made or derived from tobacco can be regulated under the FD&C Act’s “tobacco product” authorities unless they are “marketed for therapeutic purposes,” in which case they are regulated as drugs and/or devices (by FDA’s Center for Drug Evaluation and Research (CDER)).

<https://www.fda.gov/tobacco-products/manufacturing/tobacco-product-regulation-sottera-court-decision>

FDA Regulates E-cigarettes as Tobacco Products

The Tobacco Control Act defines “tobacco products” in federal law as:

- (1) *The term “tobacco product” means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).*
- (2) *The term “tobacco product” does not mean an article that is a drug under subsection (g)(1), a device under subsection (h), or a combination product described in section 353(g) of this title.*
- (3) *The products described in paragraph (2) shall be subject to subchapter V of this chapter.*
- (4) *A tobacco product shall not be marketed in combination with any other article or product regulated under this chapter (including a drug, biologic, food, cosmetic, medical device, or a dietary supplement).ⁱⁱⁱ*

The definition clearly states that those tobacco products regulated as drug, device, or combination products are not subject to the regulations that otherwise apply to tobacco products. The Tobacco Control Act granted FDA the authority over cigarettes, roll-you-own tobacco, and smoke tobacco and stated that the FDA could assert its authority over all other tobacco products.

FDA finalized a rule, effective August 8, 2016, to regulate all tobacco products saying, “Products that meet the statutory definition of “tobacco products” include currently marketed products such as dissolvables not already regulated by FDA, gels, waterpipe tobacco, ENDS (including e-cigarettes, e-hookah, e-cigars, vape pens, advanced refillable personal vaporizers, and electronic pipes), cigars, and pipe tobacco.”^{iv}

ACS CAN Supports Defining and Regulating E-cigarettes as Tobacco Products

As e-cigarettes are defined under federal law and regulated by the FDA as tobacco products and as e-cigarettes have not been approved by the FDA as a safe and effective cessation treatment, the American Cancer Society Cancer Action Network (ACS CAN) supports defining and regulating e-cigarettes as tobacco products.

The most effective ways to prevent kids from using all tobacco products and to help current users quit include the following:

- Increasing the price of all tobacco products including e-cigarettes through regular and significant tobacco tax increases of at least \$1 per pack of cigarettes with an equivalent rate on other tobacco products.
- Implementing comprehensive smoke-free and tobacco-free policies that include e-cigarettes.
- Adequately fund and implement evidence-based tobacco prevention and cessation programs.
- Increase access to evidence-based cessation treatments in Medicaid and private insurance plans.

Big Tobacco’s Changing Definitions

Tobacco companies know what works to reduce tobacco use. That is why over the last few years Big Tobacco has been working hard to addict future generations to protect their bottom line and create new categories of products such as “vapor products” and “nicotine products” to exempt e-cigarettes and other tobacco products from effective tobacco control laws. ACS CAN supports regulating e-cigarettes in the same manner as other tobacco products and the most effective way to do this is to include them in a comprehensive definition of tobacco products.

ⁱ Smoking Everywhere, Inc. v. U.S. Food and Drug Admin., No. 09-771 (D.D.C. Jan. 14, 2010) https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2009cv0771-54

ⁱⁱ Sottera, Inc. v. U.S. Food and Drug Admin., 627 F.3d 891 (D.C. Cir. 2011)

[https://www.cadc.uscourts.gov/internet/opinions.nsf/D02F9D2CA50299F0852577F20070BCC2/\\$file/10-5032-1281606.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/D02F9D2CA50299F0852577F20070BCC2/$file/10-5032-1281606.pdf)

ⁱⁱⁱ 21 U.S.C. § 321 (rr)(1)-(4).

^{iv} <https://www.federalregister.gov/documents/2016/05/10/2016-10685/deeming-tobacco-products-to-be-subject-to-the-federal-food-drug-and-cosmetic-act-as-amended-by-the>



**American
Heart
Association.**

American Heart Association comments for HB 1570, HD1 “Relating to the Youth Vaping Epidemic”

The American Heart Association offers comments for HB 1570, HD1 “Relating to the Youth Vaping Epidemic.”

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The original version of HB 1570 was based on evidence-based policy aimed at restricting the use of flavors in all tobacco products as a way to eliminate one of the key tools the tobacco industry uses to attract and addict its young targets. However, many of the amendments made in the HD1 version of the bill are not evidence-based, and could potentially drain existing resources working to address Hawaii’s youth tobacco addiction issue, so therefore we ask that the bill be amended back to its original form.

Proven evidence-based policy to reduce tobacco use, especially among underage users, includes consistently increasing tobacco taxes, including a tax on e-cigarettes to create parity with other tobacco taxes, to discourage use by price sensitive youths and to maintain the taxes’ effectiveness as economic inflation rises. Other evidence-based policies aimed at reducing youth tobacco use and addiction include: restricting all flavors, including menthol, in all tobacco products; requiring licensing for all tobacco retailers and establish meaningful penalties for underage sales targeted to the retail shop owner including the potential for loss of retail license to sell tobacco products; and online sales restrictions.

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Tobacco use among kids is being driven by youth-friendly flavors like menthol, mint, fruit, and candy. From 2017 to 2019, e-cigarette use more than doubled among high school students (from 11.7% to 27.5%) and tripled among middle school students (from 3.3% to 10.5%), according to the CDC’s 2019 National Youth Tobacco Survey. Numbers among Hawaii youths are even higher on neighbor islands.

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

Menthol is still allowed in combustible tobacco products. The overwhelming majority of youth e-cigarette users report using flavored products. Tobacco companies target youth and adolescents with multi- multi-million dollar marketing campaigns and thousands of appealing flavors that are specifically designed to attract and hook kids.

Mint and menthol flavored tobacco products are heavily marketed to kids, especially those from communities of color and the LGBTQ community with products specifically designed to entice them. A 2019 Stanford study found that JUUL’s initial advertising campaigns were “patently youth-oriented.” Nearly two-thirds of high school students who use e-cigarettes use mint or

menthol flavors. Menthol products, with their cooling and soothing effects, entice kids to use tobacco products. More than half of all youth and young adult smokers smoke menthol cigarettes.

Though e-cigarettes are the most commonly used tobacco product among middle and high school students, they are also using other flavored tobacco products such as cigars, cigarettes, hookahs and chewing tobacco. The CDC's 2019 National Youth Tobacco Survey found that nearly 1 in 3 high school students have used a tobacco product in the last 30 days.

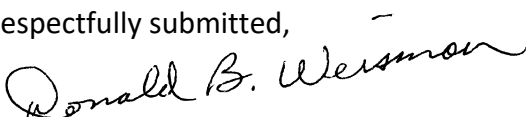
And even though e-cigarettes are often marketed as a less harmful alternative to traditional cigarettes, there's limited evidence on the long-term health impact of their use. **What is known is that nicotine can have adverse health effects on kids, such as causing addiction to dangerous tobacco products, harming their brain development, and increasing the risk of heart disease. Recent studies have found that e-cigarettes decrease blood flow in the heart even more than traditional cigarettes and can worsen heart disease risk factors such as high cholesterol.**

Current FDA tobacco flavor policy falls short of what is necessary to address youth tobacco use, state and local governments need to move forward to address loopholes. Under the FDA's guidance, thousands of e-cigarette flavors remain on the market since the policy exempts menthol e-cigarettes and allows fruit, candy, and mint flavored liquid nicotine used in refillable open tank systems or in disposable e-cigarettes (like the popular youth brand Puff Bar), to stay on the market. In addition, other flavored tobacco products such as menthol cigarettes and flavored smokeless tobacco and cigars are still allowed to be sold.

A comprehensive approach to **eliminating all flavors from all tobacco products is needed** so that the tobacco industry can no longer play a shell game in driving our youths from one product to another using the enticement of flavors to veil the dangers of nicotine addiction and smoking/vaping. Other unproven policies will only distract from implementing the evidence-based methods to address and reduce youth tobacco use and would potentially drain resources to support proven programs and methods.

Mahalo for this opportunity to testify,

Respectfully submitted,


Don Weisman

Government Relations/Communications and Marketing Director



Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senate Committees on Health and on Education

Re: **HB 1570, HD1 – Relating to the Youth Vaping Epidemic**
Hawai'i State Capitol, Conference Room 225 & Videoconference
March 18, 2022, 1:31 PM

Dear Chairs Keohokalole and Kidani, Vice Chairs Baker and Kim, and committee members,

On behalf of Hawai'i Children's Action Network Speaks!, I am submitting COMMENTS on HB 1570, HD1, relating to the youth vaping epidemic. This bill intends to ban the sale of flavored tobacco products and synthetic nicotine products in our state.

Hawai'i needs to take action to tackle our growing youth vaping epidemic. However, **we are concerned that the amendments made to the original version of HB 1570 distract from the original intent of the bill, as they are not necessary to implement a flavored tobacco ban and their effectiveness is not supported by evidence.**

Hawai'i's youth report some of the highest e-cigarette use rates in the nation. In 2020, the Centers for Disease Control and Prevention (CDC) announced that nearly half (48.3 percent) of Hawai'i high school students and 3 in 10 (30.6 percent) of middle school students have ever tried e-cigarettes.¹

Tobacco use is also a health equity and social justice issue. According to the CDC,² approximately 3 in 10 (31 percent) of Hawai'i high school students and nearly 2 in 10 (18 percent) of Hawaii middle schoolers are current e-cigarette users. For Native Hawaiian and Pacific Island youth, these numbers climb to 4 in 10 (40 percent) for high school and 3 in 10 (30 percent) for middle school students.

Flavors entice keiki to get hooked on nicotine. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019.³ Ending the sale of ALL flavored tobacco products will reduce the appeal of these products to our youth, which means menthol and mint should be included in the ban.

Hawaii has been successful in reducing cigarette use to record lows. We know what works and should stick to evidence-based practices. Therefore, **we respectfully request that you restore this bill to its original version.** Mahalo for the opportunity to provide these comments.

Thank you,
Nicole Woo, Director of Research and Economic Policy

¹ <https://www.lung.org/media/press-releases/hawaii-vaping-rates>

² <https://www.cdc.gov/healthyyouth/data/yrebs/index.htm>

³ https://www.cdc.gov/tobacco/data_statistics/surveys/nyts/index.htm



**Testimony to the Senate Joint Committee on Health and Education
Friday, March 18, 2022; 1:31 p.m.
State Capitol, Conference Room 225
Via Videoconference**

RE: HOUSE BILL NO. 1570, HOUSE DRAFT 1, RELATING TO THE YOUTH VAPING EPIDEMIC.

Chair Keohokalole, Chair Kidani, and Members of the 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 **OPPOSES** House Bill No. 1570, House Draft 1, RELATING TO THE YOUTH VAPING EPIDEMIC.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live 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.

This bill, as received by your Committee, would apparently seek to reverse the youth vaping epidemic in Hawaii by establishing a variety of additional requirements on the Department of Health (DOH) to regulate the sale of tobacco products in the marketplace.

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 harms our citizenry on a generational basis with people experimenting at even earlier ages.

As presently drafted, we have concerns that this bill may precipitate unintended consequences that might negatively impact the health outcomes of our citizens. As such, we join the American Cancer Society of Hawaii with these concerns and will continue to monitor this measure as it moves through the legislative process.

From a technical standpoint, we note that the title of the bill, RELATING TO THE YOUTH VAPING EPIDEMIC., would apparently require the substance of the bill to apply solely to "youth" and "vaping". Any material that applies to subject matter outside the plain reading of those terms could make this bill subject to challenge in violation of Article III, Section 14, of the Constitution of the State of Hawaii.

We also note that Congress recently provided the Federal Drug Administration (FDA) the ability to regulate synthetic nicotine. If this bill is enacted with a definition of synthetic nicotine before new federal regulations go into effect, conceivably, the State law might be excluded from federal preemption in a manner similar to the manner in which the Prepaid Health Care Act, which was enacted before ERISA, was left to stand. At the very minimum, this point would likely be challenged by the tobacco industry should they deem Hawaii's requirements to be in conflict with federal law. (See, attached articles from *Time*, and the *New York Times*.)

Over the years, the HPCA has consistently supported any and all efforts to reduce the proliferation and use of tobacco products in the marketplace and acknowledge that very little has been done in recent years to address this problem. We believe it is because there is a lack of political will by the Legislature to "do the right thing".

We strenuously urge this body to enact meaningful reforms to protect the health and welfare of our citizenry. To assist you should you decide to pursue this goal during the remainder of the 2022 Regular Session, we've identified various vehicles that have broad enough titles that could conceivably be used as vehicles for this purpose. These include:

- House Bill No. 227, House Draft 2, RELATING TO HEALTH.
- House Bill No. 598, House Draft 2, Senate Draft 1, RELATING TO TOBACCO PRODUCTS.
- House Bill No. 1823, House Draft 2, RELATING TO HEALTH.
- House Bill No. 2293, House Draft 1, RELATING TO HEALTH.; and
- House Bill No. 2392, House Draft 1, RELATING TO HEALTH.

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@hawaiipca.net.

Attachments

Search bar



TIME

A Small Policy Change Could Transform the U.S. Vaping Industry



Jamie Ducharme

Fri, March 11, 2022, 5:53 AM · 3 min read



Synthetic Nicotine E-Cigarette Puff Bar

A Puff Bar e-Cigarette products sit on a counter in Miami on Oct. 12, 2021. Credit - Joe Raedle—Getty Images

The U.S. Food and Drug Administration (FDA) can now [regulate e-cigarettes that contain synthetic nicotine](#), a shift

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TRENDING

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5. Warriors star Steph Curry suffers sprained foot vs. Celtics, out indefinitely

expanded the definition of an FDA-regulated “tobacco product” to include those that use lab-made nicotine, as well as traditional tobacco-derived nicotine. That update—while small on paper—could dramatically change the U.S. vaping industry, potentially taking market-leaders like Puff Bar, as well as products from smaller brands, off store shelves.

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Under a policy finalized in 2016, new e-cigarettes cannot be sold in the U.S. until their makers prove to the FDA that their products do more good than harm to public health. That calculation often comes down to the benefits they provide adults who want to stop smoking cigarettes versus their possible health risks and contributions to youth vaping.

E-cigarettes introduced before the FDA’s rule was enacted had to retroactively file applications by September 2020. The agency was [supposed to decide which brands met its public-health standard](#) by September 2021, but—six months later—it still has not reached decisions for [big-name brands including Juul](#). In October, R.J. Reynolds’ Vuse Solo [became the first e-cigarette to clear the FDA’s process](#).

The FDA has so far [denied or refused to review applications](#) for more than 5 million vaping products. Rather than taking their products off the market, some of those companies—many of which were smaller operations making e-liquids for refillable vaping devices—used synthetic nicotine as a lifeline, replacing traditional nicotine with the lab-made version to stay outside FDA regulation. Now, though, that loophole is closing, meaning many products cannot continue to be sold.

In addition to the smaller companies likely to be affected by the change, Puff Bar, a popular brand of disposable e-cigarette, could be the biggest casualty. The FDA [ordered it to stop selling its vapes in 2020](#), since it did not follow the agency’s application process. It later reemerged with a formula using synthetic nicotine and, as of a 2021 [U.S. Centers for Disease Control and Prevention study](#), was the go-to brand for 26% of high school vapers. With synthetic

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Some in the vaping industry slammed the FDA for shrinking the number of cigarette-alternatives available in the U.S. "This bill ought to be called the Cigarette Protection Act, because the indisputable outcome will be countless more Americans pushed away from nicotine vaping and back into combustible smoking," Amanda Wheeler, president of the American Vapor Manufacturers Association, [told Filter](#).

But large e-cigarette companies, including Juul, support the regulation of brands making synthetic nicotine products—some of which are among Juul's biggest competitors. [In a previous statement](#), a Juul spokesperson said that "illegally marketed and illicit products and products designed to evade federal and state oversight undermine harm reduction and a responsible e-vapor category."

On that front, Juul and public-health groups are in rare agreement. The Campaign for Tobacco-Free Kids applauded Congress for taking steps to curb youth vaping—a habit 11% of high school students reported in 2021, down from a high of 27.5% in 2019.

"By stopping manufacturers from using synthetic nicotine to evade FDA regulation, Congress is taking a critical step to end this youth addiction crisis once and for all," a spokesperson said in a statement.

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The Loophole That's Fueling a Return to Teenage Vaping

Sales are rising of flavored e-cigarettes using synthetic nicotine that evades regulatory oversight, a gap that lawmakers are now trying to close.

By Christina Jewett

March 8, 2022

The Food and Drug Administration's crackdown on flavored e-cigarettes in 2020 was meant to be a comprehensive, aggressive strategy to curtail the epidemic of teenage vaping.

But two years later, sales of disposable, flavored e-cigarettes have soared. Some companies have moved just beyond the reach of the F.D.A. by swapping out one key ingredient. They have circumvented federal oversight of tobacco plant-derived nicotine by using an unregulated synthetic version.

The agency had nearly wiped out the use of flavors in devices like Juul, once the teenage favorite, that could be refilled with pods in flavors like crème brûlée and mango. Jumping into the breach, though, companies like the teen favorite Puff Bar are selling disposable devices filled with candy flavors and tobacco-free or synthetic nicotine.

Scientists are just beginning to study the unknown health effects of synthetic nicotine, even as research is expanding into the harm caused by vaping and flavor ingredients alongside continuing cases of devastating vaping-related lung injury. To many public health advocates, new trends in the vaping industry are thwarting the F.D.A.'s efforts to protect a new generation from nicotine addiction.

"These companies like Puff Bar and others are deliberately driving their trucks of poison through this huge loophole," said Meredith Berkman, a founder of Parents Against Vaping E-Cigs. She recently hosted a webinar about synthetic nicotine attended by 700 people. "We think we need to regulate these products."

Lawmakers on Tuesday proposed language that they want inserted in the Congressional omnibus budget bill that would give the F.D.A. authority to regulate synthetic nicotine, although it is unclear if the issue will be included in the final bill.

Representative Frank Pallone Jr., Democrat of New Jersey and chairman of the House Energy and Commerce Committee, said the provision would be a public health victory over "bad actors" who circumvented the F.D.A.'s authority.

"That ends with passage of this bill, which will close this loophole and clarify F.D.A.'s authority to regulate all tobacco products, including those containing synthetic nicotine," Mr. Pallone said in a statement on Tuesday.

Sales of synthetic or tobacco-free nicotine went from virtually nonexistent in 2020 to taking up shelf space in two-thirds of U.S. vape shops in 2021, according to market research. Those stores said such products accounted for nearly 20 percent of sales, according to ECigIntelligence, which surveys hundreds of the shops each year. The company projected that the U.S. vape market, web sales included, would be nearly \$6 billion this year.



F.D.A. enforcement actions have had little effect on Lizzie Burgess's ability to get vapes over the last four years. "I think the F.D.A. should take it all off the market now," she said. Lee Klafczynski for The New York Times

Federal officials have been in a cat-and-mouse game with some e-cigarette makers. Spurred by a court order, the F.D.A. forced thousands of e-cigarette companies, including Juul, to apply in 2020 for authorization to remain on the market. With the agency focused on the most popular devices, like Juul's, that used insertable cartridges, makers of disposable vape pens in flavors like gummy bear and candy cane flooded the market. The agency then responded with a stern warning and even product seizures aimed at some of those companies, including Puff Bar.

By late last year, more than a million tobacco-sales applications had been denied. Applications to remain on the market by Juul and myriad other companies are pending.

By early 2021, Puff Bar returned to the market with "tobacco-free" or synthetic nicotine that didn't fall under F.D.A. oversight, loaded with the fruity flavors prohibited in vapes with tobacco-based nicotine. Other companies imported similar devices containing synthetic or tobacco-free nicotine from factories in Shenzhen, China, according to industry experts.

Patrick Beltran, who has identified himself in news reports as one of two executives of Puff Bar, did not respond to requests for comment.

Sales data released by the C.D.C. Foundation shows that since the F.D.A. stepped up e-cigarette enforcement in February 2020, sales of disposable fruit- and candy-flavored devices have grown by 290 percent, to 6.46 million devices a month by November 2021. Sales of the F.D.A.-targeted flavored pod and cartridge devices have nearly vanished.

Since early 2020, overall e-cigarette sales are up nearly 50 percent to about 22 million units per month, according to Information Resources, a data tracking consultant. The National Youth Tobacco Survey conducted in early 2021, when many students were learning via Zoom, reported that, overall, about 11 percent of high school students used e-cigarettes.

New e-cigarette suppliers can go into business easily: They contract with a manufacturer in China, set up a website and get space in a warehouse to store and ship devices, said Samantha Shusterman, a senior counsel supervising e-cigarette enforcement for the Massachusetts attorney general's office. They use shell companies and can quickly withdraw the profits if they face scrutiny.

"It's a whack-a-mole situation," said Ms. Shusterman, whose state banned all flavored e-cigarettes, except in licensed smoking bars. "They're not following any of the laws."

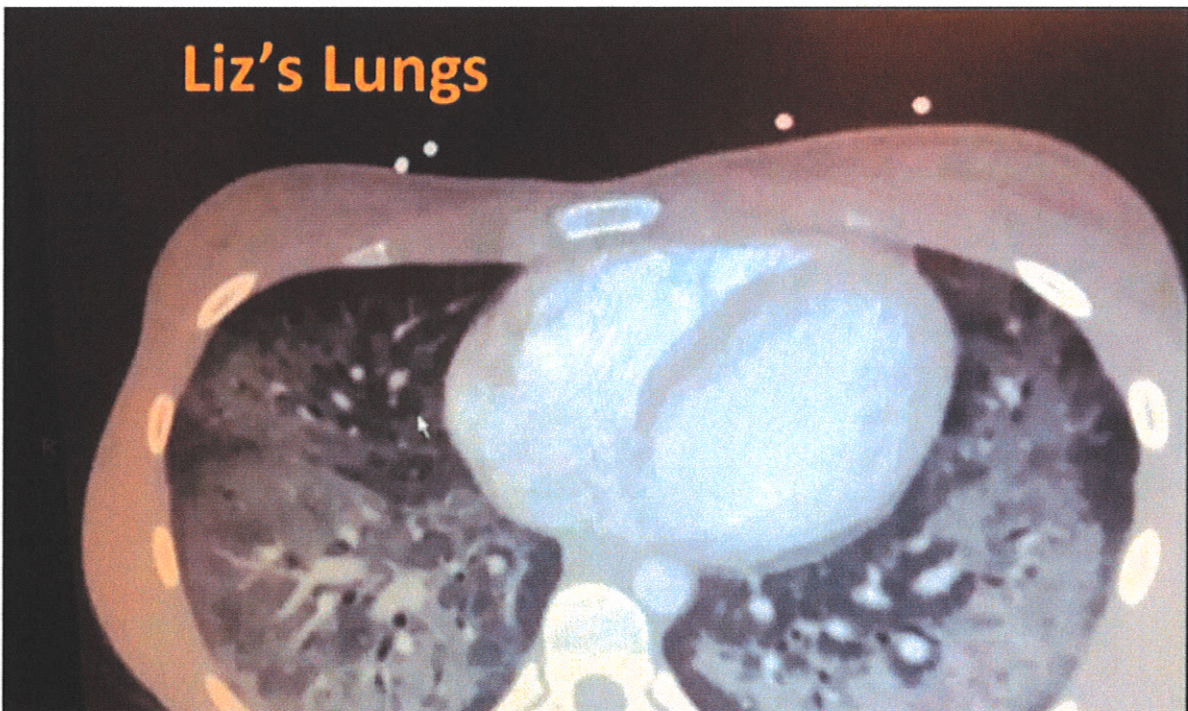
Mitch Zeller, director of the F.D.A.'s Center for Tobacco Products, said the agency recognized the problem.

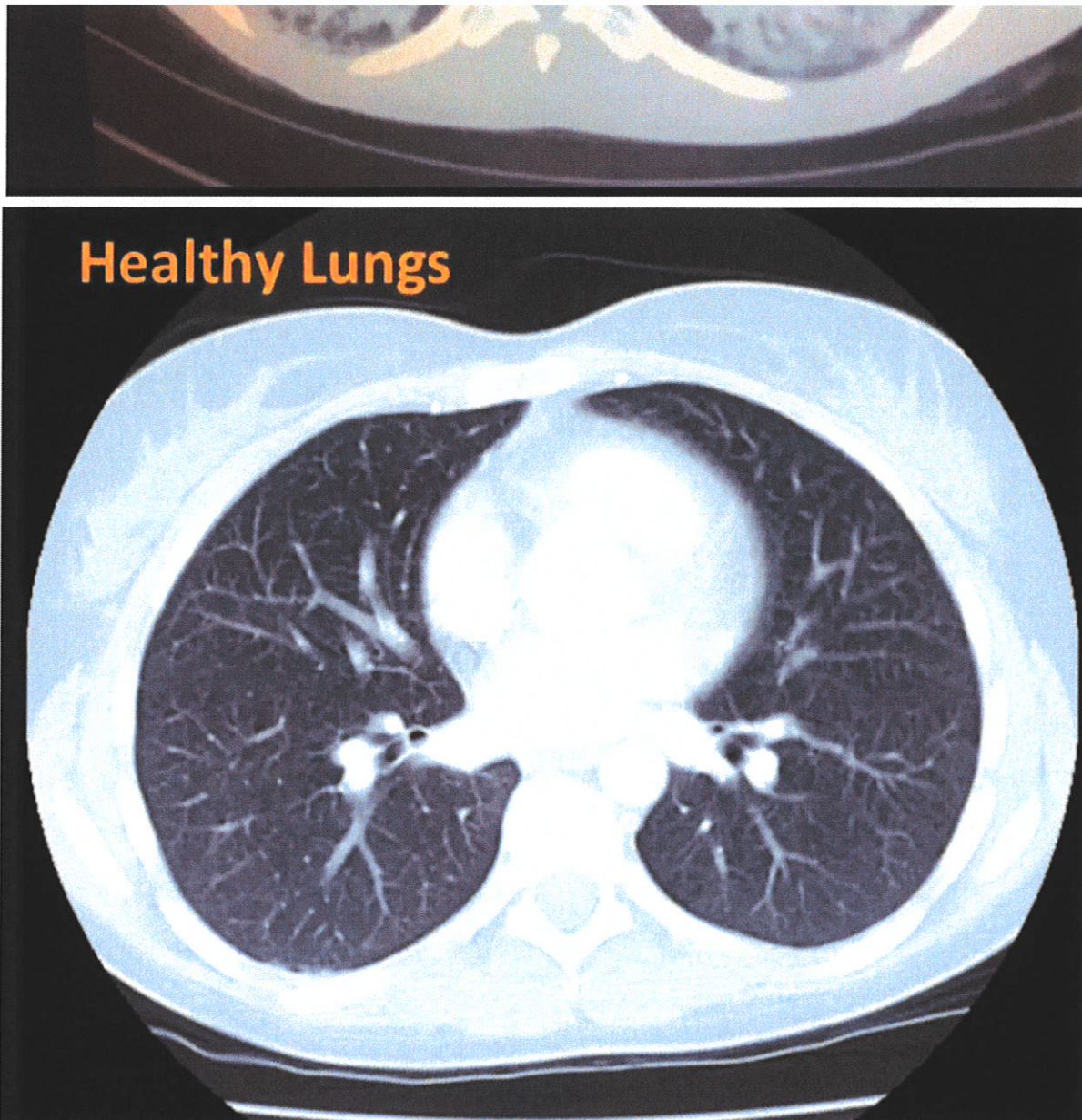
"Disposable e-cigarettes made only with synthetic nicotine pose a particular challenge for the F.D.A. when it comes to our tobacco authorities," Mr. Zeller said in an email. "The F.D.A. is actively investigating this issue and considering how to best address such products."





Ms. Burgess in the I.C.U. last year. When she arrived at the hospital, her oxygen saturation was 67, far below the normal range of 95 or higher. Lizzie Burgess





A scan of Ms. Burgess's lungs, top, compared with healthy lungs. Lizzie Burgess

Vaping is still popular among teenagers. Rani Dhiman, 16, said it is highly visible in the bathrooms and stairwells of her high school in the Detroit suburbs.

She said the stress and loneliness of the pandemic might have been a trigger for some teenagers to start. It's also portrayed glamorously, she pointed out, in "Euphoria," a popular HBO series about a teenager kicking drug addiction.

"Sometimes so many people are vaping in the bathrooms, it's hard to do anything about it," Ms. Dhiman said, adding that she doesn't vape.

The F.D.A.'s efforts to limit teenagers' access to flavored vapes had little effect on Lizzie Burgess's ability to get them over the last four years in the Indianapolis suburbs. Within weeks of starting to vape at 16, she said, she was addicted. There was always a gas station, older friend or website selling e-cigarettes in flavors like banana ice cream or sour apple, she said.

At 19, she said, she was vaping THC and using a device — now advertising tobacco-free nicotine — that has as much nicotine as two packs of cigarettes, every two to three days. She said she fell ill with what started like a cold, which progressed to rapid breathing, almost-gray lips and feeling depleted. By the time she went to the emergency room, her oxygen saturation was 67, far below the normal range of 95 or higher. Ms. Burgess said she was soon in the I.C.U. with vaping-related lung injury.

She's struggled to end her nicotine addiction and is down to two cigarettes a day.

"I think the F.D.A. should take it all off the market now," Ms. Burgess said of the flavored vapes. "I think it will be very very hard for them to reel it all in. It's so big and there are so many companies now."

Synthetic nicotine remains far more expensive than the tobacco-derived product, leading some industry experts to question whether a device label of "synthetic" is accurate.

The unregulated vaping market at this point is a problem of the F.D.A.'s making, said Gregory Conley, president of the American Vaping Association, an industry trade group. He said the agency fueled the problem by overregulating a product used by millions of adults who find vaping a safer alternative to smoking.

"This country should learn some lessons from past prohibitions that failed miserably," Mr. Conley said. "If you don't fairly regulate a market where there is a great deal of demand from legal adults, you will fuel gray and black markets where the operators are not concerned with checking IDs before selling."

Dr. Robert Jackler of Stanford University created a “synthetic teenager” named Joe, who used gift cards to buy flavored synthetic nicotine products online and have them shipped. Ian C. Bates for The New York Times

Dr. Robert Jackler, who studies tobacco company advertising at Stanford University, has also noted major tobacco retailers entering the synthetic nicotine market with flavored gums called “pouches.” He said his tobacco research group could pose as a teenager and use gift cards to easily buy the flavored synthetic nicotine gums from major retailers and have them shipped to a home in California.

“When we buy them, there’s no age gating,” Dr. Jackler said.

The loopholes are many with synthetic nicotine, he said, allowing the products to avoid hefty tobacco taxes and remain affordable and to evade the algorithms that online retailers use to weed out underage sales of tobacco products. The ease of purchasing was also concerning, Dr. Jackler said, given how little is known about the health effects of flavored, synthetic nicotine.

Recent research has focused in on the chemicals used to simulate butter, which is linked to lung damage, and vanilla, which is associated with birth defects in zebrafish.

Dr. Sven-Eric Jordt, an associate professor at Duke University who has studied synthetic nicotine, said it posed many unknowns.

About 99 percent of tobacco-derived nicotine is a psychoactive molecule called S-nicotine, he said. But a mirror-image molecule, known as R-nicotine, makes up 50 percent of most types of synthetic nicotine. He said the R-nicotine molecule appears to be less addictive, but very little research has been done on it in animals or humans.

“It could alter nerve transmission in the brain in different ways from classic nicotine,” Dr. Jordt said, “but we don’t understand that at this time.”



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Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Date: March 17, 2022

To: Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair
Members of the Senate Committee on Health

Senator Michelle N. Kidani, Chair
Senator Donna Mercado Kim, Vice Chair
Members of the Senate Committee on Education

Re: Comments on HB 1570, HD1, Relating to the Youth Vaping
Epidemic

Hrg: March 18, 2022 at 1:31 PM, Conference Room 225 & via
Videoconference

The Coalition for a Tobacco-Free Hawai'i (CTFH), a program of the Hawai'i Public Health Instituteⁱ, offers comments on HB 1570, HD1. **While CTFH strongly supports ending the sale of flavored tobacco products, we have concerns regarding certain provisions in the HD1 version of the bill, and the prior amendments' possible effect on how quickly the law could be fully implemented.**

The enforcement mechanisms in the current draft are untested and will likely lead to dangerous delays in implementation.

HB 1570 was subjected to significant amendments in the House Committee on Health. The bill was inexplicitly stripped of its preamble, which contained informative data on the prevalence of youth tobacco use in Hawai'i and evidence justifying the need for a prohibition on the sale of flavored tobacco products. The bill was further amended to insert numerous amendments surrounding transparency and enforcement. CTFH wholeheartedly supports proven, evidence-based enforcement mechanisms but has concerns that the new provisions in HB 1570, HD1 are unproven, unvetted, and so arduous so as to potentially create delays in implementation that could prove costly to public health and the lives of Hawai'i's youth.

As of January 2022, at least seven states and 335 localities in the U.S. have passed restrictions on the sale of flavored tobacco^{ii,iii}. **CTFH is unaware of any jurisdiction that enforces its law restricting flavored tobacco sales in a manner that resembles what would be required by HB 1570, HD1.** We encourage the Committees amend the bill to restore its original intent, which we believe offers the right balance of enforcement and feasibility.

In light of recent federal legislation, the Coalition suggests that the Committees consider amending HB 1570, HD1, to more closely mirror the newest federal definition of “tobacco products.”

President Biden just signed the Bipartisan Government Funding Bill, a portion of which would include synthetic nicotine within the federal definition of “tobacco product.” This is great news in the world of tobacco prevention and control, as synthetic nicotine is used by the tobacco industry to circumvent the Federal Drug Administration premarket review process and other tobacco laws. HB 1570, HD1 separates synthetic nicotine from tobacco products, which would now be inconsistent with federal law, may inadvertently cause confusion about the applicability of state tobacco laws (such as the clean indoor air law), and could possibly lead to inconsistent regulation down the road. The bill also distinguishes “heated smoking product,” which may similarly lead to different levels of regulation, despite being added to the bill’s definition of tobacco products. CTFH believes the definition of “tobacco product” included in SB 3118, SD2 sufficiently addresses both synthetic nicotine and heated smoking products and suggests this definition be incorporated into the bill.

CTFH anticipates further developments on the federal level in the future, but cautions the State against waiting for those developments to take effect. In April 2021, the **FDA has announced its intent to ban flavored cigars and menthol cigarettes** (the only allowable flavor in cigarettes) based on strong evidence that this would reduce addiction and youth experimentation, improve quitting, and address health disparities^{iv}. It must be noted, however, that this will likely take **several years** to be fully implemented, and so Hawai‘i can and should act on the evidence available today instead of waiting for federal regulations. The risk of waiting — either for federal regulations or for lengthy state-level enforcement infrastructure to be built out — is too high.

Ending the sale of flavored tobacco products is effective in combatting tobacco use.

Emerging data from the first states and localities that passed flavored tobacco bans suggests that they are effective at reducing tobacco sales^v. While *some* tobacco users will switch to unflavored or tobacco-flavored products, the increase in those categories is not enough to offset the decline in flavored tobacco product sales. The reduction in tobacco sales in other jurisdictions with flavor ban policies reinforces the estimated health and economic benefits of ending the sale of flavored tobacco in Hawai‘i.

Ending the sale of flavored tobacco products will save lives and money.

A 2021 analysis^{vi} on the impact of ending the sale of flavored tobacco products in Hawai‘i conservatively estimates that it would result in:

- At least \$48 million in long-term health care cost savings for the state.
- More than 3,000 smokers (5.6% of menthol smokers) would quit as a result of the policy.
- 700 premature smoking-caused deaths avoided.
- Fewer youth initiating smoking with menthol cigarettes.

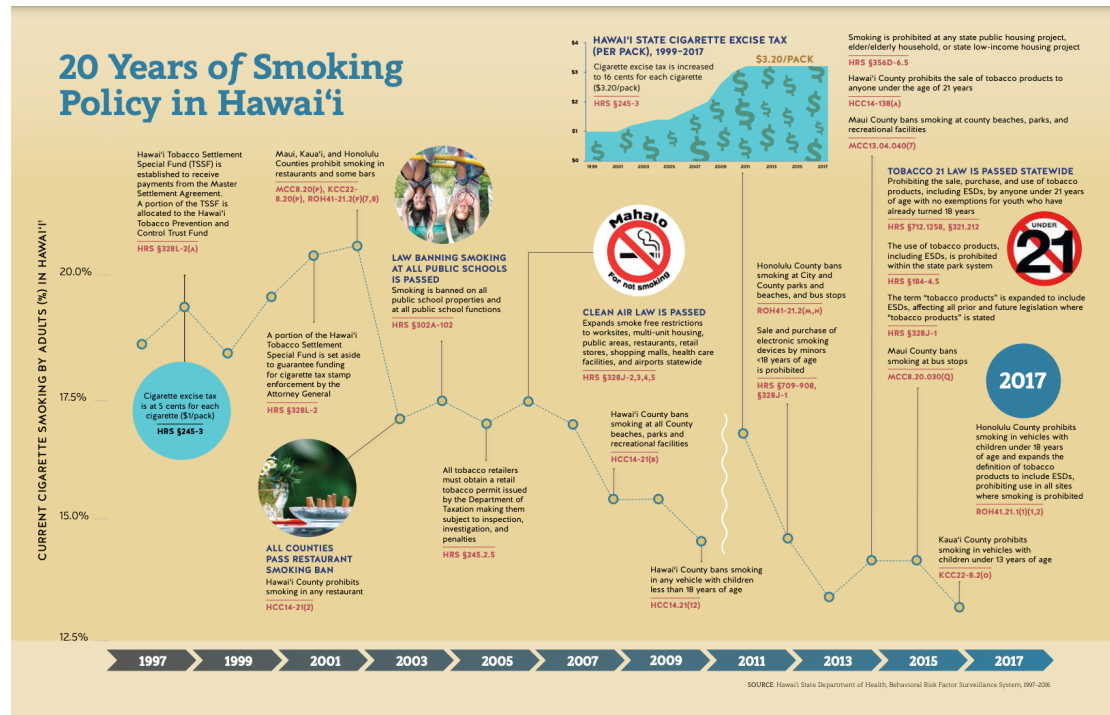
These estimates are conservative, as they do not include the thousands of youth that will never start smoking as a result of this policy. Not only would this save the state millions more in healthcare cost savings, but save thousands of lives.

Comprehensive regulations on e-cigarettes are necessary to reverse the youth vaping epidemic.

Over two decades of tobacco prevention and control policy has helped Hawai‘i save \$1 billion dollars in healthcare costs^{vii}, lowered the adult smoking rate to 11.6% (eighth lowest in the nation)^{viii}, and reduced smoking prevalence among high school students to 5.3% in 2019^{ix}. This was

achieved through comprehensive smoke-free air laws, high tobacco taxes, age restrictions, removing most flavors in cigarettes, and investments in tobacco prevention education and cessation.

E-cigarettes have evaded many of the tobacco prevention and control laws other tobacco products are subject to, leading to the rise of e-cigarettes, undoing decades of progress. In 2019, 1 in 3 (30.6%) public high school students and nearly 1 in 5 (18%) public middle school students in Hawai'i reported that they use e-cigarettes^x. The state has an opportunity to reverse the youth vaping epidemic by implementing comprehensive policies and programs, which necessarily include ending the sale of flavored tobacco products statewide.



Ending the sale of flavored products advances equity and takes an important step towards addressing the root causes of tobacco use.

Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product. Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

It is imperative that the **flavor menthol, as well as all tobacco products**, be addressed by this bill. Menthol's cooling properties have been exploited by the tobacco industry to mask the harshness of tobacco smoke and for decades, and the tobacco industry has profited from using menthol in its targeting of youth of color and other marginalized and low-income populations. African Americans, Native Hawaiians, and Filipinos are disproportionately affected by the harms caused by tobacco. Including all tobacco products in any law ending the sale of flavored tobacco products is important, as flavored cigars and menthol combustible cigarettes remain popular. In Hawai'i,

over half of youth smokers^{xi} and 78% percent of Native Hawaiians and Pacific Islanders who smoke use menthol cigarettes.^{xii} Menthol is also one of the most popular flavors among high school e-cigarette users^[xiv], especially as e-cigarette companies will often create hybrid flavors, combining menthol with fruit flavors to create flavors such as “strawberry freeze” and “watermelon ice.”



Source: Campaign for Tobacco-Free Kids. Example of flavored, cheap cigars.

Youth e-cigarette use is of public health concern.

E-cigarettes often contain nicotine, which is addictive and harmful particularly to adolescents, whose brains are still developing. And Hawaii’s teens are addicted – the percentage of frequent and daily high school users doubled from 2017 to 2019^{xiii}. 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^{xiv}.”

The rise of severe, sometimes fatal, lung infections associated with e-cigarettes was another scary reminder of e-cigarettes’ unregulated nature and unknown harms. Also known as E-cigarette or vaping product use-associated lung injury (EVALI), this disease harmed otherwise healthy individuals. Over 2,800 people were hospitalized after experiencing symptoms ranging from shortness of breath to fever, and tragically resulted in 68 confirmed deaths as of February 2020^{xv}.

E-cigarettes are not FDA-approved tobacco cessation products.

In addition, e-cigarette manufacturers and retailers cannot legally make claims that e-cigarettes can help users quit smoking or that they are healthier than cigarettes. The deceptive health claims and aggressive marketing of these products has only increased tobacco use as people who have never smoked begin using e-cigarettes, children use e-cigarettes as a path to smoking, and smokers that use them to perpetuate their habit (dual use) instead of to completely quit. **A study has shown that for every one adult that quits smoking using e-cigarettes, 81 youth and young**

adults who would not have considered smoking, will become cigarette smokers, starting with e-cigarettes^{xvi}. This is not a trade-off we can accept. We need to take action and regulate electronic smoking devices for our kids.

Hawai'i voters support prohibiting flavored tobacco products, including e-cigarettes.

In a poll^{xvii} conducted by Ward Research Inc. for the Coalition in October 2021 among registered voters in Hawai'i, 73% support prohibiting flavored tobacco products, including e-cigarettes, and 71% support including menthol.

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 protect our youth from a lifetime of addiction. These steps cannot be expeditiously taken with the current language in HB 1570, HD1.

Mahalo,



Amanda Fernandes, JD
Policy and Advocacy 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 Campaign for Tobacco Free Kids. (2022, January 6). States & Localities that have Restricted the Sale of Flavored Tobacco Products. Accessed from <https://www.tobaccofreekids.org/assets/factsheets/0398.pdf>.

ⁱⁱⁱ Ali, F., Vallone, D., Seaman, E. L., Cordova, J., Diaz, M. C., Tynan, M. A., Trivers, K. F., & King, B. A. (2022). Evaluation of Statewide Restrictions on Flavored e-Cigarette Sales in the US From 2014 to 2020. *JAMA network open*, 5(2), e2147813. <https://doi.org/10.1001/jamanetworkopen.2021.47813>

^{iv} U.S. Food and Drug Administration. (2021, April 29). FDA Commits to Evidence-Based Actions Aimed at Saving Lives and Preventing Future Generations of Smokers. Retrieved from <https://www.fda.gov/news-events/press-announcements/fda-commits-evidence-based-actions-aimed-saving-lives-and-preventing-future-generations-smokers>.

^v Gammon, D. G., Rogers, T., Gaber, J., Nonnemaker, J. M., Feld, A. L., Henriksen, L., Johnson, T. O., Kelley, T., & Andersen-Rodgers, E. (2021). Implementation of a comprehensive flavoured tobacco product sales restriction and retail tobacco sales. *Tobacco control*, tobaccocontrol-2021-056494. Advance online publication. <https://doi.org/10.1136/tobaccocontrol-2021-056494>

^{vi} Chaloupka, F. J. Potential Effects of a Ban on the Sale of Flavored Tobacco Products in Hawaii, University of Illinois at Chicago, 2021.

^{vii} Holmes JR, Ching LK, Cheng D, Johnson L, Yap L, Starr RR and Irvin L. 2018. Tobacco Landscape. Honolulu: Hawai'i State Department of Health, Chronic Disease Prevention and Health Promotion Division

^{viii} Centers for Disease Control and Prevention (CDC). Behavioral Risk Factor Surveillance System Survey Data. Atlanta, Georgia: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, 2020.

^{ix} 2019 Youth Risk Behavior Surveillance System (YRBSS). Available at: www.cdc.gov/yrbs. Accessed on 02/07/2021.

^x *Id.*

^{xi} 2019 Hawai'i's Youth Tobacco Survey (YTS). Available at: http://ibis.hhdw.org/ibisph-view/query/result/yts/CSCigPrefMentholNew/HS_ST.html. Accessed on 03/16/22.

^{xii} Hawai'i 2008 Behavioral Risk Factor Surveillance System (BRFSS). Available at: <http://hhdw.org/health-reports-data/data-source/brfss-reports/>. Access on 03/16/22.

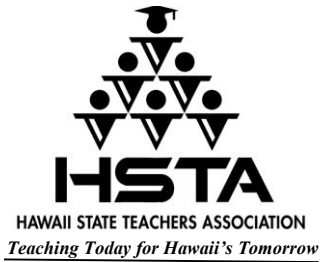
^{xiii} YRBSS, 2017-2019, *Supra*.

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

^{xv} Centers for Disease Control and Prevention. (2020, February 25). "Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products." Retrieved from https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html.

^{xvi} Soneji S, Barrington-Trimis JL, Wills TA, et al. Association Between Initial Use of e-Cigarettes and Subsequent Cigarette Smoking Among Adolescents and Young Adults: A Systematic Review and Meta-analysis. *JAMA Pediatr.* 2017;171(8):788–797. doi:10.1001/jamapediatrics.2017.1488.

^{xvii} This study by Ward Research, Inc. summarizes findings from a phone survey among n=805 Hawai'i registered voters (maximum sampling error +/-3.3%), conducted between October 7 – October 26, 2021.



Osa Tui, Jr.
President
Logan Okita.
Vice President
Lisa Morrison
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON HEALTH
and THE COMMITTEE ON EDUCATION

RE: HB 1570, HD1 - RELATING TO THE YOUTH VAPING EPIDEMIC

FRIDAY, MARCH 18, 2022

OSA TUI, JR., PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Keohokalole, Chari Kidani, and Members of the Committees:

The Hawaii State Teachers Association **supports HB 1570, HD1**, relating to the youth vaping epidemic, **with suggested amendments**. The main focus of this bill that we support bans the sale of flavored tobacco and synthetic nicotine products; prohibits mislabeling of e-liquid products containing nicotine; and prohibits the marketing, advertising, or promoting of electronic smoking devices to appeal to individuals under twenty-one. **We request that this bill be reverted back to its original language.**

HSTA does NOT support amendments that have been added with all kinds of reports and testing that are completely unnecessary and burdensome to the Department of Education (DOE) and the Health Department (DOH). We suggest removing the added amendments in HD1 that require DOH to post online monthly updates on all deposits and expenditures of the tobacco enforcement and Hawaii tobacco settlement special funds and Hawaii tobacco prevention and control trust fund, requires DOH to submit annual reports to the legislature on the receipts and expenditures of the Hawaii tobacco settlement special fund and Hawaii tobacco prevention and control trust fund, requires the attorney general to monitor online sales of tobacco products and electronic smoking device products and post online monthly updates, requires DOH to establish a standardized and scientific testing process for the presence of flavoring in tobacco products and synthetic nicotine products and post this information online.

We also oppose what we consider a redundant program of the “take-back program” as our teachers and schools are already taking away these products in large trash bags and turning them in the health department, thus these added procedures and collections are absolutely not needed at all. They are cumbersome and duplicative. These extra reports and procedures that have been added to this bill are NOT what works to reduce youth vaping. What has proved to work is banning flavored e-liquids and vaping products and taxing vaping products the same way we tax regular

tobacco products as these are proven methods that work. We need to hold the industry accountable for preying on our youth.

Flavored tobacco products have been proven as the entry point for youth to start smoking. With packaging that looks like it came off the shelf of a candy store and flavors such as Strawberry Watermelon Bubblegum, Unicorn Milk, and Sour Patch Kids, it's no surprise that 81% of youth who ever used tobacco say they started with a flavored product and 97% of youth who vape say they only use a flavored product.

The use of e-smoking products among youth is at epidemic levels, especially in Hawaii. According to the 2017 Youth Risk Behavior Survey, **Hawaii has one of the highest rates of middle and high school usage in the nation at 15.7% and 25.5% respectively.** Moreover, 27% of middle school students and a whopping 42% of high school students have tried e-cigarettes. On the neighbor islands, usage trends are particularly concerning—in Hawaii county 34% of students reported they are regular users while on Kauai 32% are regular users.

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.

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 2020 with a proliferation of flavored tobacco in the form of e-liquids luring our children into becoming lifelong and habitual nicotine users.

Lastly, thank you for not adding any fines for our youth, as HSTA opposes these fines, as we feel our students 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. We just want to make this stance clear from the start.

To reduce the youth vaping epidemic and ensure the long-term health and wellbeing of our keiki, the Hawaii State Teachers Association requests you **support this bill.**

HB-1570-HD-1

Submitted on: 3/16/2022 5:34:28 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Zoey Duan	Individual	Comments	In Person

Comments:

Aloha members of the House Committee on Consumer Protection and Commerce,

I'm Zoey, a local youth from Nu'uuanu/Liliha, and I'd like to provide comments on the recent amendments that have been added to HB1570.

As per my previous testimony, I strongly support the original version of the bill but oppose the recent amendments. The amendments are not necessary nor are they related to ending the sale of flavored tobacco products, which is the original intent that youths and other supporters of the bill have been advocating for.

The testing requirements outlined in the amendments are unwarranted. No other state that has implemented a flavor ban has had testing requirements like those in the amendments. By creating extra requirements, the amendments detract from the main intent of the bill and instead create burden for other agencies, so much so that they would be forced to pull their support from the bill.

Lastly, as a youth who has been actively involved in the advocacy for a flavor ban for the past four years, it is disheartening when we are told that our voices matter, but our voices are wrongfully manipulated and twisted in practice. During the last hearing of the bill, my friends testified solely for the ending of flavored tobacco sales — without any amendments to the original language of the bill — but was misrepresented when the bill was amended with new requirements. I hope to see our youth voices being heard in its full authenticity, so I urge for the removal of new amendments to bring the bill back to what us youths have been fighting for all along.

Mahalo,

Zoey Duan

HB-1570-HD-1

Submitted on: 3/17/2022 11:23:51 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Lauren Simpson-Gomez	Individual	Support	In Person

Comments:

Good afternoon Senator Keohokalole-Chair, Senator Baker-Vice Chair, and members of the Committee on Health. Senator Kidani-Chair, Senator Mercado Kim-Vice Chair and members of the Committee on Education,

My name is [Lauren Simpson-Gomez](#) and I am a college student at the University of Hawai'i at Mānoa, studying Public Health. Over the past two years, I have been gathering medical research, product research, and collecting real-life accounts of individuals who choose to consume flavored tobacco and synthetic nicotine products. Flavors hook kids and the marketing of flavored tobacco products and their success proves this.

From my experience on Mānoa's campus, these kids carry on their addictions well into the college level. I see freshmen in the dorm rooms from 17-19 years old who cannot function without having their vape with them in the exact same way one doesn't leave the house without their cell phone or wallet. They experience immediate irritability, loss of patience, and short temperament when they cannot get a fix. They are addicted to the nicotine in these products the same way an alcoholic is to alcohol and a drug addict is to their drug of choice.

Nationally, 81% of youth who started using tobacco products started with a flavored product. And 97% of youth who vape use flavored products.

Before I quit, the only flavors I had access to were cigarillos and menthol-flavored tobacco products. If I were to have access to the nearly 16,000 options of flavored products to choose from when I was 14, I have no doubt that at 25 years old today I would be vaping and consuming these products at a higher rate.

Passing this bill would help mitigate the high number of youths who start using tobacco products because of the attractions of the flavors, and who would become addicted, possibly for the rest of their lives. In order for this bill to have a chance to pass, however, the onerous amendments put in by the House Health Chair need to be removed. The amendments are unnecessary and are the opposite of the transparency the Chair claims to be championing. None of the other more than 300 jurisdictions that have flavor bans have

requirements that were added so I urge you to return this bill more in line with its original intent and language.

Thank you for the opportunity to testify today.

LATE

HB-1570-HD-1

Submitted on: 3/18/2022 9:25:07 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Noah Chang	Individual	Support	In Person

Comments:

It is imperative that e-cigarettes are regulated the same as other tobacco products since they contain the same amount of nicotine (if not more) which makes it harder for students to quit. In my middle school, there used to be a widespread vaping issue among classmates. Many students were caught using e-cigarettes on several occasions including the class president at the time. In fact, most students looked up to the popular people in school and saw vaping as a status symbol. It is this type of pressure that continues the cycle in my school; however, these students should not be blamed for this behavior. Youth are not the source of the issue and therefore should not be held responsible. I strongly believe that youth penalties should not be included in e-cigarette regulation bills due to this fact. Instead, tobacco companies should be punished for marketing their products to youth in our state through candy flavors. Please help the students in my school as well as all students across the island by ending the sale of flavored tobacco products.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 1570, H.D. 1, RELATING TO THE YOUTH VAPING EPIDEMIC.

BEFORE THE:

SENATE COMMITTEES ON HEALTH AND ON EDUCATION

DATE: Friday, March 18, 2022 **TIME:** 1:31 p.m.

LOCATION: State Capitol, Room 225 and Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General,
Richard W. Stacey, Deputy Attorney General, or
Chelsea Okamoto, Deputy Attorney General

Chairs Keohokalole and Kidani and Members of the Committees:

The Department of the Attorney General (Department) appreciates and supports the intent of the original bill. By criminalizing the sale of flavored tobacco products and synthetic nicotine products, the mislabeling of e-liquid products, and marketing of electronic smoking devices (ESDs) to individuals under twenty-one years old, the original bill would have addressed the health dangers currently existing in Hawaii. Although House Draft 1 still prohibits the sale or distribution of all flavored tobacco and synthetic nicotine products in the State, the amendments to the original bill create legal and logistical problems that the Department must oppose. The Department, therefore, opposes House Draft 1 and provides the following comments.

House Draft 1 creates additional responsibilities for the Department of Health, including posting monthly updates on its website regarding deposits into and expenditures from the Tobacco Enforcement Special Fund, Hawaii Tobacco Settlement Special Fund, and the Hawaii Tobacco Prevention and Control Trust Fund; submitting annual reports to the Legislature providing an accounting of the Hawaii Tobacco Settlement Special Fund and the Hawaii Tobacco Prevention and Control Trust Fund; establishing a standardized and scientific testing process for presence of flavoring in all tobacco products and synthetic nicotine products and making the testing protocols and results available to the public; collaborating with the Department of Education in the establishment of a take-back program for the collection and destruction of all electronic

smoking devices, flavored tobacco or synthetic nicotine products, and tobacco products voluntarily disposed of by students on school property; and collaborating with the Department of Education in the establishment of quarterly meetings with students at all school complex areas and independent schools to seek input on addressing the youth vaping epidemic.

Further, the bill would require the Department to monitor all online sales of all tobacco products and electronic smoking device products and post monthly updates on its website regarding the estimated number of these products that have entered the State and how many products, by tonnage, have been confiscated.

The Department is concerned that this bill, in its House Draft 1 form, contains subjects that go beyond the title of this bill, "Relating to the Youth Vaping Epidemic," that could subject it to constitutional challenge. Article III, section 14, of the Constitution of the State of Hawaii mandates that "[e]ach law shall embrace but one subject, which shall be expressed in its title." There are two parts to the analysis of this Constitutional provision – that there be only one subject, and that this subject be expressed in its title.

The Hawaii Supreme Court has liberally construed the term "subject" with respect to the title of a law as having a "broad and extended meaning." Schwab v. Ariyoshi, 58 Haw. 25, 33, 564 P.2d 135, 140 (1977). Therefore, it is sufficient if the title of a law "fairly indicates to the ordinary mind the general subject of the act, is comprehensive enough to reasonably cover all its provisions, and is not calculated to mislead." Id. at 34, 564 P.2d at 141.

Here, the bill's title embraces only one subject – "the Youth Vaping Epidemic." The bill amends section 28-15, Hawaii Revised Statutes (HRS), relating to the Tobacco Enforcement Special Fund (page 3, line 6, through page 4, line 20), section 328L-2, HRS, relating to the Hawaii Tobacco Settlement Special Fund (page 5, line 1, through page 7, line 3), and section 328L-6, HRS, relating to the Tobacco Prevention and Control Advisory Board and the Tobacco Prevention and Control Trust Fund (page 7, line 4, through page 9, line 19).

The Hawaii Tobacco Settlement Special Fund, established by section 328L-2, HRS, consists of moneys from tobacco settlement moneys and all interest and earnings

accruing from the investment of moneys in the fund. Section 328L-2(a), HRS. "Tobacco settlement moneys' refers to moneys received by the State pursuant to the tobacco master settlement agreement." Section 328L-1, HRS. The tobacco master settlement agreement (MSA)¹ was an agreement between the State, forty-five other states and additional territories, and the four largest tobacco manufacturers in 1998. The MSA was an agreement relating to cigarettes and roll-your-own tobacco and did not address electronic smoking devices or the youth vaping epidemic addressed by this bill. Additionally, it is not clear how the posting of monthly financial updates for these funds is related to the youth vaping epidemic. The title "Relating to the Youth Vaping Epidemic" does not fairly indicate to the ordinary person that this bill pertains to these special funds and may not be "comprehensive enough to reasonably cover all its provisions." Schwab, 58 Haw. at 34, 564 P.2d at 141.

Additionally, while "vaping" is not defined in the bill, it is defined in a dictionary as ". . .inhal[ing] vapor through the mouth from a usually battery-operated electronic device (such as an electronic cigarette) that heats up and vaporizes a liquid or solid."² In addition to addressing "the Youth Vaping Epidemic", the bill seeks to criminalize the sale of flavored tobacco products and synthetic nicotine products (section 7, page 11, line 14, through page 16, line 6) and criminalize the sale of synthetic nicotine products to individuals under twenty-one years old (section 8, page 16, line 9, through page 21, line 9). This bill also addresses a preemption issue that would allow counties to adopt rules or ordinances placing "greater restrictions on the access to flavored tobacco or synthetic nicotine products" (page 13, line 15, through page 14, line 2). These are

¹ On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present, and certain future claims against them as described therein, to pay substantial sums to the State (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking. Section 675-1(e), HRS.

² *Vaping*, Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/vaping> (16 Mar. 2022).

examples of provisions in this bill that may not be limited to the Youth Vaping Epidemic and that, therefore, appear to further conflict with the single-subject and title requirement.

Section 2 (page 4, lines 17-20) of the bill requires the Department of Health to post a monthly update on the Department of Health's website on the sources of deposits made to and expenditures made from the Tobacco Enforcement Special Fund. The Tobacco Enforcement Special Fund, as established by section 28-15, HRS, is administered by the Department, not the Department of Health. The Department already submits annual reports to the Legislature accounting for receipts and expenditures of the Tobacco Enforcement Special Fund. The Department of Health would not have the information necessary to fulfill this requirement.

The Department is committed to supporting the fight against the youth vaping epidemic and will enforce and prosecute offenses of the Penal Code on a case-by-case basis. However, section 5 (page 10, lines 4-12) of this bill would require the Department to "monitor all online sales of all tobacco products and electronic smoking devices in the State" and "post a monthly update on the department's website regarding the estimated number of tobacco products and electronic smoking device products entering the State and how many products, by tonnage, have been confiscated." Without additional funding, the Department does not have the extensive resources required to implement section 5 of this bill.

The Tobacco Enforcement Unit of the Department is tasked with enforcing the requirements of the MSA and related Hawaii statutes. The Tobacco Enforcement Special Fund, as created in 2001 by section 28-15, HRS, after Hawaii became a signatory to the MSA, specifies that the moneys are to be used consistently with enforcement of the MSA, including diligent enforcement of chapter 675, HRS (the Tobacco Liability Act), chapter 486P, HRS (Tobacco Products Reporting), and numerous other enforcement requirements. To expand the use of the Tobacco Enforcement Special Fund beyond its original purpose could put Hawaii at risk of being found non-diligent, in addition to creating issues relating to the good faith and fair dealing of the settlement entered into with other parties by Hawaii. 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 MSA payment, nearly \$20,000,000, if found non-diligent.

Section 7 of this bill adds a new section to chapter 712, HRS, which is in the Penal Code; however, on page 13, lines 3-14, the bill states that the penalties for violating the section are administrative fines ". . . paid to the department of health and deposited into the Hawaii tobacco prevention and control trust fund. . . ." Administrative fines do not belong in the Penal Code, but if this section is to remain in the Penal Code, the Department suggests that the word "administrative" be stricken from the phrase "administrative fine" on page 13, lines 4, 7, and 8.

The Department also has concerns about how and where the fines would be deposited. As part of the sentencing provisions set forth on page 13, lines 11-14, the bill requires "[a]ll fines shall be paid to the department of health and deposited into the Hawaii tobacco prevention and control trust fund established pursuant to section 328L-5." Although this bill directs that the moneys be paid to the Department of Health and then deposited into the Hawaii Tobacco Prevention and Control Fund, for clarity purposes, the Department suggests deleting "paid to the department of health and" on page 13, lines 11-12, so the moneys would be directly deposited into the Hawaii Tobacco Prevention and Control Fund.

The Department further notes that because section 706-643(2), HRS, provides "[a]ll fines and other final payments received by a clerk or other officer of a court . . . [and] all such funds shall be deposited with the director of finance to the credit of the general fund of the State", amendments to section 706-643(2), HRS, may be required to redirect funds that currently go automatically to the state general fund, in addition to amending the wording in the bill.

On page 20, lines 8-19, this bill adds the definition of "synthetic nicotine products" to section 712-1258, HRS.³ The definition of "synthetic nicotine products"

³ On Tuesday, March 15, 2022, President Biden signed the Consolidated Appropriations Act, 2022, which included a provision that would amend the definition of "tobacco product" in the Federal Food, Drug and Cosmetic Act to include any product "containing nicotine from any source" that is intended for human consumption, thereby

includes cigarettes and cigars, which are already included in the definition of "tobacco product" in subsection 712-1258 (7), HRS. Including "a cigarette, cigar" on page 20, lines 13-14, may be confusing for enforcement and compliance, as cigarettes and cigars are traditionally tobacco products derived from tobacco. See section 245-1, HRS (defining "cigarette" to mean "any roll for smoking made wholly or in part of tobacco, irrespective of size and shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco"). See also section 245-1, HRS, (definitions for "large cigar" and "little cigar").

Sections 9 and 10 establish the take-back program at public schools. As used in both sections 9 and 10, the term "coordinate" is vague in that it is unclear whether the Department of Education or the Department of Health would be responsible for administering the take-back program. Section 9 (page 21, lines 16-21) would create a new section in chapter 302A that states, in part:

- (a) Each public school shall coordinate with the department of health as part of the take back program established pursuant to section 321-B for the proper disposal of electronic smoking devices, flavored tobacco or synthetic nicotine products, and tobacco products voluntarily disposed of by students.

Similarly, Section 10 (page 22, lines 13-18) would create a new section 321-B that states, in part:

- (a) The department of health shall coordinate with the department of education to establish and administer a take back program by which public school students may voluntarily dispose of electronic smoking devices, flavored tobacco or synthetic nicotine products, and tobacco products in their possession.

The Department suggests clarifying the administration of the take-back program.

Finally, in section 7, on page 11, line 16, the Department notes the effective date is January 1, 2023, and the effective date for all other sections would be July 1, 2060. Because both section 7 and section 8 would impact both retailers and enforcement

placing products containing synthetic nicotine under the U.S. Food and Drug Administration's jurisdiction.

agencies, having the same effective date may reduce confusion and aid in compliance and enforcement efforts.

We respectfully request that the bill be held. If this bill is to move forward, we ask that the bill revert back to the original version, incorporating our suggested comments.

Thank you for the opportunity to testify and provide comments and suggested amendments on this bill.

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair

Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON EDUCATION

Senator Michelle N. Kidani, Chair

Senator Donna Mercado Kim, Vice Chair

Friday, March 18, 2022, 1:30pm

Comments Seeking Amendments for HB 1750, House Draft 1, Relating to the Youth Vaping Epidemic

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 respectfully requests that House Bill 1750, House Draft 1, is reverted to the original verbiage of this bill.

While we are supportive of innovation to reign in the vaping epidemic that has affected our local youth population, the American Lung Association urges lawmakers to focus on evidence-based strategies. These strategies include restrictions of all flavored tobacco products, bringing tax parity to all tobacco products (including e-liquids), and strong regulations on the licensing and permitting of sales of vape and e-liquid products¹.

The strategies proposed in the House Draft 1 amendments do not have research to support their effectiveness and may have unintended consequences. That is why we support the original version of this bill, which includes restrictions for all flavored tobacco products, including menthol for the following reasons:

- 1. Menthol keeps the most vulnerable addicted.** Overwhelming scientific evidence not only supports the restriction of menthol cigarettes to protect public health and save thousands of lives, but also indicates that restrictions should be implemented urgently. The prevalence of menthol tobacco use has remained constant in recent years, despite declines in non-menthol tobacco usage². Menthol flavored tobacco products disproportionately affect minorities and other vulnerable populations.
- 2. Menthol is a barrier for quitting tobacco.** In a letter to the Food and Drug Administration dated January 22, 2021, the Hawaii State Attorney General stated that menthol tobacco products “remain a major barrier to smoking cessation and reduction of smoking-related diseases. Although the tobacco industry argues that a ban will increase illicit trade, these warnings are overblown and self-serving. Robust measures for monitoring and enforcement are

¹ Centers for Disease Control and Prevention. Best Practices for Comprehensive Tobacco Control Programs—2014. 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, 2014.

² Kuiper NM, et al. Trends in sales of flavored and menthol tobacco products in the United States during 2011-2015. *Nicotine Tob Res.* 2018;20(6):698–706.

already in place. A ban on menthol cigarettes will benefit public health and there are no compelling reasons why these products should remain on the market.”

- 3. Menthol is preferred by young people because it masks harsh flavors of tobacco.** Research has shown that mint (or menthol) flavors are the most attractive to the young people. In fact, mint is the number one choice for teens who vape nicotine³.

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.⁴

The American Lung Association in Hawaii urges legislators to continue to support and advocate for policies to protect youth from tobacco use by restricting flavored tobacco products. We urge you to please revert back the language of House Bill 1570 to its original verbiage, which includes evidence-based strategies to reduce vaping amongsts youth.

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

³ Leventhal AM, Miech R, Barrington-Trimis J, Johnston LD, O’Malley PM, Patrick ME. Flavors of e-Cigarettes Used by Youths in the United States. *JAMA*. 2019;322(21):2132–2134. doi:10.1001/jama.2019.17968

⁴ American Lung Association. *State of Tobacco Control – Hawaii*. 2020



To Chairs Jarrett Keohokalole and Michelle Kidani, Vice Chairs Rosalyn Baker and Donna Mercado Kim, and members of the Senate Committees on Health and Education.

On behalf of the Coalition for a Tobacco-Free Hawaii's (CTFH) Youth Council, we are providing **comments on HB 1570 HD1**. The CTFH Youth Council is a nationally-recognized group of future youth leaders fighting for the health of their own generation against the powerful influences of Big Tobacco. The Youth Council consists of over 80 middle, high school, and college students, with representation across all of the counties.

We strongly support the original version of this bill but question the amendments that have been added. The amendments are unnecessary at best, do nothing to protect Hawai'i youth from predatory targeting by the tobacco industry and place requirements on multiple departments that none of the five states or more than 300 other jurisdictions have included in their flavor bans.

Since the preamble, which states the purpose and intent of the bill, has been removed, we feel it is important that we reiterate the Youth Council's original objective of this bill: to address Hawaii's youth vaping epidemic. In 2019, the most recent data from Hawai'i available, one in three high school students and one in five middle school students report "current use" of e-cigarettes. As many know, these products are harmful to youth in particular, containing toxic chemicals like nicotine and formaldehyde that destroy the developing brain. In fact, over 21,000 Hawai'i youth alive today will die from tobacco-related illness if smoking rates don't change.

But beyond numbers, countless students from across the state and nation have chronicled their experiences with e-cigarettes – whether watching their friends fall victim to the predatory marketing of the industry, seeing their school bathrooms cloud with

smoke, or even reporting the struggle of recovering from nicotine addiction themselves. Students today are under siege by an industry that profits off of addiction.

The primary driver of the vaping epidemic is through the creation and marketing of flavored products. 81% of youth who ever used tobacco started with a flavored product, while 97% of youth who vape say they use a flavored product. It comes as no surprise – over the past several years, the market for flavored tobacco products has exploded, with over 15,500, mostly candy and fruity flavors. These have done a number in enticing youth into using tobacco. The industry, no less, has taken to weaponizing our local food and cultures as well, with flavors like POG, Mauna Dew, and Hawaiian Sweet Roll lining shelves.

Menthol, in particular, is one of the most popular flavors among teens – using names like Ice, Chill and Freeze to describe the cooling sensation that couples with its minty taste; menthol makes it easier to start vaping and harder to quit. Menthol, moreover, is the primary product used in predatory marketing against youth and vulnerable communities – **the industry considers Hawai'i a "Menthol State", with 78% of Native Hawaiian and Pacific Islander smokers using menthol cigarettes, perpetuating a legacy of public health disparities and corporate exploitation.**

Banning the sale of all flavored tobacco products would work to end this deadly cycle of addiction and manipulation. In doing so, retailers would no longer have the ability to sell products that have been the primary catalyst for addicting a new generation of people.

But, it's not just youth – we have support from more than 100 organizations, many of which have also submitted testimony. Youth have presented to over 20 Oahu neighborhood boards that have passed resolutions in support, along with organizations like the Association of Hawaiian Civic Clubs, the Honolulu Youth Commission, Parents for Public Schools of Hawai'i, and many more. You can see a partial list below.

We strongly urge that the amendments to HB1570 be removed and the original language of the bill be restored. It's time to put people over the profits of Big Tobacco. It's time to protect our keiki.



PARTIAL LIST OF SUPPORTERS TO END THE SALE OF ALL FLAVORED TOBACCO PRODUCTS IN HAWAII

HEALTH ORGANIZATIONS

'Ohana Health Plan
Adventist Health – Castle
Aloha Care
AMA/HMA Student Chapter at JABSOM
American Academy of Pediatrics – Hawaii Chapter
American Heart Association
American Lung Association
Bay Clinic Inc.
Blue Zones Project
Campaign for Tobacco-Free Kids
Coalition for a Drug-Free Hawaii
Coalition for a Tobacco-Free Hawai'i a program of Hawai'i Public Health Institute
Hamakua Kohala Health Centers
Hawaii – American Nurses Association (Hawaii-ANA)
Hawaii COPD Coalition
Hawaii Dental Hygienists' Association
Hawaii Health and Harm Reduction Center
Hawai'i Nurses' Association OPEIU Local 50
Hawaii Public Health Association
Hui No Ke Ola Pono
Hui Ola Pono (UH Public Health's Student Organization)
Kaho'omiki; Hawaii Council of Physical Activity and Nutrition
Kauai Rural Health Association

Keiki Injury Prevention Coalition
Na Lei Wili Area Health Education Center, Inc.
The Queen's Health Systems
Tobacco Prevention Project, Daniel K. Inouye College of Pharmacy
University of Hawaii Student Health Advisory Council
US COPD Coalition
Waimānalo Health Center

YOUTH AND COMMUNITY ORGANIZATIONS

After-School All-Stars Hawaii
American Youth Soccer Organization (AYSO)
Association of Hawaiian Civic Clubs
Big Island Interscholastic Federation (BIIF)
Hale 'Ōpio Kaua'i Inc.
Hawaii Children's Action Network
Hawaii Interscholastic Athletic Directors Association
Hawaii State Teachers Association (HSTA)
Hawai'i Youth Climate Coalition
Hawaii Youth Services Network
Honolulu Youth Commission
Kanu o ka 'Āina Learning Ohana (KALO)
Kauai Path Inc.
LearningBond
Pacific American Foundation
Parents for Public Schools of Hawai'i
Partners in Development Foundation
Residential Youth Services & Empowerment (RYSE)
The Friends of Kamalani and Lydgate Park
Waipahu Intermediate Youth For Safety

NEIGHBORHOOD BOARDS

Kuliouou-Kalani Iki Neighborhood Board 02
Kaimuki Neighborhood Board 04
Diamond Head Neighborhood Board 05
Palolo Neighborhood Board 06
McCully-Moilili Neighborhood Board 08
Nuuanu/Punchbowl Neighborhood Board 12
Liliha/Puunui/Alewa Neighborhood Board 14
Aliamanu-Salt Lake Neighborhood Board 18
Aiea Neighborhood Board 20
Pearl City Neighborhood Board 21
Waipahu Neighborhood Board 22
Ewa Neighborhood Board 23

Mililani-Waipio Neighborhood Board 25
Koolauloa Neighborhood Board 28
Kahaluu Neighborhood Board 29
Kaneohe Neighborhood Board 30
Waimanalo Neighborhood Board 32
Mililani Mauka- Launani Valley Neighborhood Board 35
Nanakuli-Mailii Neighborhood Board 36

BUSINESSES

Country Courier, LLC
Hana Lima Physical Therapy
Home Remedies Interior Design
JCS Enterprises Inc.
Pediatric Therapies Hawaii

SCHOOLS

Damien Memorial School
Hawaii Association of Independent Schools (HAIS)
Hawaii Council of Private Schools (HCPS)
Holy Family Catholic Academy
Island Pacific Academy
Maryknoll School
Maui Preparatory Academy
Mid-Pacific Institute
Roots School
St. Andrew's Schools

HEALTH & COMMUNITY LEADERS

Kathryn Akioka, RRT / TTS
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Deborah Bond-Upson
Dale Carstensen
Valerie Chang
Dyson Chee
Danelle Cheng
Bridgitte Daniel
May Rose Dela Cruz, DrPH
Andrew Fox, MD

Shani Gacayan
Donita Garcia
Asaka Herman
Pedro Haro, MPH
Cyd Hoffeld
Colleen Inouye, MD
Lila Johnson
Leilani Kailiawa
Lehua Kaulukukui
Ken Kozuma
Mark Levin
Loren Lindborg
Katherine May, PsychD
Bryan Mih, MD
Kristin Mills
Shelly Ogata
Gregg Pacilio, PT
Matthew Prellberg
Jordan Ragasa
Nathalie Razo
Keenan Reader
Crystal Robello
Kimberly Golis-Robello
Mary Santa Maria
Patty Kahanamoku-Teruya
Chien-Wen Tseng, MD
John A Hau'oli Tomoso
Jennifer Valera
Cecilia Villafuerte
Linda Weiner, MD
Matthew Wong

HB-1570-HD-1

Submitted on: 3/16/2022 10:10:59 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Shani Gacayan	Testifying for Hamakua-Kohala Health, federally qualified health center	Support	Remotely Via Zoom

Comments:

Aloha kakou, on behalf of Hamakua-Kohala Health, federally qualified health center here on Hawaii island, we **STRONGLY SUPPORT** HB 1570 in its original version without amendments. It is of utmost importance to the health and well-being of our youth to ensure that they live long healthy lives without addiction that vaping and tobacco use can bring to their developing brains and growing bodies. Our youth who are using vaping devices because they were enticed to try candy and fruit flavored e-juice are not aware of the harm it can bring. The amount of young children vaping from as young as 11 years old here on Hawaii island is not only scary but it is heart breaking to know that they are already addicted to their vaping devices. If we do not intervene now to help protect our youth and teenagers who are addicted to vaping, their future will be cut short should they develop long term health effects, addictive behaviors or even death. We must protect our keiki now from the harmful effects of vaping; we do not want to continue in this youth vaping epidemic. They are our future; let us **NOT** continue to allow their lives to be in jeopardy anymore. Restore HB 1570 to its original version without amendments and **SAVE OUR KEIKI NOW**.



Hawaii COPD Coalition
700 Richards St., Suite 2410
Honolulu, HI 96813
hicopd@gmail.com
(808)699-9839

March 15, 2022

Honorable Chairs Senator Jarrett Keohokalole and Michelle Kidani
Honorable Vice-Chairs Senator Rosalyn Baker and Donna Mercado Kim
Members of the Senate Health and Education Committees

RE: **Comments on HB1570, HD1 Relating to Tobacco Products (ban flavored nicotine)**

Dear Chairs Keihokalole and Kidani, Vice Chairs Baker and Kim, and members of the Health and Education Committees,

This measure is extremely critical to the health of the children of our state and our entire state as well. **Please amend the bill HB1570, HD1 to return to the original form of the bill**, which will ban the sale of flavored nicotine products and mislabeled e-liquid products without adding a lot of confusing and possibly unconstitutional changes to the original, well-drafted bill.

I am Executive Director of the Hawaii COPD Coalition and serve over 45,000 Hawaii adults diagnosed with COPD in Hawaii (with an estimated equal number still undiagnosed). Chronic Obstructive Pulmonary Disease or COPD is an umbrella of diseases which include emphysema, chronic bronchitis and chronic asthma. Since 2007, I have worked in Hawaii, nationally and internationally with countless people who have had their lungs and lives horribly affected by tobacco and nicotine. Many of these people have become disabled and unable to perform jobs and hobbies they enjoyed, spending a lot more time and resources with healthcare providers and requiring support from society than they or any of us would like.

Sadly, our state is in the middle of a youth vaping epidemic! In Hawai'i one in three high school students and on in five middle school students reported "current use of e-cigarettes according to the Hawai'i YRBSS 2019! Of these youth, 8 in 10 youth currently using e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

While we are grateful that this legislature has been the first in the nation to pass legislation banning the sale of tobacco and electronic smoking devices to people under 21 in Hawaii, the high number of minors who are currently using e-cigarettes shows that children continue to use these dangerous devices! This is extremely concerning since nicotine is known to be a HIGHLY addictive drug and impacts the developing brain. Pediatricians have reported the brain continues to develop and grow until the young adult is 26 years old! Studies have shown that

using e-smoking devices result multiple harms to the lungs, as detailed on the John Hopkins website, [What Does Vaping Do to Your Lungs? | Johns Hopkins Medicine](http://www.hopkinsmedicine.org/health/wellness-and-prevention/what-does-vaping-do-to-your-lungs) at www.hopkinsmedicine.org/health/wellness-and-prevention/what-does-vaping-do-to-your-lungs.

Flavors in tobacco and nicotine products entice youth, while the nicotine keeps them hooked for life. ***Our organization is daily working to help those whose lungs have been ruined by exposure to smoke and we are trying to reduce our numbers, NOT increase them.***

Menthol is at least as harmful as other tobacco and nicotine flavors. It is known for its ability to mask the harshness of tobacco and makes using nicotine easier to start and harder to quit. If our aim is to protect our vulnerable keiki and reduce the burden of tobacco in our communities, menthol MUST be included. In Hawaii 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawaii BRFSS, 2008). Mint and menthol flavored e-cigarettes are among the most popular flavors among youth.

Ending the sale of all flavored tobacco and nicotine will advance health equity—disparities in tobacco use are due to the tobacco industry’s history of marketing menthol tobacco products to youth and people of color. In Hawaii, 78% of Native Hawaiian and Pacific Island smokers use menthol cigarettes (Hawaii BRFSS, 2008). Mint and menthol flavored e-cigarettes are among the most popular flavors among youth.

The March 2021 Tobacconomics Fact Sheet estimates that more than 3,000 smokers (5.6% of menthol smokers) would quit when flavored and menthol products are banned. Additionally, the fact sheet estimates 700 premature smoking-caused deaths will be avoided. Additionally, fewer youth will be initiated into smoking because without menthol and other flavors, nicotine is harsh. Preventing kids in Hawaii from becoming addicted smokers would secure millions of dollars in future health cost savings.

The many amendments in HD1 of the bill have removed the five page rationale for the bill and imposed numerous requirements on the Departments of Health, Attorney General and Education. The amendments are not evidence-based and DO NOT align with the original intent of the bill (which was also removed when the 5-page preamble was inexplicably removed) and may make the bill unconstitutional as well.

Please help protect the lungs and lives of our children from these very harmful products that are spreading virally in our communities and schools, from elementary through high school and beyond. We urge you to please **amend HB1570, HD1 to return to the original form of the bill, and pass it out of committee so it can become law as it was originally drafted.** The Hawaii COPD Coalition thanks you very much for your careful consideration of this most important and timely bill.

Very truly yours,

Valerie Chang

Valerie Chang
Executive Director



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

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Paul Kosasa, ABC Stores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*
Joe Carter, Coca-Cola Bottling of Hawaii, *Immediate Past Chair*

TO:

Committee on Health
Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

Committee on Education
Senator Michelle N. Kidani, Chair
Senator Donna Mercado Kim, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: March 18, 2022

TIME: 1:31pm

PLACE: Via Videoconference

RE: HB1570 HD1 Relating to the Youth Vaping Epidemic

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.

Tobacco products are Federally regulated for good reason. Local bans of products that are legal elsewhere can be challenging, if not impossible to enforce, and simply create a large unregulated black market, as we currently have with fireworks.

On January 27 the FDA published an article reiterating that, “The agency remains on track to advance two proposed tobacco product standards – one prohibiting menthol as a characterizing flavor in cigarettes and another prohibiting all characterizing flavors (including menthol) in cigars – by spring. ¹”

The FDA also requires that Electronic Nicotine Delivery Systems (ENDS) provide evidence that they have benefit to adult smokers in order to be allowed for sale. Products that fail to provide that evidence are issued Marketing Denial Orders and must be removed from stores.

¹ <https://www.fda.gov/news-events/fda-voices/fda-track-take-actions-address-tobacco-related-health-disparities>

The FDA has already reviewed tens of thousands of such products². This level of review and oversight is possible at the Federal level and helps ensure that adults who are trying to quit smoking have access to valuable smoking cessation tools, while taking steps to keep tobacco products out of the hands of minors.

Overlapping, or worse yet, contradictory State and Federal guidelines and laws on the same products create an impossible administrative burden for our local businesses. We encourage the committee to avoid that situation. We thank you for the opportunity to testify.

² <https://www.fda.gov/news-events/press-announcements/fda-denies-marketing-applications-about-55000-flavored-e-cigarette-products-failing-provide-evidence>



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Paul Oliveira

Maui Oil Company, Inc.

Steve Wetter

Hawaii Petroleum, LLC

Testimony of Eric Wright
President of the Hawaii Petroleum Marketers Association (HPMA)

HOUSE BILL 1570, HD 1
RELATING TO THE YOUTH VAPING EPIDEMIC
COMMENTS, WITH AMENDMENTS

Senate Committee on Health
The Honorable Jarrett Keohokalole, Chair
The Honorable Rosalyn H. Baker, Vice Chair

Senate Committee on Education
The Honorable Michelle N. Kidani, Chair
The Honorable Donna Mercado Kim, Vice Chair

Friday, March 18, 2022, 1:31 PM

Aloha Chairs Keohokalole and Kidani, Vice Chairs Baker and Kim, and Members of the Committees:

I am Eric Wright, president of the Hawaii Petroleum Marketers Association (HPMA). HPMA is a nonprofit trade association comprised of members who market motor fuel products across Hawaii representing over 200 gas stations and convenience stores.

HPMA supports strict enforcement of laws that prohibit the sale and distribution of tobacco products under the age of 21 years so that any tobacco products do not get into the hands of our youth.

While we appreciate the intent, we respectfully oppose provisions in HB 1570 HD 1 that prohibit the sale, distribution and marketing of all flavored tobacco products particularly menthol and mentholated tobacco products.

The ban of menthol and mentholated tobacco products would adversely impact revenue streams that support the operation of our stores, jeopardizing the ability to support the stable employment of hundreds of employees and the ability to generate taxes for the state.

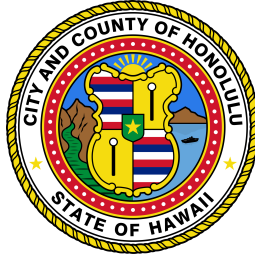
The Honorable Jarrett Keohokalole, Chair | Senate Committee on Health
The Honorable Michelle N. Kidani, Chair | Senate Committee on Education

Additionally, we are concerned that granting counties the ability to pass ordinances that are stricter than State law may result in varying restrictions that may confuse compliance efforts for retailers. We believe having a uniform statewide law is preferred.

Therefore, HPMA respectfully requests your consideration of the following amendments:

1. Delete (5) on pages 13-14; and
2. Amend “Flavored tobacco or synthetic nicotine product” on page 14-15, to exclude menthol and mentholated.

Thank you for your consideration of these amendments and the opportunity to testify.



**Honolulu Youth Commission
Comment HB1570**

To The Members of the Senate Committee of Health & Education:

The Honolulu Youth Commission remains firm on our stance to help end the use of flavored tobacco products and e-cigarettes among youth per our Resolution 22-002, which can be found on the Honolulu Youth Commission website:

https://www.honolulu.gov/rep/site/may/may_docs/HYC_RESOLUTION_22-002.pdf

We recognize that there is a youth vaping and e-cigarette epidemic here in Hawai'i. Therefore, a ban on the sale of flavored tobacco products, we believe could help mitigate this issue. Requiring the Attorney General (AG) to monitor online sales of these products is also an excellent idea to really work to modernize enforcement strategies of illegal substances.

As this bill recognizes, youth are heavily impacted by these products, and the health and well-being of our generation are of absolute concern to the Honolulu Youth Commission. Individuals should not profit from the expense of the health and well-being of our youth.

Although the Commission cannot express stances on the monthly update requirements we can offer support to the enforcement, monitoring, and market management through banning to be ideal steps to move in the direction of reducing a great deal of access for youth to obtain e-cigarette and vaping related products.

For any further questions feel free to contact us at youth@honolulu.gov

Mahalo,
Chair, Bronson Azama
Honolulu Youth Commission



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
MARCH 18, 2022**

Re: HB 1570 HD1 RELATING TO YOUTH VAPING EPIDEMIC

Good afternoon, Chairperson Keohahalole and Chairperson Kidani and members of the Senate Committee on Health and the Senate Committee on Education. 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 1570 HD1 Relating to the Youth Vaping Epidemic. This measure requires DOH to post online monthly updates on all deposits and expenditures of the tobacco enforcement and Hawaii tobacco settlement special funds and Hawaii tobacco prevention and control trust fund. Requires DOH to submit annual reports to the legislature on the receipts and expenditures of the Hawaii tobacco settlement special fund and Hawaii tobacco prevention and control trust fund. Requires the attorney general to monitor online sales of tobacco products and electronic smoking device products and post online monthly updates. Requires DOH to establish a standardized and scientific testing process for the presence of flavoring in tobacco products and synthetic nicotine products and post this information online. Beginning 1/1/2023, prohibits the sale or distribution of all flavored tobacco and synthetic nicotine products in the State. Requires DOH to coordinate with DOE to establish a take back program for students to voluntarily dispose of electronic smoking devices, flavored tobacco or synthetic nicotine products, and tobacco products in their possession. Requires DOH and DOE to coordinate quarterly meetings with students on addressing the youth vaping epidemic. Effective 7/1/2060.

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, adults that are 21 and older are able to purchase these items and enjoy them like menthol cigarettes or an electronic vaping device with their favorite flavored e-liquid.

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

Furthermore, every electronic vaping device and e-liquid available worldwide is "flavored." Because they do not contain tobacco, electronic vaping devices has no "natural tobacco" taste, or any taste for that matter, without the addition of flavorings. These flavored e-liquids are enjoyed by many adults. If banned, these types of products will NOT go away, but will be sold on the black market.

In addition, vapor products and e-liquids are NOT the same as a tobacco product. Electronic vaping devices contains NO tobacco, and NO smoke is emitted when vaporized. The New England Journal of Medicine published found that electronic vaping devices 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.

Mahalo again for this opportunity to testify.



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tyamaki@rmhawaii.org



March 17, 2022

From: Scott Rasak, VOLCANO Vape Shops
Chief Operating Officer

RE HB1570 – 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 90 full-time workers to support sales of our products in Hawaii. We service tens of thousands of adult Hawaii consumers who legally purchase vaping products overwhelmingly in flavored variations. Roughly, 99% of all Hawaii based vapor sales to legal adult consumers are flavored vapor products, only 1% is traditional tobacco flavored products.

While we stand in overwhelming support of the harsh restrictions measures and laws to restrict use of vapor products among youth, the suggestions put fourth for flavor prohibition sales **have not and will not** yield the results that lawmakers are proposing. **We strongly oppose HB1570.**

This will would have dramatic unintended consequences, specifically:

- Proliferation of black market (Already existing)
- Lost retail sales taxes for state
- Immediate closure of roughly 100 local businesses and loss of revenue for their supporting local vendors
- Hundreds of local jobs lost
- Tens of thousands of former adult smokers being forced back to combustible tobacco (adult vape consumers enjoy flavored products more than tobacco vaping products by 99%)
- **The FDA was granted authority over synthetic nicotine products and are moving them through the PMTA application pathway as of 3/15/22**

Effects of Flavor Bans

Flavor bans have had little effect on reducing youth e-cigarette use and may lead to increased combustible cigarette rates, as evidenced in San Francisco, California (“Vaping Up, Smoking Increasing Among Teens in San Francisco – Despite Bans,” *Tobacco Harm Reduction 101*, July 28, 2020, <https://www.thr101.org/research/2020/vaping-up-smoking-increasing-among-teens-in-san-francisco-despite-bans>.).

In April 2018, a ban on the sale of flavored e-cigarettes and vapor products went into effect in San Francisco and in January, 2020, the city implemented a full ban on any electronic vapor product. Unfortunately, these measures have failed to lower youth tobacco and vapor product use.

Data from an analysis of the 2019 Youth Risk Behavior Survey show that 16 percent of San Francisco high school students had used a vapor product on at least one occasion in 2019 – a 125 percent increase from 2017 when 7.1 percent of San Francisco high school students reported using an e-cigarette. (Centers for Disease Control and Prevention, “San Francisco, CA 2017 Results,” *High School Youth Risk Behavior Survey*, 2017, <https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=SF>)

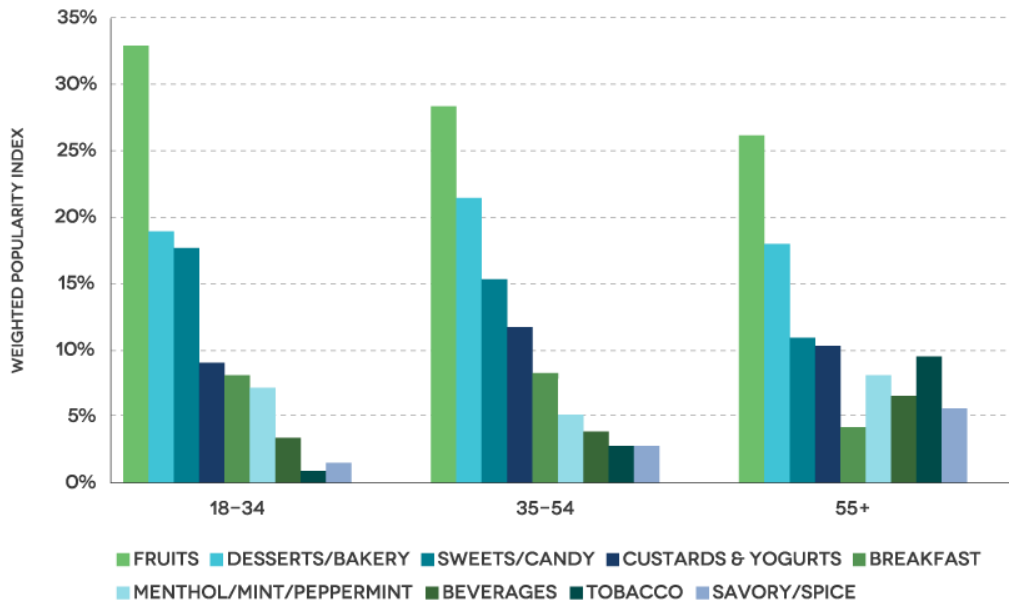


Daily use more than doubled, from 0.7 percent of high school students in 2017, to 1.9 percent of San Francisco high school students reporting using an e-cigarette or vapor product every day in 2019. Worse, despite nearly a decade of significant declines, youth use of combustible cigarettes seems to be on the rise in Frisco. In 2009, 35.6 percent of San Francisco high school students reported ever trying combustible cigarettes. This figure continued to decline to 16.7 percent in 2017. In 2019, the declining trend reversed and 18.6 percent of high school students reported ever trying a combustible cigarette.

Similarly, current cigarette use increased from 4.7 percent of San Francisco high school students in 2017 to 6.5 percent in 2019. An April 2020 study in *Addictive Behavior Reports* examined the impact of San Francisco’s flavor ban on young adults by surveying a sample of San Francisco residents aged 18 to 34 years. (Yong Yang et al., “The Impact of a Comprehensive Tobacco Product Flavor Ban in San Francisco Among Young Adults,” *Addictive Behavior Reports*, April 1, 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7186365/#!po=0.961538>.) Although the ban did have an effect in decreasing vaping rates, the authors noted “a significant increase in cigarette smoking” among participants aged 18 to 24 years old.

Other municipal flavor bans have also had no effect on youth e-cigarette use. (“Flavor Bans Do Not Reduce Youth E-Cigarette Use,” *Tobacco Harm Reduction 101*, 2019, <https://www.thr101.org/research/2019/flavor-bans-do-not-reduce-youth-e-cigarette-use>) For example, Santa Clara County, California, banned flavored tobacco products to age-restricted stores in 2014. Despite this, youth e-cigarette use *increased*. In the 2015-16 California Youth Tobacco Survey (CYTS), 7.5 percent of Santa Clara high school students reported current use of e-cigarettes. In the 2017-18 CYTS, this *increased* to 10.7 percent.

PREFERRED E-LIQUID FLAVORS BY AGE GROUP



NOTE: 18-34: N=1361; 35-54: N=3851; 55+: N=2089. Q. PLEASE RANK YOUR TOP THREE FAVORITE E-LIQUID FLAVORS; RESULTS WERE WEIGHTED BASED ON RANK
SOURCE: ECIGINTELLIGENCE, CASAA MEMBERS SURVEY



Youths Are Not Relying On Internet for E-Cigarette Products

Despite many claims, most youth are not purchasing tobacco and vapor products online. Indeed, in analysis of state Youth Risk Behavior Surveys, youth are relying on social sources – including friends and family members – to obtain vapor products.

Arkansas In 2019, among all Arkansas high school students, only 1.1 percent of reported using the internet to get their own vapor product. Alternatively, 7.3 percent of Arkansas high school students reported borrowing them and 5.1 percent reported that someone else bought them. (Arkansas High School Survey, “2019 Youth Risk Behavior Survey Results,” 2019, http://dese.ade.arkansas.gov/public/userfiles/Learning_Services/School_Health_Services/YRBS/2019/2019ARH_Detail_Tables.pdf)

Maryland In 2018, among all Maryland high school students, only 1.3 percent reported using the internet to get their own electronic cigarette or vapor product. Further, 9.7 percent of Maryland high school students reported borrowing vapor products, and 4.3 percent reported that someone else bought them. (Maryland High School Survey, “2018 Youth Risk Behavior Survey Results,” 2018, <https://phpa.health.maryland.gov/ccdpc/Reports/Documents/2018%20YRBS%20YTS%20Reports/Maryland/2018MDH%20Detail%20Tables.pdf>)

Montana In 2019, among all Montana high school students, 0.7 percent reported using the internet to get their own electronic cigarette or vapor product. Moreover, 10.6 percent of Montana high school students reported borrowing vapor products and 6.9 percent reported giving “someone else money to buy them for me.” (Montana Office of Public Instruction, “2019 Montana Youth Risk Behavior Survey High School Results,” 2019, http://opi.mt.gov/Portals/182/Page%20Files/YRBS/2019YRBS/2019_MT_YRBS_FullReport.pdf?ver=2019-08-23-083248-820)

New Hampshire In 2019, among all New Hampshire high school student, 0.5 percent reported using the internet to get their own electronic cigarette or vapor product. Further, 13.9 percent of New Hampshire high school students reported borrowing vapor products, and 5.8 percent reported that someone else bought them. (New Hampshire High School Survey, “2019 Youth Risk Behavior Survey Results,” 2019, <https://www.education.nh.gov/sites/g/files/ehbemt326/files/files/inline-documents/2019nhdetailtables.pdf>)

Vermont In 2019, among Vermont high school students that reported current e-cigarette use and were under the age of 18, only 3 percent reported using the internet to get obtain vapor products. Further, 52 percent of Vermont high school students that were current e-cigarette users reported borrowing them and 26 percent reported giving “someone else money to buy them.” (Vermont Department of Health, “2019 Vermont Youth Risk Behavior Survey Statewide Results,” March, 2020, https://www.healthvermont.gov/sites/default/files/documents/pdf/CHS_YRBS_statewide_report.pdf)

Menthol Bans Have Little Effect on Smoking Rates, Lead to Black Markets, Lost Revenue and Will Create Racial Tension

Beyond e-cigarettes, policymakers’ fears about the role of menthol and flavorings in cigarettes and cigars are overblown and banning these products will likely lead to black markets.



Data from the National Health Interview Survey (NHIS) finds nearly a third of all American adult smokers smoke menthol cigarettes. In a 2015 NHIS survey, “of the 36.5 million American adult smokers, about 10.7 million reported that they smoked menthol cigarettes,” and white menthol smokers “far outnumbered” the black and African American menthol smokers. (Brad Rodu, “Who Smokes Menthol Cigarettes?” *Tobacco Truth*, December 4, 2018, <https://rodutobaccotruth.blogspot.com/2018/12/who-smokes-menthol-cigarettes.html>)

Although lawmakers believe banning menthol cigarettes will deter persons from smoking those, such a ban will likely lead to black markets. A 2012 study featured in the journal *Addiction* found a quarter of menthol smokers surveyed indicated they would find a way to purchase, even illegally, menthol cigarettes should a menthol ban go into place. (RJ O’Connor *et al.*, “What would menthol smokers do if menthol in cigarettes were banned?” *Addiction*, April 4, 2012, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3370153/>)

Further, there is little evidence that smokers would actually quit under a menthol ban. A 2015 study in *Nicotine & Tobacco Research* found only 28 percent of menthol smokers would give up cigarettes if menthol cigarettes were banned. (Olivia A. Wackowski, PhD, MPH, *et al.*, “Switching to E-Cigarettes in the Event of a Menthol Cigarette Ban,” *Nicotine & Tobacco Research*, January 29, 2015, https://www.researchgate.net/publication/271592485_Switching_to_E-Cigarettes_in_the_Event_of_a_Menthol_Cigarette_Ban)

Moreover, there is no evidence to suggest that menthol cigarettes lead to youth tobacco use. Analysts at the Reason Foundation examined youth tobacco rates and menthol cigarette sales. The authors of the 2020 report found that states “with more menthol cigarette consumption relative to all cigarettes have *lower* rates of child smoking.” Indeed, the only “predictive relationship” is between child and adult smoking rates, finding that “states with higher rates of adult use cause higher rates of youth use.” (Guy Bentley and J.J. Rich, “Does Menthol Cigarette Distribution Affect Child or Adult Cigarette Use?” Policy Study, Reason Foundation, January 30, 2020, <https://reason.org/policy-study/does-menthol-cigarette-distribution-affect-child-or-adult-cigarette-use/>)

Lawmakers should take note that menthol sales bans will strain minority communities. Although white Americans smoke more menthol cigarettes than black or African Americans, “black smokers [are] 10-11 times more likely to smoke” menthol cigarettes than white smokers. (D. Lawrence *et al.*, “National patterns and correlates of mentholated cigarette use in the United States,” *Addiction*, December, 2010, <https://www.ncbi.nlm.nih.gov/pubmed/21059133>)

Given African Americans’ preference for menthol cigarettes, a ban on menthol cigarettes would force police to further scrutinize African Americans and likely lead to unintended consequences. A 2015 analysis from the National Research Council examined characteristics in the illicit tobacco market. (National Research Council, “Understanding the U.S. Illicit Tobacco Market: Characteristics, Policy Context and Lessons from International Experiences,” *The National Academies Press*, 2015, <https://www.nap.edu/download/19016>)

The researchers found that although lower income persons were less likely to travel to purchase lower-taxed cigarettes, “having a higher share of non-white households was associated with a lower probability of finding a local tax stamp” and “neighborhoods with higher proportions of minorities are more likely to have formal or informal networks that allow circumvention of the cigarette taxes.”

Lawmakers in New Hampshire should reexamine the case of Eric Garner, a man killed in 2014 while being arrested for selling single cigarettes in the city. In a 2019 letter to the New York City council, Garner’s mother, as well as Trayvon Martin’s mother, implored officials to “pay very close attention to the unintended consequences of a ban on menthol cigarettes and what it would mean for communities of color.” Both mothers noted that a menthol ban would “create a whole new market for loosies and re-introduce another version of stop and frisk in black, financially challenged communities.” (Carl Campanile,



“Menthol cig ban will lead to more stop-and-frisk: Moms of Garner, Martin,” *New York Post*, October 16, 2019, <https://nypost.com/2019/10/16/menthol-cig-ban-will-lead-to-more-stop-and-frisk-moms-of-garner-martin/>)

Conclusion & Policy Recommendations:

It is disingenuous that lawmakers would purport to protect public health yet restrict access to 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.

- 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.
 - 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.
 - Lawmakers’ must face the reality of a larger illicit market in the wake of a ban on flavored tobacco and vapor products – prohibition does not automatically translate into reduced use, just different markets.
-
- Most recently, the FDA has issued updated guidance on vapor products which limit a flavor restriction to prefilled pods such as the Juul device which has been proven in the recent CDC Youth Tobacco Risk Survey to be the #1 brand choice for youth usage. This is a measured approach to an issue The FDA purposefully left the “open tank” market off their guidance for flavor restrictions because they want to keep the adult users and industry participants insulated from a blanket ban that would send adults back to cigarettes and put 15,000 small businesses out of business & 100,000 people out of work nationally.
 - HB 1570 will deny current combustible tobacco smokers vital products needed to help them quit smoking. Furthermore, a flavor ban would no doubt force the closure of over 100+ businesses in Hawaii and immediate loss in employment as well as retail leases and supporting businesses. It’s the small independent vape shops which play a vital role in helping adults make a successful transition off tobacco cigarettes, not convenience stores.
 - To date there is no manufacturer that sells as successful line of unflavored eliquid to legal adult users 21+. These products rely heavily on their ability to offer flavor diversity to adults to increase their success in secession rates from tobacco cigarettes.
 - A flavor ban would force a black market “Do it yourself” experimental market due to the massive adult population who currently use these products in Hawaii. Currently, all products being distributed by Hawaii vape shops are third party batch tested and registered with the FDA with assigned TP numbers. The factories manufacturing the products that currently sit on the shelves are quality controlled. 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.
 - Flavored alcohol products remain in plentiful abundance at every retail outlet even with high rates of youth usage, associated death and disease, in addition to all the addiction and abuse of those



items as well. The vapor category is being held to a different standard in regards to flavors on the retail market. Its potential to be a risk reduction tool is proven to assist adults in a path off of using the known killer of tobacco cigarettes and should be supported instead of denied the single largest public health with of our lifetime.



- Vapor products and e-liquids contain NO tobacco, often times contain NO nicotine, and ultimately emit NO smoke when vaporized; yet HB1570 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.
- HB1570 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 e-cigarettes are not using e-liquids that contain nicotine - further suggesting that youth who do use e-cigarettes 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

- 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

HB-1570-HD-1

Submitted on: 3/16/2022 11:31:11 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Celia Chang	Individual	Comments	Remotely Via Zoom

Comments:

The availability of flavored tobacco products has a severe negative impact on today's youth, as these constantly new and changing flavors are enticing youth, and then the nicotine keeps them hooked. Youth addiction to nicotine is a huge problem not only in the country, but in Hawaii, and the flavors of these tobacco products are a large part of the problem. The flavors target youth, because if products like e-cigarettes and vapes were truly geared towards helping nicotine addicts wean off nicotine, then the flavors are unnecessary!

I truly appreciate that the committee is attentive to this issue and have been hearing what we have to say, but I respectfully ask for the amendments to the HB1570 bill to be removed, as these amendments are cumbersome and difficult to implement. The youth that have testified for this bill, myself included, have worked hard to show that flavored tobacco products are doing much harm among our peers, and sometimes our words get twisted, but our end goal remains the same: to pass the original HB1570 bill and end the sale of flavored tobacco products, in order to start making a difference in the growing youth vaping epidemic.

HB-1570-HD-1

Submitted on: 3/15/2022 3:41:56 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Shelly Ogata	Individual	Comments	Remotely Via Zoom

Comments:

Senator Jarret Keohokalole, Chair

Senator Rosalyn Baker, Vice-Chair

Senator Michelle Kidani, Chair

Senator Donna Mercado Kim, Vice-Chair

Members of the Committees on Health and Education

Honorable Senators Keohokalole, Baker, Kidani, Kim and members of the Committees on Health and Education:

As a graduate of the University of Hawai'i, Schools of Public Health and Nursing and a lifelong resident of the State of Hawai'i, I strongly support evidence-based policies like ending the sale of flavored tobacco products. I am concerned that amendments made to HB 1570 are unnecessary to implement a flavored tobacco ban, do not have research to support their effectiveness, and are a tactic to distract from the original intent of the bill. I respectfully request the committee restore the bill to its original version, which focused on truly ending the sale of flavored tobacco products in Hawai'i to protect our keiki.

Hawai'i is in the midst of a youth vaping epidemic, with one in three high school students and one in five middle school students reporting "current use" of e-cigarettes. Hearing elementary school teachers and administrators from our district complain about the students using flavored vaping products and having to call 911 for health emergencies is gut-wrenching and absolutely unacceptable.

If we are truly trying to support our keiki and citizens of Hawai'i, I'm again respectfully requesting that the committee restore the bill to its original version. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must do better and we must do it now.

Please support the restoration of HB 1570 to its original version. You don't want to "be the one" to leave a legacy of doing nothing to protect our keiki.

Shelly Ogata, RN, MPH

Senator Keohokalole, Chair, Committee on Health
Senator Baker, Vice Chair
Senator Kidani, Chair, Committee on Education
Senator Kim, Vice Chair

Members of the Committees on Health and Education

TESTIMONY ON HB 1570, HD 1 RELATING TO TOBACCO PRODUCTS

My name is Julian Lipsher, testifying as an individual providing comments on HB 1570, HD 1. I currently serve as Chair of the Coalition For a Tobacco Free Hawaii's Policy Committee which is part of the Hawaii Public Health Institute and formerly was with the Hawaii State Department of Health, focusing on tobacco prevention and control and chronic disease prevention.

Despite decades of progress in tobacco control, Hawaii and the nation are still confronted with smoking and tobacco use being the leading cause of death and disease. Hawaii has some of the strictest and most comprehensive protections regarding exposure to secondhand smoke and sale of traditional tobacco products. Yet currently the practice of vaping most often with flavored products has resulted in significant rates of delivery of nicotine to our youth, potentially addicting a new generation of smokers.

COMMENTS: The original purpose and intent of the bill was to address the epidemic of vaping among our youth through the removal of flavored products. The bill, as amended, removes the preamble that provides a clear public health rationale and adds amendments that are not based on clear public health practice and which testimony by the Departments of the Attorney General, Health and Education conclude are not either based on proven and effective methods nor able to be implemented. Going forward, it would be best to return the language of HB 1570, HD 1 to its original form, if the Legislature intends to address our youth vaping problem.

As the tobacco industry attempted more than a decade before, the introduction of flavored tobacco products entice youth, as evidenced in the CDC's Youth Tobacco Survey. Hawaii's middle and high school students report vaping rates above national averages, with disproportionate use among Native Hawaiian and Pacific Islanders. In 2020, 8 in 10 youth currently using e-cigarettes report using flavored products.

Menthol, the predominate flavor choice is just as, if not more, harmful than other flavors added to tobacco. Menthol has the ability to disguise the harshness of tobacco making it easier to start and once addicted, harder to quit.

Ending the sale of flavored tobacco products is a matter of health equity. The industry has long marketed menthol products to low income communities, especially people of color. According to the Hawaii data, 78% of Native Hawaiians and Pacific Islanders use menthol flavoring, with mint and menthol being the most popular flavors among youth.

If our objective is to protect Hawaii's children and reverse the current trends in youth vaping, we need to eliminate flavored tobacco products, including menthol.

Kindly consider returning HB 1570, HD 1 to its original form.

Thank you for the opportunity to testify on this measure.

March 17, 2022

2157 Awikiwiki Place

Pearl City, Hawaii 96782

Honorable Chairs Senator Jarrett Keohokalole and Michelle Kidani
Honorable Vice-Chairs Senator Rosalyn Baker and Donna Mercado Kim
Members of the Senate Health and Education Committees

RE: **Comments on HB1570, HD1 Relating to Tobacco Products (ban flavored nicotine)**

Dear Chairs Keihokalole and Kidani, Vice Chairs Baker and Kim, and members of the Health and Education Committees,

This measure is extremely critical to the health of the children of our state and our entire state as well. **Please amend the bill HB1570, HD1 to return to the original form of the bill**, which will ban the sale of flavored nicotine products and mislabeled e-liquid products without adding a lot of confusing language and unnecessary changes to the original, well-drafted bill.

I am a healthcare professional and a retired Manager of The Queen's Medical Center, Punchbowl, Respiratory Care Services, Pulmonary, Sleep Center, Neurodiagnostic Laboratory and Epilepsy Monitoring Unit. I am also a parent, grandparent and a longtime Hawaii resident.

I submitted testimony in support of the original form of this bill because I have had many years of experience in the inpatient and outpatient setting providing direction, management and care for people with respiratory diseases and disorders. I have also witnessed the negative impact of tobacco and nicotine as well as the benefits of early diagnosis and/or prevention in the overall health and wellbeing of people.

However, now Hawaii is in the middle of a youth vaping epidemic! In Hawai'i one in three high school students and one in five middle school students reported "current use of e-cigarettes according to the Hawai'i YRBSS 2019! Of these youth, 8 in 10 youth currently using e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction. Our youth are now at significant risk and are readily exposed to sales and marketing of vaping via social media and peer pressure.

Studies have shown that using e-smoking devices result in multiple harms to the lungs, as detailed on the John Hopkins website,

[What Does Vaping Do to Your Lungs? | Johns Hopkins Medicine](http://www.hopkinsmedicine.org/health/wellness-and-prevention/what-does-vaping-do-to-your-lungs) at www.hopkinsmedicine.org/health/wellness-and-prevention/what-does-vaping-do-to-your-lungs.

Flavors in tobacco and nicotine products entice youth, while the nicotine keeps them hooked for life.

The many amendments in HD1 of the bill have removed the five page rationale for the bill and imposed numerous requirements on the Departments of Health, Attorney General and Education. The amendments are not evidence-based and DO NOT align with the original intent of the bill (which was also removed when the 5-page preamble was inexplicably removed) and may make the bill unconstitutional as well.

Please help protect the lungs and lives of our children from these very harmful products that are spreading virally in our communities and schools, from elementary through high school and beyond.

I urge you to please **amend HB1570, HD1 to return to the original form of the bill, and pass it out of committee so it can become law as it was originally drafted.**

Carol Agard BS, RRT, FAARC
Manager -The Queen's Medical Center Punchbowl (Retired)

Aloha members of the Senate Committees on Health and Education,

My name is Austin Tucker and I am a junior at McKinley High School. I personally have a lot of experience with vape usage and am currently addicted to nicotine.

You would be flabbergasted by the true amount of students in middle and high school who vape. I know a lot of different people in my school and I can still confidently say that 50% of the people I know vape. It's to the point where kids are leaving class to go vape in the bathrooms. It's always been like that. It's kids asking all of their friends if they can use their vapes, or asking someone they don't even know if they can use the vape they don't even know they have. Something like that really shows you how common it is. People who don't even own vapes are addicted to nicotine because they're everywhere, why not just take one right? Vaping is a virus that we have all been blind to.

The most commonly asked question when students use other students' vapes is, "What flavor is this?" My personal favorite is "Grape Ice" and I know others like different fruity flavors, some also like menthol.

Please, for the sake of generations to come, get rid of flavored vapes. In addition, please remove the amendments to this bill and keep its original version.

Thank you.

HB-1570-HD-1

Submitted on: 3/17/2022 1:30:00 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Misa Layne	Individual	Comments	Remotely Via Zoom

Comments:

I support the original version of SB1570. I believe these new amendments sidetrack from the initial objective of the bill. I strongly support using factual and objective strategies that have been proven in helping to end the use of tobacco-related products by youth. It is important to take action against all flavored tobacco products because these additives are among the top reasons attracting the youth population to begin smoking. We cannot have any exemptions in this bill -- this includes menthol. Loopholes can easily be used to hook and keep youth on tobacco products. Advancing the original version will not only benefit the youth population, but help advance better public health for all in Hawai'i.

HB-1570-HD-1

Submitted on: 3/16/2022 5:35:17 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Logan Lau	Individual	Support	Remotely Via Zoom

Comments:

To whom it may concern, logan.lau@imua.ksbe.edu | (808)206-6108

Hello, my name is Logan Lau, and I am a current senior at Kamehameha Schools Kapalama and will be attending Stanford University in the Fall. I stand in strong support of HB1570.

I believe a ban on flavored tobacco products including menthol is crucial in order to keep our keiki (my peers) safe for generations to come. Menthol, specifically, is responsible for that minty flavor used in many e-liquids that makes it easier for youth to start and harder for them to quit. This is evidenced by the fact that in Hawaii, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes. The consequences of this are that while nicotine and tobacco addiction are deadly for everyone, Native Hawaiians (like myself) die at higher rates of lung cancer than other groups. Moreover, with the explosion of the youth vaping epidemic in Hawaii coupled with the recent spikes in COVID-19 cases, the time to act is now.

For far too long, BIG tobacco has used illusive marketing strategies which target younger generations like my own. Appealing flavors are driving up youth tobacco use in our state and with thousands of kid-friendly flavors on the market and little regulation, the industry has no incentive to stop selling them. These flavors ultimately entice younger generations and get them hooked on nicotine. That said, it's no wonder that 95% of smokers start before the age of 21.

To make matters worse, BIG tobacco focuses its marketing efforts on low-income areas that are economically vulnerable. This, in and of itself, is a social justice issue. And because of this, tobacco use and tobacco-related illnesses have been affecting Hawaii's communities disproportionately. Strategic targeting and aggressive marketing by the tobacco industry, which for years has labeled Hawai'i as "the menthol State," is a major factor in Hawaii's youth e-cigarette use, increasing for both high school and even middle school students. In 2019 alone, the percentage of frequent high school e-cigarette users doubled. When compared to all ethnic

populations, e-cigarette use is the highest among Native Hawaiian and Pacific Islander youth (like myself), and the targeted marketing by these tobacco empires is the cause of this.

If this bill is passed, I hope to see a significant decrease in the number of teens using e-cigarettes which will hopefully spell the end of the youth vaping epidemic and will protect my peers who are already facing a global pandemic.

In closing, I'd like to share a personal story of a high school student that gets addicted to vaping via flavored tobacco products. This soon grows into a much larger nicotine addiction which leads to the use of other drugs. Nicotine rewires the brain making users more likely to use and become addicted to other drugs, and this is exactly what happened. The nicotine addiction soon turns into a harder drug addiction, and while this student graduates and goes on to USC, within a matter of months, they are expelled and sent back home because of their drug addiction. But the story doesn't end there. They now have a prison record and live on the streets. This, someone, was a very close family friend of mine. Thus, I am writing this today to ensure that this never happens to anyone else.

Thank you.

Maile Medeiros David
Council Chair
Council District 6
(Portion N. S. Kona/Ka'ū /Volcano)



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HAWAI'I COUNTY COUNCIL

County of Hawai'i
West Hawai'i Civic Center, Bldg. A
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740

March 16, 2022

Honorable Jarrett Keohokalole, Chair	Honorable Michelle N. Kidani, Chair
Honorable Rosalyn H. Baker, Vice Chair	Honorable Donna Mercado Kim, Vice Chair
Committee on Health	Committee on Education
Conference Room 225 & Videoconference	Conference Room 225 & Videoconference

Re: H.B. No. 1570 – Relating to the Youth Vaping Epidemic

Honorable Chairs Keohokalole and Kidani and Vice Chairs Baker and Kim:

On behalf of myself and as Councilmember representing the rural districts of South Kona, Ka'ū and Volcano Village (Council District 6), I express my strong support of H.B. No. 1570 in its original form relating to the youth vaping epidemic.

The percentage of Hawai'i's students that have tried tobacco products are higher than the national average. Flavored products reduce the harshness of unflavored tobacco which are enticing our youth to try and ultimately get hooked on nicotine products. Bringing essential resources and key developmental services to our rural underserved communities and families that are economically disadvantaged is a key factor. Educational classes, support, recreational physical activities, and daily nutritional supplementation is critical to maintain a quality of life extremely beneficial to our youth.

I concur with the intent and purpose of H. B. No. 1570 in its original form relating to the youth vaping epidemic.

Mahalo a nui loa for your favorable consideration.

Very truly yours,

Maile David

Maile David, Council Member
Council District 6, S. Kona, Ka'ū, and Volcano Village

Hawai'i County Is an Equal Opportunity Provider And Employer

HB-1570-HD-1

Submitted on: 3/16/2022 10:16:59 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Bev Brody	Testifying for Get Fit Kauai	Comments	Written Testimony Only

Comments:

Thank you for the opportunity to submit comments on HB 1570. On behalf of Get Fit Kauai, the Healthy Eating Active Living Coalition of Kauai County, we respectfully request that the committee restore HB 1570 to its original version, which focused on ending the sale of flavored tobacco products in Hawai'i. The amendments that were added are unnecessary and distract from the original intent of the bill, and reiterate your strong support for proven, evidence-based strategies like ending the sale of flavored tobacco, taxing e-cigarettes, and restricting online sales. These policies have worked to reduce cigarette smoking to record lows, and will work to reverse the youth vaping epidemic. Again, we humbly ask to restore HB 1570 to its original form. THANK YOU!



TO: The Honorable Jarrett Keohokalole, Chair
The Honorable Rosalyn Baker, Vice Chair
Senate Committee on Health

The Honorable Michelle Kidani, Chair
The Honorable Donna Mercado Kim, Vice Chair
Senate Committee on Education

FROM: Philip Bossert, Executive Director
Hawaii Association of Independent Schools

RE: **HB 1570 HD1 – RELATING TO THE YOUTH VAPING EPIDEMIC - In Support**

DATE: Friday, March 18, 2022
1:31 p.m.; via Videoconference

Aloha Chairs Keohokalole and Kidani, Vice Chairs Baker and Kim and Members of the Committees:

My name is Philip Bossert, and I am the Executive Director of the Hawaii Association of Independent Schools.

The Hawaii Association of Independent Schools (HAIS) strongly supports HB 1570 HD1.

HAIS is a membership organization that currently represents as members 100 of Hawaii's independent K-12 schools; and, through its subsidiary, the Hawaii Council of Private Schools (HCPS), licenses all 112 private K-12 schools in the State.

Approximately 35,000 children attend Hawaii's private and parochial schools and all of them – especially those students of middle school and high school age – are endangered by the current vaping epidemic sweeping the country. Vaping not only endangers the health of students in the present, but likely also for the rest of their lives.

HAIS and its member schools support HB 1570 HD1 because, in banning the sale of flavored tobacco products – including menthol-flavored tobacco products – and increasing the penalties for the purchase of e-cigarettes by persons under the age of 21, it will make vaping both less attractive and more difficult to pursue by elementary and secondary school students and help to protect the current and future generations of Hawaii's citizens.

Thank you for the opportunity to submit testimony.

HB-1570-HD-1

Submitted on: 3/15/2022 7:57:18 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Brijit Reis	Testifying for REIS PEDIATRICS	Support	Written Testimony Only

Comments:

As a board-certified pediatrician, a Fellow at the American Academy of Pediatrics and a member of our community, I support this bill as a way to protect our youth.

I am in agreement with the AAP Position that the sale of e-cigarettes to minors should be prohibited and that candy and fruit flavored e-cigarettes and tobacco products, which encourage youth smoking initiation, should be banned.

From 2017 to 2019, e-cigarettes use more than doubled among high school students (from 11.7% to 27.5%) and tripled among middle school students (from 3.3% to 10.5%). Flavored e-cigarettes have driven the e-cigarette epidemic - 97% of youth e-cigarette users report using a flavored product in the past month and 708% cite flavor as a reason for their use.

Please support our youth of Hawaii and vote for this measure!

Dr. Brit Reis

HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 904 Honolulu, Hawaii 96813

Phone: (808) 489-9549

Web site: <http://www.hysn.org> E-mail: info@hysn.org

Carole Gruskin, President

Judith F. Clark, Executive Director

Bay Clinic

Big Brothers Big Sisters Hawaii

Big Island Substance Abuse Council

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Collins Consulting, LLC

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children's Justice Center of Maui

Get Ready Hawai'i

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Children's Action Network

Hawaii Health & Harm

Reduction Center

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Kokua Ohana Aloha (KOA)

Maui Youth and Family Services

Na Pu'uwai Molokai Native

Hawaiian Health Care Systems

P.A.R.E.N.T.S., Inc.

Parents and Children Together (PACT)

PHOCUSED

PFLAG – Kona Big Island

Planned Parenthood of the

Great Northwest and

Hawaiian Islands

Residential Youth Services

& Empowerment (RYSE)

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community Center

The Catalyst Group

March 16, 2022

To Senator Jared Keokokalole Chair,
And members of the Committee on Health

Senator Michelle Kidani, Chair,
And members of the Committee on Education

TESTIMONY IN SUPPORT OF THE INTENT OF HB 1570 HD 1 RELATING TO THE YOUTH VAPING EPIDEMIC

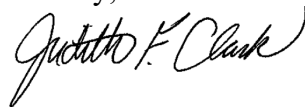
Hawaii Youth Services Network, a statewide coalition of youth-serving organizations, supports the intent HB 1570 HD 1 Related to the Youth Vaping Epidemic.

Thirty-one percent (31%) of Hawaii's students have used flavored tobacco products, a much higher rate than the national average. Tobacco is addictive and its use leads to many long-term health problems. Banning the sale of flavored tobacco products will help our youth grow up safe, healthy, and ready to succeed.

Hawaii Youth Services strongly supports the original version of the bill and urges that the amendments added by the House Health, Human Services, and Homelessness Committee be deleted from the bill.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director

HB-1570-HD-1

Submitted on: 3/16/2022 3:05:14 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Doris Segal Matsunaga	Testifying for Save Medicaid Hawaii	Comments	Written Testimony Only

Comments:

While Save Medicaid Hawaii strongly supports evidence-based policies like ending the sale of flavored tobacco products in Hawai'i, we are concerned that the amendments added to HB1570 are not necessary to implement a flavored tobacco ban, do not have research to support their effectiveness, and distract from the original intent of the bill. We respectfully request that the committee restore the bill to its original version, which focused on ending the sale of flavored tobacco products in Hawai'i.



HB1570 HD1 Ban Flavored E-Cigarettes

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair

Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON EDUCATION

Senator Michelle N. Kidani, Chair

Senator Donna Mercado Kim, Vice Chair

Friday, Mar 18, 2022, 1:31 : Videoconference

HSAC Comments HB1570 HD1:

GOOD MORNING 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 for substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

Amendments Change the Effectiveness of the Bill

HSAC notes that the multiple amendments in HB1570, HD1 change the feasibility of the original bill and as such, the amended bill is unreasonable and will result in government agencies being unable to implement this bill.

- The intent of HB1570 was to protect our youth from a lifelong addiction and curb the vaping epidemic among Hawai'i's youth.
- The original version of HB1570 was driven by proven policies to restrict the use of strategies to attract youth use.

Please amend the bill HB1570, HD1 to return to the original form of the bill

Reasons for a Bill to Restrict Youth Use

Flavored tobacco targets youth and 95% of smokers start before legal age for smoking:

- Vaping increased 900% among high school students from 2011 to 2015.¹

¹ American Academy of Pediatrics: 2016 <https://www.aap.org/en/news-room/aap-voices/protecting-children-from-the-dangers-of-e-cigarettes/> Site is linked to federal agency: National Institute of Drug Abuse

- The Surgeon General’s report details the harmful effects of e-cigarettes and gives a call for from 650,000 physicians belonging to numerous medical coalitions, reasserting our dedication to keeping our patients safe from tobacco products.²
- Nicotine, regardless of its source, is highly addictive and has clear neurotoxic effects, especially on the developing brains of adolescents.
- The historic rise in e-cigarettes by youth is fueled in part by extensive marketing campaigns to make the products more appealing to young people, as referred in the Surgeon General’s report.
- The aerosol from e-cigarettes is not harmless; it includes nicotine and other harmful and potentially harmful chemicals, including heavy metal and carcinogens. Since children’s brain and lungs are still developing, it is especially important to protect children and non-users from secondhand e-cigarette aerosol.
- Banning the sale of flavored tobacco products can help to reduce the danger to children from vaping, which is a growing major public health concern.

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

² Surgeon General’s Advisory on E-cigarettes Use Among Youth: <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>



Testimony in Support of HB1570, HD1

RE: Relating to Flavored Tobacco Products

Hawaii Dental Hygienists' Association

March 16, 2022

Dear Chair Keohokalole, Vice Chair Baker of the Committee on Health and Chair Kidani, Vice Chair Mercado Kim of the Committee on Education:

The Hawaii Dental Hygienists' Association (HDHA) strongly **supports the original intent of House Bill 1570, HD1** which proposes to amend Chapter 712, HRS by prohibiting the sale or distribution of flavored tobacco products, as well as the mislabeling and selling such products as nicotine-free.

We congratulate the Legislature for introducing a measure that seeks to address the health dangers caused by flavored tobacco products in Hawaii. The marketing of flavored tobacco products, clearly targets sales to Hawaii's youth as an initiation into the use of other nicotine products. In contrast to the positive decline in combustible tobacco smoking, use of electronic smoking devices (ESDs), also known as vaping or e-cigarettes, has increased dramatically over the last decade, making ESDs and flavored tobacco products the most common tobacco product used among youth.

HDHA believes that the nicotine in tobacco is clearly addictive and has been proven to be especially harmful to the oral health of those using it. Current research shows a direct correlation between smoking and periodontal disease. It has been shown to significantly increase the risk of tooth loss over time and decrease the ability for oral soft tissue to heal.

As the largest association representing Hawaii's licensed dental hygienists', HDHA, strongly supports evidence-based policies like ending the sale of flavored tobacco products in Hawaii. We are concerned that the amendments added to **HB1570, HD1** are unnecessary to implement a flavored tobacco ban and do not support its effectiveness. These amendments distract from the original intent of the bill and we respectfully request that the committee restore the bill to its original version, which focused on ending the sale of flavored tobacco products in Hawaii.



Dental hygienists strive daily to educate patients on ways to improve their oral health, which includes discussing the harmful effects of smoking and tobacco related products. We look forward to working with lawmakers toward our common goal of increased health and decreased dental disease in our great State.

Thank you for your time and consideration.

HB-1570-HD-1

Submitted on: 3/16/2022 6:51:59 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
maria	Testifying for Hawaii cheap vape shop	Oppose	Written Testimony Only

Comments:

We will lose customers !!

HB-1570-HD-1

Submitted on: 3/16/2022 10:04:12 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Mauro Tommy	Testifying for Hawaii cheapest vape	Oppose	Written Testimony Only

Comments:

I believe this bill is not the solution. I believe that this bill is using are kids to band flavored vape and promote cigarettes, but in disguise. If it's really about are kids then bring back D.A.R.E program to teach them not to do drugs. Put an increase fine if caught selling to minors. Put signs for designated smoking area. With this bill pass there will be more harm to non smokers. Because those who quit smoking cigarettes will go back to smoking it. The side affect will do more harm then good to our neighbors with 2nd hand-smoke, studyes has shown. On the top of that our island is an attraction to tourists with social media platforms. We are leading in flavored vape while other states are Banning them, increasing more tourism to flock for vacation. Giving us and the state of Hawaii more revenue. If you continue to pass this bill it will harm everyone including the group that are progressing to quit smoking. Thank you

HB-1570-HD-1

Submitted on: 3/17/2022 5:42:12 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Zehner	Testifying for Hawaii Smokers Alliance	Oppose	Written Testimony Only

Comments:

The Hawaii Smokers Alliance is strongly opposed to HB1570.

We oppose the bill because it is a **shameful and bigoted attack on the rights and liberties of adults over age 21.**

We oppose this bill because it will cause a **black market** of flavor additives without any standards to ensure the product is not harmfully adulterated. It will also be **impossible to fairly enforce** due to the many brands, shapes, sizes, and lack of standards.

We oppose this bill because it will **harm local small businesses** that retail these products.



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March 16, 2022

Senator Jarrett Keohokalole, Health Chair
Senator Michelle N. Kidani, Education Chair
Senator Rosalyn H. Baker, Vice Chair
Senator Donna Mercado Kim, Education Vice Chair

Re: HB 1570, Senate Committees and Health and Education Meeting on
Friday, March 18, 2022, 1:31 pm

Dear Chairs Keohokalole, and Kidani, Vice Chairs Baker and Mercado-Kim and
Committee members:

This testimony is in strong support for HB 1570 and to urge removal of amendments that require reporting and testing mandates by state agencies. I am writing on behalf of the Parents for Public Schools of Hawai'i, a non-profit organization that provides the perspectives of family members with children in public education. Our volunteer group emerged from the Furlough Friday crisis, and we have over 1,300 members statewide.

As parents, we are appalled that 1 in 3 teens in Hawai'i vape, including 18% of middle schoolers. As you may know, vaping is even more prevalent among youth on the neighbor islands. Tobacco companies are clearly using fruity and dessert-flavored e-cigarettes to target children and youth, who often become addicted to this deadly habit. It is clear to parents and community members that we should not sell these products in our State.

We are angry to see that amendments were added to this legislation that required reporting and testing requirements by the Department of Health and other state agencies that are beyond what these agencies are able to reasonably manage. These amendments appear to have been added to kill this bill at a time when there is widespread community desire to ban these products. Please remove these amendments.

As family and community members, we must protect children and youth from being preyed on by tobacco companies. Please pass HB 1570 and remove the amendments.

Aloha,

Mary Weir
Vice President, Parents for Public Schools of Hawai'i

Parents for Public Schools Hawaii (PPSHI) is a not-for-profit 501(c)(3) volunteer organization of parents, community members, and educators working to improve and support public education through family engagement. We are committed to ensuring all children in Hawai'i have access to a quality public education.



March 18, 2022

RE: HB 1570 HD1, Relating to the Youth Vaping Epidemic

Chairs Keohokalole and Kidani, and Honorable Members of the Committees on Health and Education,

Thank you for the opportunity to write on behalf of our more than 800 members in Hawai'i expressing our concerns and extreme opposition to HB 1570, which would prohibit sales of low-risk nicotine products in flavors other than tobacco. This proposal is a hasty reaction to an emotionally fueled issue that is only being made worse by well-meaning, but misguided attempts to eradicate nicotine use.

The proposal to ban the sale of vapor products sold in flavors other than tobacco will deny people who smoke access to the most popular low-risk smoking replacement product in generations. Focusing solely on a particular feature of vapor products ignores other aspects of these products that people find enjoyable--a key factor in helping people who smoke make the switch and dramatically improve their health. Moreover, we believe it is a mistake to focus on the issue of flavors to the exclusion of underlying factors affecting youth use. Socioeconomic status, trauma, peer pressure, stress, depression, and a natural inclination toward taking risks all motivate young people to experiment with potentially harmful behaviors and coping strategies. None of these factors are addressed by HB 1570 or any other measures that deal strictly with access to substances like nicotine and other drugs.

The leading indicator of whether or not a young person will smoke is if they live with a parent who smokes. Hawai'i can do more to promote healthy behaviors among young people by encouraging parents who smoke to switch completely to a low-risk smoke-free alternative. In order to achieve a rapid and enduring transition to safer nicotine products, people who smoke must have access to products they enjoy. This necessitates the availability of a diverse range of flavored smoke-free products. For these and the following reasons CASAA is urging the Committee Commerce and Consumer Protection to reject HB 1570.

HB 1570 will deprive people who smoke access to life saving products

- **The availability of enjoyable smoke-free nicotine products is helping millions of people quit smoking.**

It is very disappointing that some of the comments the committee will hear on this legislation callously dismiss the experiences of millions of people who quit smoking¹, or are on their way to living smoke-free by switching to a safer nicotine product like vaping. You are being asked to disbelieve the experiences of surgical patients who will have better outcomes after switching to vaping,² parents and grandparents who will be around longer for their children, and young adults who are quitting before lasting damage is done, or who will never take up smoking because vaping is a better, safer alternative to combustible cigarettes.³

You are right to be skeptical of claims that vaping is unhelpful because just as we all know someone who has died early due to smoking, we are also increasingly more likely to know someone who quit by switching. Enjoyable, flavored products are being linked to positive outcomes in both people trying to quit⁴ ⁵ and those who quit by accident.⁶

- **A ban on flavored vapor products will force independent vape shops to close.**

We defer to data being presented by trade representatives from the vapor industry with regard to sales data, but it is our understanding that a majority of purchases involve e-liquid in flavors other than tobacco by people older than the federal minimum legal sales age of 21. To date, we are unaware of any retailer or manufacturer that sells a popular line of unflavored e-liquid.

It is unlikely that specialty vapor retailers will be able to remain open if they are restricted to selling just vapor devices and tobacco flavored e-liquid. It is the diversity of vapor products that both supports independent businesses and provides a customizable experience to people who are attempting to transition to a smoke-free lifestyle.

¹ Clive Bates, The Counterfactual, E-cigarette risk perceptions – an American crime scene, February 3, 2022. Accessed from <https://clivebates.com/e-cigarette-risk-perceptions-an-american-crime-scene/>, February 8, 2022.

² Nolan M, Leischow S, Croghan I, et al. Feasibility of Electronic Nicotine Delivery Systems in Surgical Patients. *Nicotine Tob Res.* 2016;18(8):1757-1762. doi:10.1093/ntr/ntw003

³ Zhu S, Zhuang Y, Wong S, Cummins S E, Tedeschi G J. E-cigarette use and associated changes in population smoking cessation: evidence from US current population surveys *BMJ* 2017; 358 :j3262 doi:10.1136/bmj.j3262

⁴ Friedman AS, Xu S. Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation. *JAMA Netw Open.* 2020;3(6):e203826. doi:10.1001/jamanetworkopen.2020.3826

⁵ Eva C. Rest, Kristin N. Brikmanis, Robin J. Mermelstein, Preferred flavors and tobacco use patterns in adult dual users of cigarettes and ENDS, *Addictive Behaviors*, Volume 125, 2022, 107168, ISSN 0306-4603, <https://doi.org/10.1016/j.addbeh.2021.107168>.

(<https://www.sciencedirect.com/science/article/pii/S0306460321003531>)

⁶ Kasza KA, Edwards KC, Kimmel HL, et al. Association of e-Cigarette Use With Discontinuation of Cigarette Smoking Among Adult Smokers Who Were Initially Never Planning to Quit. *JAMA Netw Open.* 2021;4(12):e2140880. doi:10.1001/jamanetworkopen.2021.40880

- **Vapor product specialty shops (vape shops) play a vital role in helping smokers switch to a low-risk alternative**

Vape shops are a source of peer-to-peer support that is not effectively replicated by current tobacco control strategies. Vape shops provide knowledgeable staff who offer individualized attention to help customers find devices and e-liquid flavors that will help them successfully make the switch. Just as important, vape shops provide a space for peer-to-peer support for people who used to smoke and people who are transitioning to a smoke-free product.

By way of background, vapor retailers and manufacturers in the United States are prohibited by federal law from marketing e-cigarettes as smoking cessation products or even less harmful than cigarettes.⁷ Customers, however, are bound by no such law. It is not uncommon to hear customers exchange successful quit smoking stories between one another in a vape shop. To the casual observer, sharing such a story might not seem like much, but between people who are recovering from a multiyear or multi-decade cigarette addiction, it can mean the difference between living a smoke-free life or returning to the devil they know.

By comparison, vapor retailers in the United Kingdom are not subject to the same limitations on marketing communication in face-to-face transactions. Research conducted in the UK demonstrates that people who shop for vapor products in specialty vapor shops have a remarkable quit rate of >40% after 12 months.⁸ Other than quitting “cold turkey,” no other smoking cessation intervention comes close to the success rate found in the UK. And while the retail environment studied in the UK is not a 1:1 match with vapor shops in the United States, when we consider customer-to-customer interactions within the retail environment, which are not regulated by federal law, it stands to reason that the results found in the UK may be generalizable to consumers in the United States.

For the foregoing reasons we respectfully urge the Committee to OPPOSE HB 1570. This legislation will place unnecessary barriers in front of people who would otherwise be improving their health.

⁷ 21 USC 387k: Modified risk tobacco products, accessed from <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title21-section387k&num=0&edition=prelim>

⁸ Polosa, Riccardo et al. “Quit and smoking reduction rates in vape shop consumers: a prospective 12-month survey” *International journal of environmental research and public health* vol. 12,4 3428-38. 24 Mar. 2015, doi:10.3390/ijerph120403428

Recommendations

- We urge committee members to refocus their attention on the most pressing concern of reducing the early death and disease attributed to smoking by seeking ways the state can help promote safer alternatives to people who smoke.
- Effective substance use prevention starts by empowering young people with strong social skills, critical thinking, and healthy coping strategies. People are generally resourceful and, historically, find ways to circumvent prohibitions on tobacco, drugs, and alcohol. Strong life skills training during adolescence has a greater potential to positively shape a young person's life well into adulthood.
- Hawai'i consistently spends only a small fraction of the amount recommended by the Centers for Disease Control on tobacco prevention.⁹ Arguably, the state hasn't given existing tobacco prevention strategies a chance to succeed. We assert here that if the State of Hawai'i believes that traditional tobacco control strategies are effective, then compliance and enforcement should be fully funded.

Thank you for considering our comments.

Sincerely,



Alex Clark

CEO

The Consumer Advocates for Smoke-free Alternatives Association

⁹ Lindsey Stroud, Taxpayers Protection Alliance, "Tobacco & Vaping 101: Hawaii." Feb. 2022, accessed from <https://www.protectingtaxpayers.org/analysis/tobacco-vaping-101-hawaii-2/>, Feb. 21. 2022.



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Free Markets. Real Solutions.
www.rstreet.org

Testimony from:

Steven Greenhut, Western Region Director, R Street Institute

In OPPOSITION to Hawaii House Bill 1570, which “bans the sale of flavored tobacco and synthetic nicotine products; prohibits mislabeling of e-liquid products containing nicotine; and prohibits the marketing, advertising, or promoting of electronic smoking devices to appeal to individuals under twenty-one. Establishes fines and penalties for violations. Includes heated smoking products among the electronic smoking devices that are subject to restrictions under law.”

March 18, 2022

Senate Committee on Health

Dear Chairman and members of the committee,

I am writing on behalf of R Street Institute (R Street) in opposition to House Bill 1570, which includes a statewide ban on the sale of flavored tobacco products, including electronic nicotine delivery systems (ENDS). R Street is a nonprofit public policy organization focused on advancing limited, effective government in a variety of policy areas, including Integrated Harm Reduction. Because ENDS products give adult users a reduced-risk alternative to smoking combustible cigarettes, we are concerned about the negative implications such a ban would have on Hawaii’s public health, and we urge the Senate Health Committee to reject HB 1570.

E-cigarettes are a valuable harm reduction tool

The legislation includes a variety of provisions, but our main concern involves the ban on flavored nicotine products. Given that almost all vaping and lower-risk smokeless tobacco products include flavors, the legislation would essentially ban almost all reduced-harm alternatives to combustible cigarettes. In doing so, the Legislature would create the perverse consequence of outlawing most of the safer products that enable smokers to reduce their risk—while keeping the most dangerous products readily available.



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That is a deadly proposition given that vaping products are far safer than combustible tobacco products. The U.S. Centers for Disease Control and Prevention (CDC) estimate that 480,000 Americans die each year because of smoking and second-hand smoke.¹ Yet over 34 million Americans a year continue to smoke cigarettes.² That is why R Street advocates public policies that encourage—rather than punish—people for making potentially life-saving behavioral changes.

Although we discourage the use of any tobacco or nicotine products, we advocate a harm reduction policy that encourages safer alternatives for adult consumers who are unable or unwilling to quit smoking. We prefer real-world health benefits over a utopian embrace of abstinence. We also question the wisdom of limiting adult-only products as a means to discourage their illegal access by teens. Instead, we should toughen enforcement of smoking age limits.

R Street’s principles of harm reduction recognize that abstinence-only approaches to public health are not effective and that prohibition comes with its own consequences. The Hawaii Legislature has recognized the validity of this approach when it comes to other risky behaviors, such as opioid use. For example, state law provides standing orders for the overdose reversal medication, naloxone, and provides protections for individuals who call for help when witnessing or experiencing an overdose.³

Harm reduction principles are grounded in the concept that if individuals engage in risky behavior, it is in the state’s interest to ensure there are options with which they can mitigate potential harm.

This same philosophy should be applied to tobacco use. Public health agencies including Public Health England; the Royal College of Physicians; the National Academies of Science, Engineering, and Medicine; and the U.S. Food and Drug Administration all recognize that tobacco products exist on a continuum of risk.⁴ Because e-cigarettes do not burn tobacco, they do not release the 7,000 chemicals found in

¹ Centers for Disease Control and Prevention, “Smoking & Tobacco Use: Fast Facts,” Department of Health and Human Services, June 2, 2021. https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm.

² Centers for Disease Control and Prevention, “State Tobacco Activities Tracking and Evaluation (STATE) System: Map of Current Cigarette Use Among Adults,” Department of Health and Human Services, Oct. 22, 2021. <https://www.cdc.gov/statesystem/cigaretteuseadult.html>.

³ U.S. Government Accountability Office, *Drug Misuse: Most States Have Good Samaritan Laws and Research Indicates They May Have Positive Effects*, U.S. Congress, March 2021. <https://www.gao.gov/assets/gao-21-248.pdf>.

⁴ See, e.g., Health & Wellbeing Directorate, “E-cigarettes: a new foundation for evidence-based policy and practice,” Public Health England, August



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combustible cigarette smoke.⁵ This places them at the lower end of the risk spectrum, near traditional nicotine-replacement therapies, whereas deadly combustible cigarettes are at the highest end.

The Royal College of Physicians concluded that the risk from vaping is unlikely to exceed 5 percent of the risk associated with smoking combustible cigarettes.⁶ Even the American Cancer Society has noted potential health benefits for smokers who switch to e-cigarettes.⁷

Flavored e-cigarettes can be an effective smoking cessation device

Combustible cigarettes are exceptionally addictive and harmful, yet as with most substances, many people struggle to stop smoking.⁸ Reduced-risk products such as ENDS not only provide a safer option for those who want to continue using nicotine, but they also can help people move closer to quitting completely.⁹

2015. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/454517/E-cigarettes_a_firm_foundation_for_evidence_based_policy_and_practice.pdf; Tobacco Advisory Group, "Nicotine without smoke: Tobacco harm reduction," Royal College of Physicians, April 28,
2016. <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>;
"Public Health Consequences of E-Cigarettes," National Academies of Science, Engineering, and Medicine,
2018. <http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-e-cigarettes.aspx>; U.S.
Food and Drug Administration, "FDA announces comprehensive regulatory plan to shift trajectory of tobacco-related disease, death," Department of Health and Human Services, July 27,
2017. <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm568923.htm>.

⁵ Tobacco Advisory Group. <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction>.

⁶ Ibid.

⁷ Steven Greenhut and Carrie Wade, "Cancer society's evolving position on vaping refreshing," *The Mercury News*, March 9, 2018. <https://www.mercurynews.com/2018/03/09/opinion-cancer-societys-evolving-position-on-vaping-refreshing>.

⁸ Sharon Cox and Lynne Dawkins, "Global and local perspectives on tobacco harm reduction: what are the issues and where do we go from here?," *Harm Reduction Journal* 15:32 (2018).
<https://link.springer.com/article/10.1186/s12954-018-0239-5>.

⁹ Centers for Disease Control and Prevention, "Smoking & Tobacco Use: About Electronic Cigarettes (E-Cigarettes)," Department of Health and Human Services, Sept. 30, 2021. https://www.cdc.gov/tobacco/basic_information/e-cigarettes/about-e-cigarettes.html#e-cigarettes-less-harmful; Jamie Brown et al., "Real-world effectiveness of e-



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The United Kingdom’s National Health Service endorses e-cigarettes as a smoking cessation tool.¹⁰ Indeed, randomized controlled trials indicate that e-cigarettes may be almost twice as effective as traditional nicotine replacement therapies at helping former smokers sustain abstinence from combustibles.¹¹ Public health models show that e-cigarettes have helped accelerate the decline in smoking.¹²

Flavors are an important part of this equation, enticing combustible cigarette users to switch to less harmful e-cigarettes and keeping them interested with a variety of options. One study of 4,515 former and current smokers—91 percent of whom had completely quit using combustible cigarettes—found that all participants viewed flavors as “very important” to their decision to cease or reduce their use of combustible cigarettes, and 40 percent said a lack of flavor variety would have hindered their ability or willingness to switch.¹³ Another study found that e-cigarette users were more likely to switch completely from combustibles when they used non-tobacco flavors, including menthol as well as fruit, sweet or dessert flavors, likely because flavors assist smokers in disassociating a tobacco flavor with the pleasurable effects of combustible cigarettes.¹⁴

Flavors are not driving youth initiation

cigarettes when used to aid smoking cessation: a cross-sectional population study,” *Addiction* 109:9 (September 2014), pp. 1531-1540. <https://onlinelibrary.wiley.com/doi/full/10.1111/add.12623>.

¹⁰ National Health Service, “Using e-cigarettes to stop smoking,” Department of Health and Social Care, March 29, 2019. <https://www.nhs.uk/live-well/quit-smoking/using-e-cigarettes-to-stop-smoking>.

¹¹ Peter Hajek et al., “A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy,” *The New England Journal of Medicine* 380 (Feb. 14, 2019), pp. 629-637. <https://www.nejm.org/doi/full/10.1056/nejmoa1808779>.

¹² David T. Levy et al., “Examining the relationship of vaping to smoking initiation among US youth and young adults: a reality check,” *Tobacco Control* 28:6 (November 2019), pp. 629-635. <https://pubmed.ncbi.nlm.nih.gov/30459182>.

¹³ Konstantinos E. Farsalinos et al., “Impact of Flavour Variability on Electronic Cigarette Use Experience: An Internet Survey,” *International Journal of Environmental Research and Public Health* 10:12 (Dec. 17, 2013), pp. 7272-7282. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3881166>.

¹⁴ Christopher Russell 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 Reduction Journal* 15:33 (June 28, 2018). <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-018-0238-6#Abs1>.



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Many attempts to ban flavored tobacco products are rooted in the fear of encouraging youth uptake of e-cigarettes. However, research shows that flavors are not the main reason youth initiate use of these products. In 2019, the CDC found that 55.3 percent of minors using e-cigarettes cited curiosity as their primary motivator for trying them, whereas only 22.4 percent cited flavors as the primary factor.¹⁵

R Street shares the concern of this committee regarding youth uptake of e-cigarette products. We have not and do not promote any tobacco use among youth, and we were one of the first national think tanks to advocate for raising the age of purchase to 21. Notwithstanding, research shows that e-cigarette flavor bans not only risk undermining the harm-reducing effects of these reduced-risk products, they also may unintentionally create additional harm.

Studies show that, when faced with a potential flavor ban, many ENDS users report a willingness to add their own flavors, find their desired products on uncontrolled markets or simply return to combustible cigarettes.¹⁶ Indeed, a recent flavor ban in San Francisco was associated with an increase in youth smoking combustible cigarettes.¹⁷

Thus, R Street strongly urges the examination of the potential of flavored tobacco products as harm reduction tools that complement other tobacco cessation strategies and the opposition of HB 1570, which would cut off a valuable harm reduction tool for Hawaii's smokers.

Thank you for your consideration.

¹⁵ Teresa W. Wang et al., "Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019," *Surveillance Summaries* 68:12 (Dec. 6, 2019), pp. 1-22. <https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm>.

¹⁶ Ping Du et al., "Changes in Flavor Preference in a Cohort of Long-Term Electronic Cigarette Users," *Annals of the American Thoracic Society*, 17:5 (May 2020), pp. 573-581. <https://pubmed.ncbi.nlm.nih.gov/31978316>.

¹⁷ Abigail S. Friedman, "A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California," *JAMA Pediatrics* 175:8 (May 24, 2021), pp. 863-865. https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248?guestAccessKey=227700a4-e3cb-4ccf-8ad5-ae5133e0009c&utm_source=silverchair&utm_medium=email&utm_campaign=article_alert-jamapediatrics&utm_content=olf&utm_term=052421.



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Best regards,

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Testimony 3/16/22

Re: HB1570 HD1 Relating to the Youth Vaping Epidemic

Good Morning Chairperson Jarrett Keohokalole, Chairperson Michelle Kidani and members of the Health and Education Committee. I am Curtis Higashiyama Government Affairs Manager and I appreciate this opportunity to testify.

ABC Stores are in **Strong Opposition** to HB1570 HD1 Relating to the Youth Vaping Epidemic. This measure requires DOH to post online monthly updates on all deposits and expenditures of the tobacco enforcement and Hawaii tobacco settlement special funds and Hawaii tobacco prevention and control trust fund. Requires DOH to submit annual reports to the legislature on the receipts and expenditures of the Hawaii tobacco settlement special fund and Hawaii tobacco prevention and control trust fund. Requires the attorney general to monitor online sales of tobacco products and electronic smoking device products and post online monthly updates. Requires DOH to establish a standardized and scientific testing process for the presence of flavoring in tobacco products and synthetic nicotine products and post this information online. Beginning 1/1/2023, prohibits the sale or distribution of all flavored tobacco and synthetic nicotine products in the State. Requires DOH to coordinate with DOE to establish a take back program for students to voluntarily dispose of electronic smoking devices, flavored tobacco or synthetic nicotine products, and tobacco products in their possession. Requires DOH and DOE to coordinate quarterly meetings with students on addressing the youth vaping epidemic. Effective 7/1/2060

As provided by research done by the “Taxpayers Protection Alliance,” Electronic cigarettes are effective tobacco cessation products that have helped thousands of Hawaiian adults quit combustible cigarettes, and flavors are essential in this use. Although youth use of vapor products are concerning, lawmakers must refrain from alarmist efforts that would restrict access to flavors. Rather than prohibition, lawmakers ought to invest already-existing tobacco monies to fund robust tobacco control programs including cessation efforts, education, and youth prevention campaign.”

We strongly encourage efforts be placed on current enforcement programs to prevent the availability of any tobacco product from getting into the hands of our youth. As the past has shown, when any type of “prohibition” is enacted, unfavorable results occur. Address areas such as the black market arena, and purchases made by family and friends. This is where areas of tobacco control programs, education, and youth prevention campaigns will help the most.

We ask the committee to re-evaluate the bill and refer to testimony submitted by the Taxpayers Protection Alliance. Included are current information from studies and surveys; funding availability through the state collection through taxes, funds availability



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through the Master Settlement Agreement, economic impacts, public health statements and more.

Please note that most recently the FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review.

We hope that you will hold this bill.

Mahalo for the opportunity to testify.

**Written Testimony Presented Before the
Senate Committee on Health and the Committee on Education**

**Hearing: March 18, 2022, 1:31PM
State Capitol, Conference Room 225 & Videoconference**

By Hawai'i – American Nurses Association (Hawai'i-ANA)



HB1570, HD1 RELATING TO YOUTH VAPING EPIDEMIC

Chair Senator Jarrett Keohokalole, Vice Chair Senator Rosalyn H. Baker, members of the Senate Committee on Health, and Chair Senator Michelle N. Kidani, Vice Chair Senator Donna Mercado Kim, and members of the Senate Committee on Education, thank you for this opportunity **to provide comments of strong concern for the amendments** in HB1570, HD1. This bill sought to identify the responsibilities of the DOH and the DOE towards our youth that are part of the vaping epidemic. It is our understanding at Hawai'i - American Nurses Association (Hawai'i-ANA) that these amendments have caused a loss of support for enforcement due to their onerous nature.

We are members of the American Nurses Association of Registered Nurses in Hawai'i. As a profession, we advocate for the health of vulnerable populations in our community. Measures in this bill would help to protect young people in our community from these predatory flavored tobacco products and a lifetime of addiction. Health hazards of tobacco products are well known. This is a place where we can intervene as a community to influence the health habits of our young population. In establishing reporting, education and disposal responsibilities of the DOH and DOE and youth vaping, we believe this bill would have assisted our young people to avoid health-hazard vaping behaviors. As it reads now, we doubt that it will pass the Governor's scrutiny, if it even makes it through the Legislative process.

We **respectfully request that HB1570, HD1 be re-amended to allow for the original intent of enforceability and responsibility by our government departments.** Thank you for your continued support for measures that address the healthcare needs of vulnerable populations in our Hawaii community.

Contact information for Hawaii – American Nurses Association
President: Katie Kemp, BAN, RN-BC
Executive Director Dr. Linda Beechinor, APRN-Rx, FNP-BC
phone (808) 779-3001
500 Lunalilo Home Road, #27-E
Honolulu Hawaii USA 96825

president@hawaii-ana.org
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HB-1570-HD-1

Submitted on: 3/17/2022 10:35:48 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Riley Legaspi	Testifying for BLVK	Oppose	Written Testimony Only

Comments:

We stand with our partners in the Hawaii to oppose HB1570's ban on synthetic nicotine products. The 2022 Omnibus Bill that was signed by President Biden included a clause that pulls all synthetic nicotine products under the jurisdiction of the FDA. Under this new clause, a new Premarket Tobacco Product Application is being filed that encompasses these products. Until the agency makes a formal decision on the marketing status of these products, the state should have no legal basis for banning them.

HB-1570-HD-1

Submitted on: 3/17/2022 11:06:47 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
UH Student Health Advisory Council	Testifying for UH Student Health Advisory Council	Comments	Written Testimony Only

Comments:

The UH Student Health Advisory Council remains deeply committed to the mission of reducing the use of all tobacco products, including electronic smoking devices, among adolescents and young adults. The banning of flavored tobacco products as well as providing tobacco education and cessation programs without penalties for youth is imperative if we are committed to protecting the health and well-being of our communities. While significant amendments were added to this measure that are unnecessary to the implementation of a flavored tobacco ban, we respectfully request that you restore this measure back to its original version which focused on ending the sale of flavored tobacco in Hawaii.

HB-1570-HD-1

Submitted on: 3/17/2022 11:25:33 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Marisa	Testifying for JOCOR Enterprises, LLC	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill on a flavor ban and synthetic nicotine ban on vaping products. Our company is only trying to help our community. This ban will deter our progress and potential growth.

March 17, 2022

TO: Jarrett Keohokalole, Chair
Rosalyn H. Baker, Vice Chair
Members of the Senate Committee on Health

Michelle N. Kidani, Chair
Donna Mercado Kim, Vice Chair
Members of the Senate Committee on Education

FROM: Cigar Association of America, Inc.
(William Goo)

RE: **HB 1570 HD1** - Relating to the Youth Vaping Epidemic
Hearing Date: March 18, 2022
Time: 1:31 pm

CAA **opposes HB 1570 HD1** which seeks to ban the sale of flavored tobacco products including cigars. The primary focus of this bill is to address the rising use of flavored tobacco products by youth in Hawaii with respect to electronic smoking devices. Cigars are the choice and custom of mature, responsible and informed adults. Cigars are not the tobacco product of choice of Hawaii's youth. The Senate Committee on Health previously amended SB 3118 - Relating to Tobacco Products to state that cigars among other tobacco products are not subject to the flavor ban. Any ban on flavored tobacco products should exclude cigars.

The banning of cigars and other flavored tobacco products also appear to be beyond the scope of the title of this measure entitled "Relating to the Youth Vaping Epidemic" and hence, could be subject to constitutional challenge.

Thank you for considering this testimony.



March 18, 2022

Testimony on Hawaii's HB 1570 - "Relating to the Youth Vaping Epidemic"

Dear Chairs and Members of the Health and Education Committees,

My name is Elizabeth Hicks, I'm the US Affairs Analyst at the global consumer advocacy group called the Consumer Choice Center.

Simply put, HB 1570 will do more harm than good if passed. Enacting a flavor ban for vaping products will push adult consumers to switch back to smoking combustible tobacco. Sadly, 1,400 Hawaiians lose their lives to smoking-related illnesses every year. Considering that [studies have shown vaping to be 95% less harmful than smoking](#), ensuring that adult consumers have access to the vaping products they prefer will ultimately lead to fewer cigarette smoking-related deaths in Hawaii.

More than 7% of Hawaii's adult population uses vaping products, accounting for over 100,000 Hawaiians who have switched to a healthier alternative to combustible tobacco. According to data from the [Hawaii Journal of Medicine and Public Health](#), the largest demographic of Hawaiian vapers are actually 65+ years in age and started vaping as a means to quit smoking cigarettes. Banning flavored vaping products will encourage these former smokers to switch back to smoking cigarettes, and will ultimately lead to increases in smoking-related healthcare costs, which are already costing Hawaiian taxpayers \$141.7 million annually.

Furthermore, while this bill is intended to protect youth from tobacco use, [data from the Journal of the American Medicine Association](#) shows that when flavored vaping products are banned, combustible smoking rates **increase** for youth aged 18 and younger. This unintended consequence would only exacerbate the problem Hawaii is trying to fix, making this particular bill unviable in achieving its desired outcomes.

Additionally, if a flavor ban is enacted in Hawaii, then consumers will likely look towards the black market in order to get access to their preferred flavored vaping products. This presents serious concerns for Hawaiian public health as vapers will be purchasing unregulated products that could be extremely dangerous to their wellbeing. For perspective, Massachusetts enacted a ban on flavored vaping products in 2019 and the [results](#) have been disastrous. Since the ban, there has been a massive influx of interstate smuggling of tobacco products which has resulted in a thriving black market, lost tax revenue for the state, and criminalization of adult consumers who are just trying to make the healthier choice.

In addition to endangering public health, pushing consumers to the black market through a flavor ban will also be to the detriment of many vape shops throughout the state as many of their products will no longer be available. After already suffering through the economic hardships of the pandemic, this bill could effectively kill many of these small businesses already struggling to stay afloat.



Instead of implementing a flavor ban on vaping products, a better path forward could include stricter enforcement of 21+ age restrictions for vaping consumers with harsher penalties for selling vaping products to anyone under the age of 21. Additionally, ensuring that vaping products cannot be sold within 1,000 feet of schools could help minimize youth access.

I very much appreciate that this bill is well-intentioned, however it's important to look at the evidence showing how misguided a flavor ban actually is. If this committee wishes to protect public health, small businesses, and consumer choice within Hawaii then I strongly encourage you to reject this bill.

Thank you for your time.

Sincerely,

Elizabeth Hicks
US Affairs Analyst
Consumer Choice Center
elizabeth@consumerchoicecenter.org

Smoke-Free Alternatives Trade Association

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March 17, 2022

Re: HB 1570 HD1 - OPPOSE

Chairman Jarrett Keohokalole, Vice Chairwoman Rosalyn H. Baker, and Members of HTH/EDU Committee:

The Smoke-Free Alternatives Trade Association (SFATA) is the nation's largest trade organization representing the thousands of small businesses that manufacture, distribute, and sell vapor products throughout the United States. As its Board President, I am writing on behalf of our Hawaii members to urge you to oppose the devastating legislative measures pending before this committee and implore you to carefully weigh the health risk to your adult smoking and vaping population.

SFATA always understood that vapor was an adult-only product and pioneered the nation's first age-restriction program (Age to Vape) for its members to follow. This program placed restrictions on sales to minors based on the legal age for tobacco use in their respective states', years ahead of any state or federal age laws. SFATA also requires our members to adhere to a strict Member Code of Responsible Conductⁱ that requires responsible marketing practices, which includes limiting marketing efforts only to adults.

We wholeheartedly support the restriction of product sales to all underage persons and the base premise of the legislation, which implies that we should do whatever we can to restrict access to minors. However, we do not agree that the Hawaii legislature should ban flavors for adults who rely on them to refrain from using deadly combustible tobacco products, like cigarettes. Such a policy will result in severe adverse impacts on the citizens of Hawaii and should be avoided. This fact is supported by the most recent scientific studies funded by the National Institute of Health (NIH), as well as the American Journal of Public Health (AJPH).

A 2021 research paper conducted by Yale University and funded by NIH found that banning flavors in e-cigarettes, while allowing them to remain in combustibles, would result in an increase in smoking combustible cigarettes, and the use of e-cigarettes would decline.ⁱⁱ While the premise of HB 1570 is to protect kids, the included measures could actually do youth more harm than good and are almost certain to negatively impact the adult smoking and vaping populace.

Meanwhile, the FDA, which is the leading science agency in the country, has yet to decide regarding the role of flavors in vapor products, as they are lacking the scientific evidence needed to make an informed decision. We strongly urge you to reconsider a rush to enact a policy that would have unintended consequences, without full scientific information. This is because as time passes, more data becomes available on the benefit of vapor products to public health. The most recent AJPH study is a prime example of this.

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In May of 2021, AJPB released a study titled, "Balancing Consideration of the Risks and Benefits of E-Cigarettes."ⁱⁱⁱ The study reviewed the health risks of vaping compared to the benefits related to smoking cessation. The fifteen authors, all Society For Research On Nicotine and Tobacco (SRNT) past presidents, point out that e-cigarettes would have a more positive impact if the health community recognized their benefits and that, "While evidence suggests that vaping is currently increasing smoking cessation, the impact could be much larger if the public health community paid serious attention to vaping's potential to help adult smokers, smokers received accurate information about the relative risks of vaping and smoking, and policies were designed with the potential effects on smokers in mind. That is not happening." The authors also concluded that, "the need to pay attention to adult smokers is particularly important from a social justice perspective." This statement was based on findings that current "smokers come disproportionately from lower education and income groups" and that "smoking accounts for a significant proportion of the large life expectancy difference between affluent and poorer Americans."

In addition to the supporting scientific evidence above, the authors of a January 2018 study by the National Academies of Sciences, Engineering, and Medicine repeatedly state that e-cigarettes are far less harmful than conventional cigarettes.^{iv} "There is conclusive evidence," the report says, "that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users' exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes." The authors also stated that if a smoker is using both cigarettes and vapor products, they should immediately switch solely to vaping. The latter is a telling statement, as it acknowledges the lifesaving and harm reduction qualities of vapor products and confirms what the United Kingdom's Royal College of Physicians has concluded and continues to reaffirm - that electronic cigarettes and vapor products are at least 95% less harmful than cigarettes.^v

We understand that there is significant fear and misinformation regarding youth use of e-cigarettes and flavored e-liquid as a gateway to combustible tobacco products. However, the real-world evidence over the past decade clearly demonstrates these fears are false. In fact, 2021 National Youth Tobacco Survey data shows teen youth dropped significantly by 40% from 2020.^{vi} Of those still vaping, only 1 in 4 are reported to use vapor daily. This means that in 2021, only 500,000 youth use vapor daily. Of these, 53.7%, or roughly 5,370 per state, use disposable systems found in gas stations and convenience stores. Our question is, why is legislature considering this dangerous prohibitionist policy over enforcement of existing age laws, and why is legislature willing to place its adult population at such risk?

We have shared compelling scientific support of our opposition, as well as the public harm that this legislation will impose on the current users of vapor products in the state. We implore this Committee to reconsider these legislative actions and reject them outright. To help you better understand the economic impact of this legislation, we have included a copy of the analysis on Hawaii's vapor industry, prepared by John Durham & Associates on behalf of fellow trade

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organizations. We believe you will find it insightful. We have also included a graphic representing the steep decline in youth use.

SFATA leadership is available to answer any questions you may have, as we prefer to work together to solve the issues of teen vaping, while at the same time, keeping life-saving products accessible to the adult consumers in Hawaii who have found success with vapor products.

It is our preference to work with the Committee on a common-sense approach to the concerns expressed in HB 1570 and to work collaboratively on solutions that will reduce youth use, like our Responsible Industry Network,^{vii} and ultimately end the devastating loss of 480,000 Americans to smoking-related deaths every year, at least 15 of whom lost their lives while you read this opposition.

Sincerely,

April L. Meyers
SFATA Board President & CEO

ⁱ "Smoke-Free Alternatives Trade Association Member Code of Responsible Conduct." Member Code of Conduct - Smoke Free Alternatives Trade Association. Accessed February 24, 2022.

<https://sfata.org/membercode>

ⁱⁱ Abigail S. Friedman, PhD. "A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco." *JAMA Pediatrics*. JAMA Network, August 1, 2021.

<https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248>.

ⁱⁱⁱⁱⁱⁱⁱ David J. K. Balfour, et al. "Balancing Consideration of the Risks and Benefits of E-Cigarettes", *American Journal of Public Health* 111, no. 9 (September 1, 2021): pp. 1661-1672.

^{iv} National Academies of Sciences, Engineering, and Medicine. 2018. *Public Health Consequences of E-Cigarettes*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/24952>.

^v "Smoking and Health 2021: A Coming of Age for Tobacco Control?" RCP London, June 22, 2021.

<https://www.rcplondon.ac.uk/projects/outputs/smoking-and-health-2021-coming-age-tobacco-control>.

^{vi} National Youth Tobacco Survey. (2021, October 1). Notes from the Field: E-Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. Center for Disease Control and Prevention.

^{vii} The Responsible Industry Network. "Because Our Members Prefer to Be a Part of the Solution." The Responsible Industry Network. Accessed February 24, 2022. <https://rinprogram.org/>.

HB-1570-HD-1

Submitted on: 3/17/2022 11:59:33 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Joseph Kohn MD	Testifying for We Are One, Inc. - www.WeAreOne.cc - WAO	Comments	Written Testimony Only

Comments:

While we are in strong support of the provisions to end the sale of flavored tobacco products in Hawai'i, **significant amendments** were added to HB 1570 in the House Health Committee that are not necessary to implement a flavored tobacco ban, does not have research to support their effectiveness, and distracts from the original intent of the bill.

Restore the bill to its original version, which focused on ending the sale of flavored tobacco products in Hawai'i.

www.WeAreOne.cc



949 Kamokila Boulevard, 3rd Floor, Suite 350, Kapolei, HI 96707
808.675.7300 | www.ohanahealthplan.com

March 18, 2022

1:31 p.m.

Via Videoconference Conference Room 329

To: The Honorable Chair Jarrett Keohokalole
The Honorable Vice Chair Rosalyn H. Baker
Senate Committee on Health

The Honorable Chair Michelle N. Kidani
The Honorable Vice Chair Donna Mercado Kim
Senate Committee on Education

From: 'Ohana Health Plan
Rachel Wilkinson, Government Relations Manager

Re: HB1570 HD1, Relating to the Youth Vaping Epidemic; **Providing Comments**

'Ohana Health Plan is a wholly owned subsidiary of Centene Corporation, a leading multi-national healthcare enterprise committed to helping people live healthier lives. Since 2008, 'Ohana Health Plan has provided government-sponsored managed care services to families—from keiki to kupuna—and individuals with complex medical needs primarily through QUEST Integration (Medicaid), Medicare Advantage and Medicare Prescription Drug Plans across the state.

'Ohana Health Plan offers **comments** on HB1570 HD.

Hawaii is in the midst of a youth vaping epidemic. According to the Hawaii Public Health Institute, one in three high school students and one in five middle school students report current use of e-cigarettes. These various flavored tobacco products, as well as menthol cigarettes, are enticing and addicting our keiki. While we are in strong support of the provisions to end the sale of flavored tobacco products in Hawaii, significant amendments were added to HB1570 that are not necessary to 1) implement a flavored tobacco ban, 2) does not have research to support their effectiveness, and 3) distracts from the original intent of the bill.

Thank you for allowing us to provide comments on this important measure and we urge you to restore HB1570 HD1 to its original version.

HB-1570-HD-1

Submitted on: 3/15/2022 4:28:00 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Anthony Orozco	Individual	Oppose	Written Testimony Only

Comments:

Dear HTH/EDU committees,

Still strongly opposed to this flavor ban and other unfair regulation. The legislature needs to start accepting different lifestyles.

We would do better by never seeing a bill such as HB1570 ever again.

HB-1570-HD-1

Submitted on: 3/15/2022 5:31:05 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
irene kloepfer	Individual	Support	Written Testimony Only

Comments:

- This is the same old story of tobacco addicting people to their products. Now they are addicting kids with their flavors. Do we really want to support another generation of kids addiction No. We need to start putting the health and welfare of our keiki before corporations profits. This should be a no brainer, unfortunately it is not. Kids are not old enough to vote, their brains are not fully developed until mid 20's, what we need to be addressing is why politicians put profits before people. Please pass this bill now

HB-1570-HD-1

Submitted on: 3/15/2022 5:50:24 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Patricia Blair	Individual	Support	Written Testimony Only

Comments:

Without amendments! No to the amendments.

HB-1570-HD-1

Submitted on: 3/15/2022 5:56:43 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Sabrina Spencer	Individual	Oppose	Written Testimony Only

Comments:

Stop the unfair discrimination against people who vape by stopping this bill.

My name is Aaliyah Sistoza-Mortel. I am a 2019 graduate of H.P. Baldwin High, currently a Consumer Loan Officer at Wailuku Federal Credit Union. It will be three years on March 20th, 2022 since I marched to the State Capitol with my peers from the Coalition for a Tobacco-Free Hawai'i, intent on ending the sale of sweet nicotine flavored products that targeted our youth of Hawai'i. Unfortunately, three years later, we are still battling for our concerns to be heard and listened to. We demand a change. I am in strong support of HB1570 monitoring the sale of flavored tobacco products in the state to a high degree, preventing it's distribution, sale, and use. Do not take away from this main idea: we must end the sale of flavored tobacco products in our state.

We are coming together to speak on this bill to protect the health of our future, our children; our keiki. In Hawai'i, eight out of ten youth who used tobacco started with flavored tobacco products. Though the statistics provide facts, what stops the senate from passing this bill? To put it in perspective, allow yourselves to think about the children you personally know. Your daughters, sons, grandchildren, nieces, nephews. The Lieutenant Governor Josh Green stated, "Many children end up addicted to nicotine because of flavored tobacco.. When one in three of our high schoolers..one in five of our middle schoolers are doing something that will lead to serious health problems, we should do all that we can to help them." With the health and lives of our keiki at risk, what will the future of Hawai'i look like?

In today's society, I am proud to say that our youth still has the determination and partnership that you may not find in other states. Being from Hawai'i, we are bonded by our people and the community regardless of age, status, or culture. The legislature found that tobacco use remains the leading cause of preventable disease and death in the United States and in Hawai'i. Preventable, meaning able to have been stopped; able to have been prevented; able to have been avoided. Annually, \$526,000 in health care costs are directly attributed to smoking in the State. \$526,000 worth of health care that could have been avoided. As the people of our state face other financial hardships, let us not allow the sale, distribution, and ultimate use of flavored tobacco products be one of the factors that continues to affect our community.

I ask respectfully that you pass HB1570, monitoring the distribution, sale, and ultimately preventing and ending the use of flavored tobacco products in the state.

Sincerely,
Aaliyah Sistoza-Mortel

Date: March 16, 2022

To: The Honorable Jarrett Keohokalole, Chair
The Honorable Rosalyn H. Baker, Vice Chair
Members of the Senate Committee on Health

The Honorable Michelle N. Kidani, Chair
The Honorable Donna Mercado Kim, Vice Chair
Members of the Senate Committee on Education

Re: **Support for HB 1570 HD1**, Relating to the Youth Vaping Epidemic

Hrg: Friday March 18, 2022 at 1:31 PM Conference Room 225 and Videoconference

Aloha Senate Committees on Health and Education,

As a parent, community member and healthcare professional I am writing in **strong support of HB 1570 HD1 with return to the original HB 1570 wording.**

Hawai'i is in the midst of a youth vaping epidemic that has been underway for at least seven years. One in three high school students and one in five middle school students report "current use" of e-cigarettes.

Flavors in tobacco products entice our youth, while the nicotine alters the development of their brains, keeping them hooked for life. In 2020, 80% of Hawaii youth who currently use e-cigarettes reported using a flavored product, up from 70% in 2019. Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Ending the sale of all flavored tobacco products will advance health equity.

Disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color. In Hawaii, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes. Mint and menthol (the chemical in mint that gives a cooling sensation) flavored e-cigarettes are among the most popular flavors with our youth.

Importantly, **HB 1570 HD1** includes a ban on all flavored synthetic nicotine products. Synthetic nicotine, a relatively new ingredient in the marketplace, is chemically identical to natural nicotine derived from tobacco leaves and every bit is addictive. Because it is made from scratch in a laboratory, rather than derived from tobacco plants, it is being used to side-step tobacco laws that were written at a time when all nicotine came from tobacco plants. Including synthetic nicotine products in the flavor ban closes this loophole in the marketing and sales of flavored tobacco products aimed at our keiki.

The **original HB 1570** wording was clear, concise and directly addressed the role of flavored tobacco products in the current youth vaping epidemic. Unfortunately, the **original HB 1570** was amended with unnecessary requirements that distract from its

purpose and undermine its practical implementation. A clear comparison of the before and after wording is available here, with the added wording highlighted in yellow:

<https://www.civilbeat.org/2022/03/hawaii-seemed-poised-to-adopt-a-vape-flavor-ban-then-came-the-amendments/>.

I strongly support a tobacco products flavor ban as worded in the original HB 1570, respectfully ask you **return HB1570 HD1 to its original wording** and pass it out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD

Keaau, HI

HB-1570-HD-1

Submitted on: 3/16/2022 7:10:32 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
ken kozuma	Individual	Support	Written Testimony Only

Comments:

Dear Education Chair Kidani, Vice Chair Mercado Kim, Health Chair Keohokalole, Vice Chair Baker, and the rest of the Committees on Education and Health,

I'm a teacher at Waipahu Intermediate School and vaping is a huge issue in school. We have students vaping everyday, and they are using it as a gateway to harsher drugs. I am in support of HB1570 because something needs to be done to help keep our students safe and healthy in school.

I'm not a doctor but my theory is the pandemic put more devices in front of students, which increased dopamine levels. Students are craving dopamine and are turing to vape to satisfy their dopamine craving.

I would like to put an emphasis on the punishment and enforcement for students because currently students caught with vape in school are suspended for a day and come right back to school and do it again and again. Suspension from school used to mean something, but now students don't care if they miss school. The consequences are so minimal that there's nothing to deter students from using vape in schools.

I don't know what the policy is for the DOE, but all I know is it's not working at my school. I have good students telling me that they see students vaping all over campus, in the restrooms, in classrooms, in the hallways, walking to and from school, and they see it everyday.

Our job is hard enough to educate our youth, please help to support the teachers and help to keep our students safe.

Thank you so much for your time and consideration.

Sincerely,

Ken Kozuma

Waipahu Intermediate

Agriculture Teacher/FFA Advisor

Testimony on Relating to the Youth Vaping Epidemic

THE SENATE THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022

COMMITTEE ON HEALTH
Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON EDUCATION
Senator Michelle N. Kidani, Chair
Senator Donna Mercado Kim, Vice Chair

NOTICE OF HEARING
DATE: Friday, March 18, 2022
TIME: 1:31PM
PLACE: Conference Room 225 & Videoconference

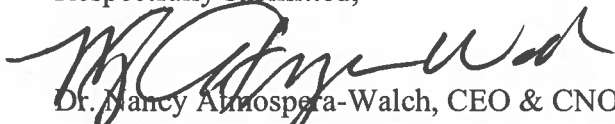
From: Dr. Nancy Atmospera-Walch, CEO & CNO
DNP, MPH, MCHES, LNHA, CCHN, CMC, BSN, RN
President, AIM Healthcare Institute
President, ADVANTAGE Health Care Provider

Good Morning Chair Keohokalole, Chair Kidani, Vice Chair, Baker, Vice Chair Mercado-Kim and to All of You, Honorable Senators!

I am Dr. Nancy Atmospera-Walch, President, and the Chief Nursing Officer of Advantage Health Care Provider, a private company that is providing services to one of our most vulnerable populations, the Intellectually and Developmentally Disabled (I/DD) on the islands of Oahu, Maui, and Kauai.

Attached is my written Testimony in STRONG SUPPORT of HB 1570, HD1. Thank you for this opportunity to provide my testimony.

Respectfully submitted,



Dr. Nancy Atmospera-Walch, CEO & CNO
DNP, MPH, MCHES, LNHA, CCHN, CMC, BSN, RN
DHS-Approved RN Evaluator - CNA Option B
AHRQ TeamSTEPPS Master Trainer
President, AIM Healthcare Institute
President, ADVANTAGE Health Care Provider

Providing the Very Best Quality Care to the "Special Population, the Intellectually and Developmentally Disabled (I/DD)" is Our Business!



Dr. Nancy Atmospera-Walch, CEO & CNO
DNP, MPH, MCHES, LNHA, CCHN, CMC, BSN, RN

The Hawaii State Legislature
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: Support for HB 1570, HD1, Relating to the Youth Vaping Epidemic

Dear Legislators:

I strongly support HB1570, Relating to the Youth Vaping Epidemic.

As a mother, healthcare professional, and leader in the Filipino community, I am extremely concerned about the health of our youth. Hawaii has the highest reported vaping rate among middle schoolers and the second highest vaping rate among high schoolers in the nation: 15.7% of middle schoolers and 25.5% of high schoolers reported that they have vaped. This is simply unacceptable and will have lasting effects for the next generation.

I am also extremely concerned about the impacts of flavored tobacco products on the Filipino community. Vaping among Filipino youth is even higher than it is among the general student population. With flavors such as mango, lychee, *ube*, and more, manufacturers and marketers of electronic smoking devices have found a way to specifically target and hook young *kababayans*. The flavors have proven to be alluring and addictive - research has shown that more than 80 percent of who have used tobacco started with a flavored product such as e-liquids or nicotine pods.

Within the Filipino community, we have also seen how social pressures affect young people. A California study found that among Filipino youth, 86% of e-cigarette users began because their friends started to vape. The same study also found that Filipino youth were vaping at twice the rate of their other Asian American peers. By banning flavored tobacco products, we can end the dangerous spread of these products.

Passing HB 1570, HD1 allows the community to know what is happening about the rules and regulations about tobacco enforcement and Hawaii Tobacco settlement special funds and Hawaii tobacco prevention and control trust fund.

Because of the negative impacts of Vaping on our community, **I respectfully request your approval of HB1570, relating to the Youth Vaping Epidemic, and other measures aimed at curbing the e-cigarette epidemic among our youth.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nancy Atmospera-Walch".

Dr. Nancy Atmospera-Walch, CEO & CNO
DNP, MPH, MCHES, LNHA, CCHN, CMC, BSN, RN
DHS-Approved RN Evaluator - CNA Option B
AHRQ TeamSTEPPS Master Trainer
President, AIM Healthcare Institute
President, ADVANTAGE Health Care Provider

Providing the very best Quality Care to the "Special Population, the Intellectually and Developmentally Disabled (I/DD), is Our Business

Century Square ♥ 1188 Bishop Street, Suite 2502 ♥ Honolulu, Hawaii 96813 U.S

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dr.nancy@advantagehealth.care ♥ www.advantagehealth.care

HB-1570-HD-1

Submitted on: 3/16/2022 8:54:07 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Crystal Robello	Individual	Comments	Written Testimony Only

Comments:

Aloha,

The amendments added to HB1570 are not necessary to implement a flavored tobacco ban and does not have research to support their effectiveness It distracts from the original intent of the bill. We respectfully request that the committee restore the bill to its original version, which focused on ending the sale of flavored tobacco products in Hawai'i.

Mahalo,

Crystal Robello

HB-1570-HD-1

Submitted on: 3/16/2022 10:15:12 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Jennifer Vlaera	Individual	Comments	Written Testimony Only

Comments:

Our Keiki need to have the oppurtunity to live a healthy and nicotine-free life. The flavors in the nicotine products are targeting them. The Cotton candy, apple juice, Passion-Orange-Gauva flavors are inticing to our youth. They are using the Vaping device and getting highly addicted to nictione. The device and E-juice is very deciveing are youth do not see the harmful effects until its to late. The smell and taste covers up the harmful chemicals that they are ingesting, making the youth think it is similar to drinking a can of soda. Give out keiki a fighting chance to live a healthy and full life. They are our future!!! Lets show them that we care about their health.

I strongly support evidence-based policies like ending the sale of flavored tobacco products in Hawai'i, I am concerned that the amendments added to HB1570 are not necessary to implement a flavored tobacco ban, does not have research to support their effectiveness, and distracts from the original intent of the bill. I am asking that the bill be restore to its original version, which focused on ending the sale of flavored tobacco products in Hawai'i.

HB-1570-HD-1

Submitted on: 3/16/2022 10:26:38 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Natasha Woodward	Individual	Support	Written Testimony Only

Comments:

To whom it may concern:

Please ban the sale of flavored tobacco. It is so harmful to kids, and as an employee in a DOE school, I see firsthand how gets get so hooked on it, and after that point it's so much harder to quit. Please protect our keiki.

Mahalo,

Natasha Woodward

HB-1570-HD-1

Submitted on: 3/16/2022 10:30:27 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Rafael Montero	Individual	Oppose	Written Testimony Only

Comments:

I oppose

HB-1570-HD-1

Submitted on: 3/16/2022 10:35:55 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Vin Kim	Individual	Oppose	Written Testimony Only

Comments:

This outright ban will make the black market flourish. Focusing on enforcement strategies is key as Hawaii's age to Smoke/Vape is already 21+ years old. There is a lot of research that supports vaping over smoking. Banning flavors will revert vapers back to smoking which won't help with what this bill is trying to achieve.

HB-1570-HD-1

Submitted on: 3/16/2022 10:40:33 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Teddy Kim	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-1570-HD-1

Submitted on: 3/16/2022 10:51:16 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Jinna Kim	Individual	Oppose	Written Testimony Only

Comments:

I believe banning vaping and eliquids will make people look for far more dangerous products they can easily buy off of black markets. This can cause people to vape eliquids that are not regulated and can cause serious health issues.

TESTIMONY HB1570

I am a long-time Kauai pediatrician, and I write in that role to strongly support ending the sale of flavored tobacco products, the purpose of HB 1570. However, I am concerned that the amendments added to this bill don't contribute to the overall purpose, as stated in the preamble, are not at all evidence based in contradiction of the flavor ban itself, are unnecessary, and will place more burdens on the already overstretched DOH and DOE. I therefore respectfully request that they be removed from SB1570 to better focus the bill on its main purpose, which is to do away with the sale of flavored tobacco products.

We are in the midst of a vaping epidemic in Hawaii, with startling statistics – 1/3 of high school students and about 1/5 of middle school students are regular vapers. E-cigarettes and other flavored products are purposely made attractive to our keiki by their fruit, candy, and menthol flavors. They are, in effect, attractive starter drugs for nicotine inhalation. Nicotine is one of the most addictive substances, especially for children, and by exposing young people early, they are easily hooked for life. Vaping products contain much higher nicotine concentrations than individual cigarettes, which is a strategy put forth by tobacco manufacturers to hook vulnerable teens and preteens and maintain nicotine dependence. This is a recipe for ever increasing medical costs to treat the long-term consequences of nicotine addiction long into the future.

There is a clear-cut way to greatly reduce flavored tobacco use by our most precious resource – our keiki. That is to eliminate access to flavored vaping liquids and menthol by clear and clean legislation. There is absolutely no reason to avoid this responsibility. We owe it to our children.

Linda Weiner, MD

Kauai Pediatrician

HB-1570-HD-1

Submitted on: 3/16/2022 11:23:30 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
susan pignataro	Individual	Comments	Written Testimony Only

Comments:

Regarding HB1570, I respectfully request that the committee restore the bill to its original version, which focused on ending the sale of flavored products in Hawaii. It is our responsibility to protect our youth.

Thank you.

HB-1570-HD-1

Submitted on: 3/16/2022 12:03:12 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Lorrie Kanno	Individual	Support	Written Testimony Only

Comments:

Honorable Chair Senator Jarrett Keohokalole, Committee on Health

Honorable Vice Chair Rosalyn Baker, Committee on Health

Honorable Chair Michelle Kidani, Committee on Education

Honorable Vice Chair Donna Mercado Kim, Committee on Education

Aloha~

We are in the midst of a youth vaping epidemic. In Hawai‘i, 1 in 3 high school students and 1 in 5 middle school students report “current use” of e-cigarettes.

With 8 in 10 kids starting with a flavored tobacco product, a major way to address young people’s use of tobacco products, including e-cigarettes, is to prohibit the sale of flavors that attract youth in the first place and discourage them from trying these products. This legislation will remove the thousands of fruit and candy-flavored tobacco products, as well as menthol cigarettes, that are addicting our keiki.

Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

We respectfully request that all flavored tobacco products be included in this bill. Cigars, cigarettes, and chewing tobacco still come in flavors that can entice youth and mask the harshness of tobacco. Exemptions create loopholes that may cause youth to switch to other flavored tobacco products instead of quitting.

Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.

Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth.

I have personally witnessed many youth today who have not only experimented with the use of flavored tobacco products in Hawai‘i, but have become addicted to it. The serious long term damage they are causing to themselves as well as others in the vicinity warrants serious consideration from all of you to consider an outright ban of all flavored tobacco products in Hawai‘i. Lets send a strong message that we value the health and wellbeing of our youth.

Respectfully, Lorrie Kanno

HB-1570-HD-1

Submitted on: 3/16/2022 12:19:36 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Lopaka Poaha	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE THIS BILL!!!

HB-1570-HD-1

Submitted on: 3/16/2022 12:25:06 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
VALENTINO MIRANDA-KEPA	Individual	Oppose	Written Testimony Only

Comments:

Aloha Board,

Please OPPOSE bill HB1570 we need not more regulations on law abiding adults instead more of stiffer enforcement for under age use.

HB-1570-HD-1

Submitted on: 3/16/2022 12:33:17 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Hoku	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB1570. I as well as many others have quit smoking harmful cigarettes with vape products. I would not like flavored vape products to be banned. I rely on them to keep me from smoking cigarettes. And I refuse to smoke cigarettes.

HB-1570-HD-1

Submitted on: 3/16/2022 12:33:19 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Kathy Molitor	Individual	Oppose	Written Testimony Only

Comments:

Good Day~

I believe you are taking away yet ANOTHER one of our freedoms! If you want to restrict usage to a minimum age...go ahead, but to ban EVERYONE is unconstitutional. If I choose to vape & use flavored nicotine...that is MY choice & I'm not hurting anyone. I'm using the flavored liquids to stop smoking cigarettes. I'm doing really well & have already drastically cut down on my percentage of nicotine. I would go back to smoking tobacco w/all it's carcinogens if I didn't have this. I VEHEMENTLY OPPOSE THIS BILL!!!

HB-1570-HD-1

Submitted on: 3/16/2022 12:33:24 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Randi D	Individual	Oppose	Written Testimony Only

Comments:

Aloha Board,

Please OPPOSE bill HB1570

HB-1570-HD-1

Submitted on: 3/16/2022 12:34:14 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Choe	Individual	Oppose	Written Testimony Only

Comments:

Limited flavors for vaping may cause some people to switch back to traditional tobacco. Which is a net loss for the overall health of the community. Also, if flavored alcohol can exist then why can't flavored tobacco products? Smoking only hurts yourself when drunk people can harm others as well.

HB-1570-HD-1

Submitted on: 3/16/2022 12:51:51 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
HANALEI BENN	Individual	Oppose	Written Testimony Only

Comments:

Stop waisting our hard working tax money on making up new laws that's aren't necessary and focus on laws that are already in place. Focus on making our lives back to normal. Flavored vape has helped a lot of people get off of cigarettes why take that away from people of age.

HB-1570-HD-1

Submitted on: 3/16/2022 12:52:14 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
James Yee M.D.	Individual	Comments	Written Testimony Only

Comments:

I strongly support the ban of selling flavored tobacco products in Hawaii and taxing e-cigarettes and restricting online sales. Restoring HB1570 to it's original version and passing it would definitely protect Hawaii's youth in regards to their current and future health.

Thank you!

HB-1570-HD-1

Submitted on: 3/16/2022 12:52:34 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
ellen benton	Individual	Oppose	Written Testimony Only

Comments:

I highly oppose this bill because it is unfair for adults not able to choose the flavor on their vaping products. Please oppose this bill because it would also impact my place of employment.

HB-1570-HD-1

Submitted on: 3/16/2022 12:54:11 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
ASHLEY MATTOS	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-1570-HD-1

Submitted on: 3/16/2022 12:56:01 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Naomi Muronaka	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill

HB-1570-HD-1

Submitted on: 3/16/2022 1:00:20 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Richell Vannieuwenhuyzen	Individual	Oppose	Written Testimony Only

Comments:

Smoking cigarettes has been around for many of years and just recently decreased due to the availability of vaping. Vaping offers lower nicotine to no nicotine options. This is a better choice for those individuals who have a hard time quitting. The people have a right to do whatever they want to their bodies. The DOH can always regulate what chemicals are in the vape liquid but not the choice to smoke. It is personal preference, but I rather be around someone who is vaping than someone smoking a cigarette. Prohibiting vaping will cause the people of Hawaii to search out of state for products or worser things. Do not pass this bill. If need be, raise the age to 25 years old. Thank you for your time.

HB-1570-HD-1

Submitted on: 3/16/2022 1:04:51 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
zach	Individual	Oppose	Written Testimony Only

Comments:

Tobacco free nicotine is way healthier then salt nic nic salts is drivin from the same nicotine from Tobacco leaves that's why salt nic has the same nicotine buz as a cigarette and why it's easier to quit smoking cigarettes TFN Tobacco free nicotine dosnt give the same nic Buz as salt nic because its lighter and smoother it does take the crave of nicotine away and to have the flavors Is way better then just Tobacco flavor honestly to quit smoking cigarettes should stay away from a Tobacco flavor to be reminded of a cigarette

HB-1570-HD-1

Submitted on: 3/16/2022 1:39:14 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Marian Huff	Individual	Oppose	Written Testimony Only

Comments:

RELATING TO THE YOUTH VAPING EPIDEMIC - HB1570 H.D.I.

Chair Yamane and Members of the Committee:

RE: Testimony in Opposition to H.B. 1570 H.D.I.

I am a private citizen who has lived in Hawaii for almost fifty years and have been a teacher and administrator for grades 7-12 for 32 years on the island of Maui. I was in favor of the ORIGINAL Bill, H.B. 1570 which was clear about the epidemic of vaping and the use of flavors to enhance the experience of vaping among young people in particular. It was also clear about the way of handling the problem. I am opposed to the addition of amendments that clearly were designed to obfuscate the purpose of the original bill by developing a massive list of measurement and testing processes that are at best unwieldy and at worst an attempt to abrogate the responsibilities those of us who have worked with our youth for years hold. Please delete all the amendments so that we can actually pass this bill this year. I only hope that in this process we do not miss the opportunity to do the right thing.

Mahalo Nui,

Marian Huff

HB-1570-HD-1

Submitted on: 3/16/2022 2:02:30 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Alison Vasquez	Individual	Oppose	Written Testimony Only

Comments:

Aloha!

Exsmoker here. Having good flavored vapes helped me quit smoking. Hearing from my peers and doctors on how healthy I look without them knowing that Im vaping says something. FLAVORS ARE NOT ONLY FOR KIDS! Alcohol has every flavor under the sun, they are still production!

Dont punish the people who are trying to better their life one step at a time for something that PARENTS should be talking to their kids about.

HB-1570-HD-1

Submitted on: 3/16/2022 2:32:35 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Rictor O Glass Jr	Individual	Oppose	Written Testimony Only

Comments:

Vaping helped me stop smoking. I have been actively vaping since 2008. The ill effects of smoking have completely left my body years ago.

To answer the questions below:

Does this bill put you at risk of returning to smoking? Are you being pressured to seek out informal sources of safer nicotine products? Will you make your own e-liquid at home or purchase products on an underground market?

All of the above.

Why not focus on underage enforcement rather than upsetting peoples lives. In the UK they have vape shops at hospitals. In America vaping is demonized at the behest of big tobacco. Ridiculous.

Thank you

HB-1570-HD-1

Submitted on: 3/16/2022 2:46:08 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Michelle K.	Individual	Support	Written Testimony Only

Comments:

I would support if the unneeded amendments from the House side is remove. E-cigarettes promote unhealthy addiction among our youth. Their flavors disguise the harmful ingredients used to make the product. Please ban e-cigarettes immediately to protect our keiki so they don't suffer from a lifetime of poor health. Thank you in advance for reverting the bill back to its original form!

HB-1570-HD-1

Submitted on: 3/16/2022 3:17:37 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Albert J Martini III	Individual	Oppose	Written Testimony Only

Comments:

The right to smoke tobacco for people of age should continue to be a choice. Children should not be able to vape or smoke, but if they do, let their parents handle it. Stop taking away our rights.

HB-1570-HD-1

Submitted on: 3/16/2022 4:34:55 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Cori Takesue	Individual	Comments	Written Testimony Only

Comments:

While I strongly support evidence-based policies like ending the sale of flavored tobacco products in Hawai'i, I have concerns about the amendments added to HB1570 as they are not necessary to implement a flavored tobacco ban. There is no research to support the effectiveness of these amendments and they only serve to distract from the original intent of the bill. At this time, I respectfully request that the committee restore the bill to its original version, which is primarily focused on ending the sale of flavored tobacco products in Hawai'i. Ending the sale of flavored tobacco products in Hawaii is long overdue and needed to protect out Keiki from a lifetime of dependence as flavored tobacco products were created to entire youth.

HB-1570-HD-1

Submitted on: 3/16/2022 4:40:44 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Violet Yates	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. Vaping flavored e-liquid is how I quit a 30 plus year cigarette smoking habit which was killing me. I had severe copd and interstitial lung disease, borderline emphysema. Now I am breathing great most of the time. I don't like tobacco flavored e liquid because it reminds me of smoking. Please don't pass this bill as I may end up smoking cigarettes again. Thank you.

HB-1570-HD-1

Submitted on: 3/16/2022 5:22:04 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Dallas Nelson	Individual	Oppose	Written Testimony Only

Comments:

Dear Chairs,

Enforcement will be a mess. The bill is unfair to people that vape. Requesting that it be **REMOVED from the agenda** to not waste any more time on HB1570.

HB-1570-HD-1

Submitted on: 3/16/2022 5:46:38 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Nikki-Ann Yee	Individual	Comments	Written Testimony Only

Comments:

Mahalo for the opportunity to testify. Respectfully, I offer comments requesting that the committee restore the bill to its original version, which focused on ending the sale of flavored tobacco products in Hawai'i.

HB-1570-HD-1

Submitted on: 3/16/2022 5:51:51 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Ann Chung	Individual	Comments	Written Testimony Only

Comments:

Aloha Chairs and Committee members:

The 2009 Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) gave the US FDA jurisdiction to regulate tobacco products. Under the Tobacco Control Act, the FDA, through the newly-created Center for Tobacco Products, established the science and evidence-based Premarket Tobacco Product Application (PMTA) process to review and authorize new tobacco products introduced into the United States after February 15, 2007. ENDS products, including those that have been on the market as of August 8, 2016, may be authorized through PMTAs.

Manufacturers seeking a PMTA must demonstrate that marketing a new tobacco product would be “appropriate for the protection of the public health” for the population as a whole. This includes evaluating the impact on both current tobacco product users and nonusers. Obtaining a PMTA marketing order means that a manufacturer is authorized to market and sell its product to consumers in the United States.

Request your consideration of amending HB1570 to EXEMPT menthol and any product that is regulated by FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

Suggested amendments:

"Tobacco product" does not include drugs, devices, or combination products approved for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act."

"Flavored electronic smoking device" means any electronic smoking device that contains a constituent that imparts a characterizing flavor, but does not include any product that has received a marketing order or other authorization under the 21 U.S.C § 387j from the U.S. Food & Drug Administration."

Mahalo for your consideration.

HB-1570-HD-1

Submitted on: 3/16/2022 6:02:44 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Eric Heaulani	Individual	Oppose	Written Testimony Only

Comments:

I oppose this measure

HB-1570-HD-1

Submitted on: 3/16/2022 6:09:42 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Dillon Rellez	Individual	Oppose	Written Testimony Only

Comments:

I do not believe any laws should change for e-cigarettes in the state of hawaii. The laws are fine the way they are, people just need to abide by the many rules that are set for e-cigarettes. E-cigarettes help many members of the community and there are many other things that the government should be focusing on besides this.

HB-1570-HD-1

Submitted on: 3/16/2022 6:18:19 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Venessa Viernes	Individual	Oppose	Written Testimony Only

Comments:

To whom It May Concern

I have been a smoker for years and i quit when I dicovered vaping. Vaping is mainly for adults, 21 and over. When it gets into hands of mnors, it is the parents job to watch their children and be more aware of what they are getting there hands on. I know for a fact that vape shops card and I,D, customers. They continue to I,D, me even when i have been a customer for years. Vaping has allowed me to be around friends and family while not being stinky. I strongly oppose!

HB-1570-HD-1

Submitted on: 3/16/2022 6:19:10 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Chang	Individual	Oppose	Written Testimony Only

Comments:

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HB-1570-HD-1

Submitted on: 3/16/2022 6:20:07 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Matthew Kanehailua	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

My name is Matthew, and I oppose the HB1570 HD 1 bill to ban flavored vape juices/ devices.

The reason behind I'm opposing against this bill, is this particular business helps people ween off of tobacco products which is led to tobacco free products that don't cause cancer like system effects in the body. I have been 4 years clean of using cigarettes and now I use these flavored disposable/ ejuice products to help me not smoke cigarettes. For instance cigarettes carry chemicals in the tobacco, also in the filters that effect the breathing passage with fibers and carcinogens that tear up your airways. I have had 2 MRI's done to see if my lungs had improved due to the pass usage of cigarettes. It has improved 100% no black lungs, my lungs are healthy as a new born lungs. I consider vapor much better cause they don't harm the breathing pathway and decreases the need for cigarettes which is way more harmful. I don't know why people want to get rid of it. It's a dog eat dog world of business. Tough luck if one business is doing better than the other. This is exactly what it's all about. Why can't flavored vapor & tobacco business just work together. These are facts, please I fully consider everyone to do their research before banning anything.

Much Mahalo

HB-1570-HD-1

Submitted on: 3/16/2022 6:21:45 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Antonio Torres	Individual	Oppose	Written Testimony Only

Comments:

most recently the FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review. You also have to settle for the fact that a lot of jobs will be lost due to this ban many people that work for vapes shops can only work for vape shops. Those people usually come from prison or even have problems on there own , many people work for vape shops are looking for a second chance at life and your only limiting them to a hand pick amount of jobs they can only get , most of the vapes and nicotine items are sent through shipping so that means it would be a down fall in money from all shipping companies.

HB-1570-HD-1

Submitted on: 3/16/2022 6:24:28 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Ethan Quenga	Individual	Oppose	Written Testimony Only

Comments:

the FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review.

HB-1570-HD-1

Submitted on: 3/16/2022 6:30:59 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Crystalie Opara-Nadi	Individual	Oppose	Written Testimony Only

Comments:

I oppose

HB-1570-HD-1

Submitted on: 3/16/2022 6:32:28 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Travis Bagano	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill

HB-1570-HD-1

Submitted on: 3/16/2022 6:32:49 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicole Beard	Individual	Oppose	Written Testimony Only

Comments:

Regulating a product that adults use in order for children not to use it seems ridiculous. You're going to deprive adults because children are illegally up obtaining this product?

Thks bill seems like a tobacco lobby trying to get their piece of the pie. They don't care about the kids. This bill does not care about the kids.

HB-1570-HD-1

Submitted on: 3/16/2022 6:35:13 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
ciana	Individual	Oppose	Written Testimony Only

Comments:

I oppose

HB-1570-HD-1

Submitted on: 3/16/2022 6:37:27 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Paloma Uballe	Individual	Oppose	Written Testimony Only

Comments:

I oppose to this!

HB-1570-HD-1

Submitted on: 3/16/2022 6:39:21 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Bob Gahol	Individual	Support	Written Testimony Only

Comments:

Thank you for addressing the issue with Youth Vaping Epidemic. **I support HB 1570, HD1** because teen vaping has become a crisis plaguing our country, and our state is not an exception. The use of e-cigarettes is unsafe for kids, teens, and young adults. Most e-cigarettes contain nicotine which is highly addictive and can harm adolescent brain development and continues into the early to mid-20s. E-cigarettes can have other harmful substances besides nicotine. Young people who use e-cigarettes may be more likely to smoke cigarettes.

E-cigarettes are causing public health and disciplinary concerns in schools nationwide. Teenagers are hospitalized for vaping-related diseases. According to the U.S. Department of Health and Human Services, if cigarette smoking continues at the current rate among youth in this country, 5.6 million Americans younger than 18 will die early from a smoking-related illness. That's about 1 of every 13 Americans aged 17 years or younger who are alive today.

It is about time that responsible individuals do something about this serious problem. Please approve this bill to reduce the youth vaping epidemic and ensure our youths' long-term health and well-being. Thank you.

Bob Gahol

HB-1570-HD-1

Submitted on: 3/16/2022 6:42:10 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
jamey	Individual	Oppose	Written Testimony Only

Comments:

I oppose on banding flavored nicotine.

HB-1570-HD-1

Submitted on: 3/16/2022 6:43:38 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Makela Samoson	Individual	Oppose	Written Testimony Only

Comments:

Aloha!

On behalf of myself and the vaping community, I strongly oppose bill HB1570. I am a strong advocate for adult access to harm reduction vaping products and allowing flavors to be sold to adults legally by retailers in the State of Hawaii. Most recently the FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review.

HB-1570-HD-1

Submitted on: 3/16/2022 6:48:21 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Rustin Smith	Individual	Oppose	Written Testimony Only

Comments:

I strongly appose this bill.

The FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review.

HB-1570-HD-1

Submitted on: 3/16/2022 6:52:22 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Miguel Ortiz	Individual	Oppose	Written Testimony Only

Comments:

I appose this !!

HB-1570-HD-1

Submitted on: 3/16/2022 7:03:38 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Shane Griffin	Individual	Oppose	Written Testimony Only

Comments:

I oppose the ban of flavored and synthetic nicotine vape products. Cigarettes and tobacco products should be a bigger concern to the public.

HB-1570-HD-1

Submitted on: 3/16/2022 7:11:24 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
christina samoson	Individual	Oppose	Written Testimony Only

Comments:

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HB-1570-HD-1

Submitted on: 3/16/2022 7:51:17 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Kawailehua Kelekolio	Individual	Oppose	Written Testimony Only

Comments:

The most recently the FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review.

HB-1570-HD-1

Submitted on: 3/16/2022 8:28:09 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Bryson Mahoe	Individual	Oppose	Written Testimony Only

Comments:

Banning flavored vapes across the board is not the answer. Addressing the actual problem of kids being able to buy and obtain vapes is the answer. Increase fines for the people that sell them to or buy them for kids. Otherwise, by their logic, we should ban the sale of margaritas or flavored vodka for the same reason - and does that actually make sense?

The draconian outlawing the use of these products is very unlikely to stop the use of them. Rather, it will create a black market. Also most recently the FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review.

HB-1570-HD-1

Submitted on: 3/16/2022 9:07:11 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Aaron Fernandez	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill Because it's not fair for us adults.i think we should come to a balance between adults rights and preventing under age .there many many studies show Vaping is safer the cigarettes and Vaping saves lives .I've been Vaping for 10yrs not one time I had any lung problems .We in the vape community don't agree that these products are getting in the hands of the youth and I think parents are to blame they should monitor what your kids are doing .if this bill passes I know it's all about money #bloodmoney and big tobacco and one of you are getting paid off

HB-1570-HD-1

Submitted on: 3/16/2022 9:25:25 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Ronald Reyes	Individual	Oppose	Written Testimony Only

Comments:

As a responsible tax paying adult, we should have the right to choose available and safer alternatives to tobacco.

HB-1570-HD-1

Submitted on: 3/16/2022 9:36:16 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Victoria Romero	Individual	Oppose	Written Testimony Only

Comments:

Banning flavored vapes across the board is not the answer. Addressing the actual problem of kids being able to buy and obtain vapes is the answer. Increase fines for the people that sell them to or buy them for kids. Otherwise, by their logic, we should ban the sale of margaritas or flavored vodka for the same reason - and does that actually make sense?

The draconian outlawing the use of these products is very unlikely to stop the use of them. Rather, it will create a black market.

Government should stop mandating what adults can't and can do, and what adults can and can not have access to. We are starting to rely on the government for every single aspect of our lives and that power that we give to the government we will never get back ever.

March 16, 2022

Committee on Consumer Protection & Commerce

Rep. Aaron Ling Johanson, Chair

Lisa Kitagawa, Vice Chair

Rep. Henry J.C. Aquino Rep. Dee Morikawa Rep. Sharon E. Har Rep. Richard H.K. Onishi Rep.
Mark J. Hashem Rep. David A. Tarnas Rep. Sam Satoru Kong Rep. Lauren Matsumoto Rep.
John M. Mizuno

Honorable representatives:

My name is Diane Omura, and I am a retired health educator from the island of Maui. Kids are very gullible and even though they know that they are smoking a bunch of chemicals which will eventually kill them, if it tastes good, they will continue to experiment with new flavors and get addicted in the process. Using flavoring to lure kids is an unacceptable marketing strategy and allowing this to continue is unethical.

This is why I appreciate your attention to the role flavors play in getting youth to use tobacco products. We know that smoking cigars, cigarettes, and vaping causes chronic lung injury. We know that chewing tobacco causes oral cancers. May I urge that all flavored tobacco products be included in this bill and to disregard the added amendments. These amendments are unnecessary as the DOE already has student leadership programs in place to address vaping. In fact, students have joined us in advocating the flavor ban, in recent years. Please listen their pleas. Other amendments are used to distract from the original intent of the bill. Stay focused to the original HB 1570 to keep flavored tobacco products out of our hands of children. Thank you for your time and consideration.

Sincerely,

Diane Omura

HB-1570-HD-1

Submitted on: 3/16/2022 9:48:17 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Cerena Jaralba	Individual	Oppose	Written Testimony Only

Comments:

Banning flavored vapes is NOT the answer.

most recently the FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review.

HB-1570-HD-1

Submitted on: 3/16/2022 9:49:58 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Cassandra	Individual	Oppose	Written Testimony Only

Comments:

I am opposed of this bill because we have the right to choose what we want to do with out bodies. I rather vape than smoke cigarettes. There are no proven scientific facts that it's worse than cigarettes.

HB-1570-HD-1

Submitted on: 3/16/2022 10:16:24 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Bryan Mih	Individual	Comments	Written Testimony Only

Comments:

Aloha,

As a pediatrician and medical director of the Kapi’olani Smokefree Families Program, I strongly support this bill in its original form, which prohibits the sale or distribution of flavored tobacco products, including flavored e-liquids and menthol cigarettes. The amendments added to HB1570 are unnecessary and detrimental to the original intent of the bill.

The American Academy of Pediatrics has strongly supported elimination of flavored tobacco products, including menthol. These products have been shown to be disproportionately used by young people, especially teenagers, as the menthol and other flavors make it easier to start using tobacco and nicotine.

These products are targeted towards our keiki with flavors such as mango, bubblegum, gummy bear, and pineapple. The tobacco corporations have intentionally included menthol, which provides a soothing, cooling effect similar to that in cough drops. Menthol reduces the harsh irritation to the lining of the nose, mouth, and airways, which allows smokers and vapers to inhale more easily. This makes it much easier for young people to initiate tobacco use. The tobacco industry has a long history of marketing menthol cigarettes to youth and vulnerable groups. In Hawaii, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes.

Hawaii has one of the highest rates of middle schoolers (16%) and high schoolers (26%) currently using e-cigarettes—it is twice the national average. 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. By eliminating these products from Hawaii, we have the chance to improve the health of many, especially of our keiki.

On behalf of the keiki and young people of Hawaii, I urge you to restore this bill to its original version and remove the unnecessary amendments.

Mahalo for your consideration and support of the original version of this measure.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

HB-1570-HD-1

Submitted on: 3/16/2022 10:28:29 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Jaimie	Individual	Oppose	Written Testimony Only

Comments:

The FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this past week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review. If this is to prevent minors from using tobacco products, this is not the way to go about it. This would only make them turn to more harmful substances.

HB-1570-HD-1

Submitted on: 3/16/2022 10:48:49 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Ohashi	Individual	Oppose	Written Testimony Only

Comments:

FLAVOR BAN IS WRONG POLICY TO REDUCE HAWAIIAN YOUTH E-CIGARETTE USE

It is disingenuous for lawmakers to decry a “youth vaping epidemic,” when so little youth are using such products on a daily basis. More often than not, youth are using vapor products in social settings among peers, similar to youth alcohol use. For example, in 2017, 25.5 percent of Hawaii high school students reported using an e-cigarette on at least one occasion in the 30 days prior to the survey, compared to 24.5 percent who reported drinking alcohol on at least one occasion in the 30 days before the survey.

There is also insufficient evidence that a flavor ban will reduce youth vapor product use. The Heartland Institute analyzed results from the 2017-18 California Youth Tobacco Survey (CYTS) and found that despite flavor restrictions in some localities, youth use of e-cigarettes in those areas increased after the bans went into place.

Santa Clara County, California, banned flavored tobacco product sales to age-restricted stores in 2014. Despite this, youth e-cigarette use increased while the ban was in effect. For example, in the 2015-16 CYTS, 7.5 percent of Santa Clara high school students reported current use of e-cigarettes. In the 2017-18 CYTS, this increased to 10.7 percent

Lawmakers should also understand that youth are not using vapor products because of flavors, but rather because of peer pressure and because their friends and/or family members have used these products.

lawmakers should refrain from banning flavors tobacco products, including cigars and cigarettes, as such bans won’t reduce use and will create black markets. In a survey of menthol smokers in the journal Addiction, one-fourth of respondents indicated they would find a way to purchase, even illegally, menthol cigarettes should a menthol ban go in place! A 2015 study in Nicotine & Tobacco Research noted that only 28 percent of menthol smokers would give up cigarettes if menthol cigarettes were banned.

Lawmakers should note that a flavor ban would eliminate a million-dollar industry in the Aloha state. According to the Vapor Technology Association, in 2018, the vapor industry provided over \$100 million in economic output, with 451 direct vaping-related jobs that generated over \$18 million in wages. Further, Hawaii collected over \$9 million in state taxes attributable to vaping.

It is disheartening to see Hawaii lawmakers threaten to eliminate a tobacco harm reduction product for many, while dedicating so little of existing tobacco monies to tobacco control programs. For example, in 2019, Hawaii received an estimated \$160.3 million in revenue attributed to tobacco taxes and settlement payments. In the same year, the Aloha state dedicated only \$4.5 million on tobacco control programs, including education and prevention. To put it in a greater perspective, in 2018, tobacco companies spent \$26.1 million marketing tobacco products in Hawaii.

Lawmakers should refrain from prohibitions that will eliminate harm reduction options for adults. Although addressing youth use of age-restricted products is laudable, flavor bans are ineffective measures to reduce youth e-cigarette and tobacco use. Rather than pushing forward with draconian bans, lawmakers should dedicate more of the existing tobacco monies towards education and prevention programs.

(My opinion: You are trying to allow only the combustible cigarette companies marketing and promotion of tobacco flavored combustible cigarettes! These cigarettes have over 7000 poisons, including cyanide, and it is combustible tobacco cigarettes that are killing hundreds of thousands of tobacco smokers (both menthol and non-menthol) NOT vapor eLiquid products! While it has been scientifically proven that vaping is a 90 - 95% SAFER ALTERNATIVE to smoking tobacco cigarettes and this gives adults a choice to switch to vaping or flavored nicotine pouches, gums and lozenges! In banning flavored nicotine products for ADULTS you will be doing the tobacco cigarette companies a favor by eliminating the competition! Banning flavors WILL NOT slow the deaths from combustible cigarettes and since the youth are not using the vaping products for the flavors your ban will not slow the youth's usage of disposable vapor products via the black market.)

There is also insufficient evidence that a flavor ban will reduce youth vapor product use. The Heartland Institute analyzed results from the 2017-18 California Youth Tobacco Survey (CYTS) and found that despite flavor restrictions in some localities, youth use of e-cigarettes in those areas INCREASED after the bans went into place. Santa Clara County, California, banned flavored tobacco product sales to age-restricted stores in 2014. Despite this, "youth e-cigarette use increased while the ban was in effect." For example, in the 2015-16 CYTS, 7.5 percent of Santa Clara high school students reported current use of e-cigarettes. In the 2017-18 CYTS, this increased to 10.7 percent.

*All info is located here:

<https://www.heartland.org/publications-resources/publications/research--commentary-flavor-ban-is-wrong-policy-to-reduce-hawaiian-youth-e-cigarette-use>

HB-1570-HD-1

Submitted on: 3/16/2022 11:31:47 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Justin Kim	Individual	Oppose	Written Testimony Only

Comments:

The FDA has been granted the authority to regulate synthetic nicotine products with the Omnibus Spending Bill signed this week by President Biden and currently the FDA is requiring synthetic nicotine products to submit a PMTA for review. Banning flavored vapes is not the solution. I am someone who comes from smoking a pack of cigarettes a day, and without vaping I'd still be doing just that. The real solution comes from school and family, and not punishing local business and those using these alternatives to quit traditional tobacco products. Banning these products will not solve anything, and will just create a black market situation. The only way to stop youth from using is to make sure they're educated, and to punish those providing them with these devices/juices. This same exact argument wouldn't work for flavored alcoholic drinks so why would this pass for synthetic nicotine. Thank you for taking the time to read this.

HB-1570-HD-1

Submitted on: 3/16/2022 11:57:23 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
TIMOTHY OISHI	Individual	Oppose	Written Testimony Only

Comments:

I STRONGLY OPPOSE HB1570 which will place a ban on the sale of all flavored e-liquid that is used to provide an alternative method to help adult smokers successfully stop using combustible cigarettes. Majority of cigarette smokers who would like to stop have been unsuccessful using over the counter and prescription methods and find themselves going back to using combustible cigarettes. What works for one person might not work for the next and banning flavored e-liquid removes one of the few options that are available and successful at helping people reach their goal of getting off combustible cigarettes. Many smokers who turn to vaping to quit smoking have already tried to quit using other methods and have been unsuccessful with them.

HB1570 will force thousands of current users of flavored e-liquids back on combustible cigarettes and thousands of others will turn to the black market to meet their needs. The black market is responsible for providing minors with the access to these products and a ban on them will make the black market even bigger. In the end this bill will not stop minors from obtaining and using these products but will force thousands of adults back on to combustible cigarettes which are proven cause health problems and death. Therefore, I STRONGLY OPPOSE HB1570 and urge our legislators to seek out and talk to the vaping community and get their input that will help create a better solution to this problem.

HB-1570-HD-1

Submitted on: 3/17/2022 12:01:47 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
karizma lovet	Individual	Oppose	Written Testimony Only

Comments:

I oppose the HB1570 HD1

HB-1570-HD-1

Submitted on: 3/17/2022 12:12:48 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Ajzhen Goo	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-1570-HD-1

Submitted on: 3/17/2022 12:23:56 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
victoria macloves-calivoso	Individual	Oppose	Written Testimony Only

Comments:

I, Victoria macloves-calivoso oppose of this bill I believe that it is unfair to those of us who use it as an alternative route to quit other bad habits such as cigarettes or alcohol.

I do not see the point in banning flavored synthetic nicotine/vape products in any way when big tobacco or cigarettes is more over a worse and stronger addiction.

why chose to cut off flavored nicotine when there are flavore Alcohol &/or even cigarettes

we are all adults who are allowed to use these products if it's our body I feel it is our choice just as those who also smoke cigarettes even if there are disclaimers on how they can cause cancer it is our choice to still pick it up and purchase and if underaged nicotine consumption is high I feel like you guys need to crack down more on the people or companies allowing the underaged to get their hands on these products and not punish the adults or companies following the laws, rules, and regulations. Thank you

HB-1570-HD-1

Submitted on: 3/17/2022 12:28:34 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Jensen Sipe	Individual	Oppose	Written Testimony Only

Comments:

I Jensen Sipe oppose this bill to ban flavored vapes. The problem isn't the flavors but the parents and illegal sales to minors which occurs outside of a licensed vape company and store. I personally think there should be more strict punishment and fines for those who buy, sell and give flavored vapes to minors instead of completely banning flavored vape. After doing a lot of reserch vape products are indeed much healthier than tobacco products. And lets be honest here... It's the big tobacco companies that really have a problem with flavored vapes.

HB-1570-HD-1

Submitted on: 3/17/2022 1:33:57 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
shazail fatiaki	Individual	Oppose	Written Testimony Only

Comments:

Banning flavored vapes across the board is not the answer. Addressing the actual problem of kids being able to buy and obtain vapes is the answer. Increase fines for the people that sell them to or buy them for kids. Otherwise, by their logic, we should ban the sale of margaritas or flavored vodka for the same reason - and does that actually make sense?

The draconian outlawing the use of these products is very unlikely to stop the use of them. Rather, it will create a black market.

Government should stop mandating what adults can't and can do, and what adults can and can not have access to. We are starting to rely on the government for every single aspect of our lives and that power that we give to the government we will never get back ever.

HB-1570-HD-1

Submitted on: 3/17/2022 2:19:51 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Khahlil L	Individual	Support	Written Testimony Only

Comments:

I can't say that display packaging and over all marketing of devices are the cause impacted communities and demographic spectrum nor of revenue loss for the State of Hawaii and its organizations. I AGREE, Though I'm not sure the focus of this bill is refined enough to be beneficial and supportive to the people of Hawaii.

Senate Health and Education Committee

Hawaii Legislature

March 18, 2022

Hearing on Bill 1570

**Prepared Testimony By:
Rich Marianos
Retired Assistant Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
Professor Georgetown University
Senior Law Enforcement Consultant for RAI Services Company**

Legislators:

As you know, there is currently dangerous legislation in Hawaii on the prohibition of flavored tobacco products, that to include the sale of vapor products. The state is attempting to create a prohibition in this environment and will provide an easy to way for smugglers to ship interstate products crossing state lines to sell, trade, and barter among the criminal market. Currently with the recent consideration by Hawaii in banning the sale, the state is creating a breeding ground in vulnerable communities that will increase illicit activity and increase interaction with law enforcement.

From a law enforcement perspective, this legislation will create a greater gap between police and the community, known as the Ferguson effect. Police will be forced to deal with the side-effects of this legislation rather than serving and protecting the community. The community will witness this as a waste of law enforcement resources—or harassment—and refuse to cooperate with investigators on real issues. More and more each day, the community will begin to lose trust in law enforcement.

A ban on the sale of flavored products but not the possession of those products has led to increased smuggling into all over the United States. This has also led to an increase in other criminal activity. As time passes, Law enforcement doesn't have the resources to engage with an influx of criminals and the court system doesn't have the resources to take on additional caseloads. At the same time, police overtime doesn't exist to pay for the additional burden. Obviously, for police to devote a larger share of resources to one area or problem, they must divert resources from other areas and problems.

Disparities in local ordinances can provide huge profit opportunities criminals. For example cigarettes, a tractor trailer smuggling 800 cases of cigarettes (48,000 cartons) from Richmond Virginia, to Boston, continually grosses profits more than over \$1.1 million. Smugglers coming from even further out—such as St. Louis, Missouri—have an even larger windfall when smuggling cigarettes. Factor in the potential

smuggling from not only outside states but outside republics, and Hawaii will create a perfect storm for criminal activities.

With the influx of commercially smuggled tobacco products from criminal entities comes a potential increase in violent crime. Those who participate in large-scale smuggling are often involved with other forms of illicit activity. Recently, the state of Rhode Island realized that the movement of illicit tobacco products into their state has resulted in an increase in violent criminals traveling to the state to sell illicit product from Virginia and other lower-tax jurisdictions. Rhode Island lawmakers have taken a firm stand against smuggling to thwart the influx of violent criminals entering the state.

And let me be clear: Those who smuggle tobacco products do not attempt to age-verify those purchasing their illicit product. This will place Hawaiian youth in a precarious position and could jeopardize the efforts to date to prevent youth from vaping and smoking.

I strongly urge the committee to study what is occurring with regard to criminal tobacco trafficking their sales, enforcement and the operational needs of the distribution community. Voting to support this ban and please use the revenue to enhance the safety of the state's citizenry.

HB-1570-HD-1

Submitted on: 3/17/2022 8:38:29 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Rojelle Bohol	Individual	Comments	Written Testimony Only

Comments:

Aloha,

I am writing to support the original HB1570 language and intent. I request that any unnecessary ammendments made to HB1570 be removed.

Smoking and e-cigarette use can negatively affect health, whether it is from direct use or secondhand smoke. Tobacco and e-cigarette products are used both by adults and youths. Tobacco companies try to get more people to use their products through marketing and providing flavors. Flavors make young people especially curious about their products because they might seem more appealing. As a result, youths might want to start smoking due to the availability of these flavors. However appealing they may seem, e-cigarette products still contain nicotine, which is addictive!

This issue is a concern for all people regardless of age. Please stop the Youth Vaping Epidemic, protect people in our state, and pass the original HB1570.

Mahalo,

Rojelle Bohol

HB-1570-HD-1

Submitted on: 3/17/2022 8:45:29 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Jonah K Manuel	Individual	Oppose	Written Testimony Only

Comments:

Aloha Board,

Please OPPOSE Bill hb1570. We need to stop with flavor ban's and tax increase that only hurt law abiding adults. Instead stiffer penalties for under age use and possession of vape products like so of alcohol would put a big dent in underage use.

HB-1570-HD-1

Submitted on: 3/17/2022 9:16:33 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
mac	Individual	Oppose	Written Testimony Only

Comments:

I oppose to this bill , I think everybody has there own options to choose.

March 17, 2022

To: Senator Jarrett Keohokalole, Chair, Senator Rosalyn H. Baker, Vice Chair and members of the Senate Committee on Health
Senator Michelle N. Kidani, Chair, Senator Donna Mercado Kim, Vice Chair and members of the Senate Committee on Education

Youth tobacco use is personal for me, it impacted my boyfriend who started to smoke at a young age. He finally quit at age 20 but started when he was a freshman in high school. Like many of our peers at the time he started with a Juul e-cigarette. And like many, it wasn't long before he was also smoking menthol cigarettes. It took him years to quit but he finally did. I am thankful for that, hopefully he does not have any health problems as he gets older.

The availability of flavored tobacco products negatively impacts the youth of Hawaii by being readily available for them to buy and smoke. Flavored tobacco products are clearly targeted at students as young as middle school, just look at the flavors that are available. These flavors make middle schoolers want to try tobacco products.

I think e-cigarettes need to be regulated like other tobacco products in order to stop students from transitioning to smoking, like my boyfriend.

Please pass HB 1570 but remove the amendments that are not related to ending the sale of all flavored tobacco products. Help keep our young people from starting a potentially lifetime of addiction through the use of flavored tobacco products.

Bailee Otto

Date: March 17, 2022

To: Senator Jarrett Keohokalole, Chair, Senator Rosalyn H. Baker, Vice Chair and members of the Senate Committee on Health
Senator Michelle N. Kidani, Chair, Senator Donna Mercado Kim, Vice Chair and members of the Senate Committee on Education

Re: Comments on HB1570 HD1

I favor a ban on all flavored tobacco products, especially e-cigarettes. It's much easier for children to get hooked on a tobacco product if the product is flavored. Flavors are designed to draw children in and Big Tobacco companies try to use flavors to get children to use tobacco products. These flavors are specifically marketed towards kids, with flavors like POG and Tropical Blast. This is wrong and needs to be stopped.

97% of children who vape say that they use a flavored product, and 81% of children who use tobacco products say that they started with a flavored product. A common flavor is menthol, or mint. Other names (marketed towards children) are things like Ice and Chill. Menthol is an extremely popular way for youth to start vaping, because its cooling properties mask the harshness of the tobacco. This makes it much easier for them to start!

All in all, we need a flavor ban to protect the lives of children. Over 21,000 youth alive today will die from a tobacco related health issue. Banning the sale of flavored tobacco is a crucial step to reducing that devastating number. Please return HB1570 to its original form and remove the poison pill amendments.

Karena Meyermann
Mililani

To: Senator Keohokalole, Chair
Senator Baker, Vice Chair
Members of the Committee on Health

Senator Kidani, Chair
Senator Mercado Kim, Vice Chair
Members of the Committee on Education

I am writing today in support of the original text of HB 1570.

So many of my peers have easy access to tobacco products. The flavor of these tobacco products tend to appeal to my age group as a teen. I have seen this vaping epidemic take over high schools. Countless times I have seen my peers vaping in the bathroom, and I smell the strawberry or mint flavored product fill the air. I have seen my peers get sick and/or deal with lung problems from smoking.

The availability and the targeting of these products has caused such great harm to Hawaii youth, and I want to see accountability from Big Tobacco who fuels this harm.

The amendments made to HB 1570 HD1 have nothing to do with ending the sale of flavored tobacco which was the original intent of this bill. They do not represent the youth voice and will not help protect our health, they seem to be solely there to make sure the bill doesn't pass and leave the door open to inclusion of other unrelated amendments.

Please remove the amendments and pass HB 1570 with its original language and help protect our youth from being targeted by Big Tobacco.

Sincerely,
Misa Layne
Honolulu

Senator Keohokalole, Chair
Senator Baker, Vice Chair
Members of the Committee on Health

Senator Kidani, Chair
Senator Mercado Kim, Vice Chair
Members of the Committee on Education

My name is Jaelyn Natividad and I am writing in support of HB 1570.

The availability of flavored tobacco products negatively impacts youth and other targeted groups by enticing these innocent people to purchase these harmful products. This being said, the more flavored tobacco is available in the community, the greater the increase of tobacco uses that occurs.

The importance of menthol flavors being in the ban for both e-cigarettes and other tobacco products is because menthol flavors are some of the most popular and are what attract people to purchase these products. If you think about it and relate it to food, many people want different varieties or flavors of food. E-cigarettes are no different; there is a flavor to appeal to every taste like Bubblegum, Hawaiian POG and Cotton Candy.

I believe that we need to regulate e-cigarettes as much as other tobacco products due to the harmful nicotine in these products that can result in a lifetime addiction by getting rid of all flavored tobacco products.

To: Chair-Senator Keohokalole
Vice Chair-Senator Baker
Members of the Committee on Health

Chair-Senator Kidani
Vice Chair-Senator Mercado Kim
Members of the Committee on Education

Testimony in support for HB1570

The availability of flavored tobacco products negatively impacts youth and other targeted groups. Flavors make tobacco products more appealing to youth, and overall help the industry gain more underaged consumers.

Youth are subject to marketing with images ever present on social media and on shows on streaming services popular with youth. Youth easily become aware of who is able to supply them with these products.

While in the stall using the bathroom, the smell of sweet perfume with the mix of menthol flavors fills the air. It is important to me that menthol flavors be included in the ban for both e-cigs and other tobacco products because, youth are youth. To elaborate, youth are constantly attracted to the newest products through marketing. But, youth will be less likely to use a product that is unflavored and not one able to deliver that desired "Chill", "ICE" or "Frozen" flavor that menthol ads. By eliminating all flavors, including menthol, you eliminate products that attract new underage users.

In high school it is extremely normalized to have an e-cig addiction, with the same kind of constant use that was seen in adolescents from previous generations with cigarettes. It took decades to pass legislation to protect youth from flavored combustible cigarettes and menthol is still allowed. The result, while youth smoking rates declined, we still see 1,400 deaths a year in Hawaii from tobacco related illnesses. I think it is time to put in place laws that will protect this generation of youth from becoming addicted to nicotine via e-cigs. We need to protect our youth from being targeted by flavored e-cigarettes and finally get rid of menthol cigarettes too.

Please pass HB1570 and help protect my friends from a destructive future.

Shaneille Ramos
Keaau, Hawaii

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair

Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON EDUCATION

Senator Michelle N. Kidani, Chair

Senator Donna Mercado Kim, Vice Chair

My name is Carissa Angelize Esta and I **support HB 1570 but not the amendments that do not relate to banning flavored tobacco products.**

The reason this bill is so important to me is that I have a few adults in my family who have been using tobacco products since a young age, and now cousins around my age who are getting into it. It is sad to see that they are aware of the impact of tobacco on their bodies, but still dismiss it. Many of them smoke or use other tobacco products every day.

I had an uncle who quit, but ended up turning back to chewing tobacco when a loved one passed away. I do not believe that tobacco is a way of escape or a way to relax. I see it as a threat to the human body.

I have a cousin that I know uses e-cigarettes. I have also seen my fellow classmates and even younger classmen around sixth grade who use e-cigarettes. Our generation is always changing, we seem to be growing up too quickly, and we all want to find our place to fit into. I do not think the use of tobacco products is the best way for the younger generation to try and fit in. E-cigarettes are as bad as other tobacco products. Nothing about tobacco products is safe.

With so many flavors out there, including menthol, I feel the availability of flavored products makes it more of a temptation for those starting out or thinking about starting. Please help end the sale of **all** flavored tobacco products and pass HB 1570 with its original language.

To: Chair-Senator Keohokalole, Vice Chair-Senator Baker and members of the Committee on Health

Chair-Senator Kidani , Vice Chair-Senator Mercado Kim and members of the Committee on Education

My name is Kaya Pettit and I support the original text and intent of HB 1570.

Flavored tobacco products expose and hook people to nicotine from a young age. This affects them mentally and physically. E-cigarettes in particular contain high amounts of nicotine, increasing the risk of addiction. Nicotine alters the developing brain of youth and young adults, affecting things like memory and self control. Not just that, tobacco products can cause other problems such as lung and cardiovascular diseases.

Flavors, including menthol have been used by the tobacco industry to target their deadly products towards certain groups of people and younger possible consumers. It allows for people to get easily started and hooked on these addictive and harmful products, and ends up creating a lot of health problems for our generation.

It's not the youth's fault for getting addicted. While it may have been their decision to start, it is often because of peer pressure and the marketing specifically aimed towards youth that enticed them into starting. We shouldn't penalize the youth for falling for the traps of companies targeting them, rather focus on how to avoid getting them started in the first place. Ending the sale of all flavored tobacco products is a good place to start.

COMMITTEE ON HEALTH
Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON EDUCATION
Senator Michelle N. Kidani, Chair
Senator Donna Mercado Kim, Vice Chair

I am writing today in support of the original HB 1570 language.

Flavored tobacco traps youth into wrongly devoting their lives to the craving of tobacco and can lead to bad mental and physical health which can carry on into adulthood. Flavors, including menthol wrongly make tobacco products more viable for the youth who could end up addicted to the product.

The damage and addiction that results from the use of cigarettes and other tobacco products are the same as that of e-cigarettes. We don't allow candy flavored cigarettes, why do we allow candy flavored e-cigarettes? We also need to close the menthol loophole as this sweet flavor is the most popular with youth in cigarettes and e-cigarettes.

Don't let another generation of youth fall prey to the tobacco industry, end the sale of **all** flavored tobacco in Hawaii.

Ethan Kimura
Hawaii Kai

Senator Keohokalole, Chair
Senator Baker, Vice Chair
Members of the Committee on Health

Senator Kidani, Chair
Senator Mercado Kim, Vice Chair
Members of the Committee on Education

I ask that you **support HB 1570 but remove the unnecessary amendments that do not help protect kids.** The availability of flavored tobacco products negatively impacts youth and other targeted groups in that they use candy-like flavors to trick youth and create an image of these dangerous products being seen as candy, or something good. These tobacco products also stigmatize and take advantage of our native culture to sell certain flavors like Mauna Dew, and Hawaiian POG.

While attending my public school middle school almost every single time I walked into the bathroom there was somebody vaping. Recently a couple of my neighbors had to go to the hospital because of their e-cigarette addiction, and it hurts to see children like me suffer due to these dangerous products taking advantage of them.

I also believe it's important that menthol flavor should be included in the ban for both e-cigarettes and other tobacco products because menthol is the most commonly used flavor, in particular among Native Hawaiians like myself.

Chanel Matsumoto

Date: March 17, 2022

To: Chair-Senator Keohokalole, Vice Chair-Senator Baker and members of the Committee on Health

Chair-Senator Kidani , Vice Chair-Senator Mercado Kim and members of the Committee on Education

Re: Support for HB 1570

My name is DeAngelo Joshua and I urge you to **support HB 1570 original language and goals**. I come from a family with a history of substance abuse and I would hate to see my little nieces and nephews get affected by the same fate. Currently, the availability of flavored tobacco products is ridiculous and impacts all youth across the state.

Some people believe that flavored e-cigarettes are “healthier” to use. However, they are just as bad, and even worse in some cases. The list of chemicals contained in e-cigarettes are concerningly long, with some mixtures/flavors having nicotine concentrations higher than combustible cigarettes, making them even more addictive. Menthol flavors of e-cigarettes is one example, with them often being more addictive than non-flavored counterparts, due to its cooling sensation.

For the sake of our youth, now and in the future, please pass a clean HB 1570.

DeAngelo Joshua Ola
Kauai

To : Chair Keohokalole, Vice Chair Baker and members of the Committee on Health. Chair Kidani , Vice Chair Mercado Kim and members of the Committee on Education

Support for HB 1570

Flavored tobacco products negatively impact youth by basically giving them a delivery system for toxic chemicals inside their body. Menthol is of particular concern in e-cigs and cigarettes. Please end the sale of all flavored tobacco products in Hawaii.

Kyllie Sasaki

Hawaii

March 17, 2022

Senator Keohokalole, Chair
Senator Baker, Vice Chair
Members of the Committee on Health

Senator Kidani, Chair
Senator Mercado Kim, Vice Chair
Members of the Committee on Education

Flavored tobacco products hook youth. Most young people start vaping using flavored products and become addicted. It is important that menthol flavors are included in the ban because they are what get youth interested in consuming tobacco and e-cigarettes. The vibrant packaging and interesting flavors are what draw most young people in.

I avoid using the school bathroom during recess because of people vaping. Lots of my classmates actively vape or have tried vaping. As a result, they become addicted and their health is affected, mentally and physically.

Please help put an end to this and stop the sale of flavored tobacco products in Hawaii. Support the original HB 1570 purpose.

Lauryn Hashimoto

March 17, 2022

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair

Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON EDUCATION

Senator Michelle N. Kidani, Chair

Senator Donna Mercado Kim, Vice Chair

Aloha my name is Kaidyn Yago and I am a sophomore at Kauai Highschool. I support HB 1570. Many of my fellow peers and friends have tried flavored e-cigarettes already in their life. I have even been offered them but have never tried. It has become a constant problem for teens and students in my school.

Please support HB 1570 and help protect Hawaii's youth.

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON EDUCATION

Senator Michelle N. Kidani, Chair
Senator Donna Mercado Kim, Vice Chair

I supported HB 1570 because flavored tobacco products affect youth and are used to target certain groups. These products are “attractive” to the youth and cause teens to get addicted at a very young age. Classmates of mine **as young as 11** are using e-cigarettes they got online.

When I was 9, my grandfather passed away from lung cancer as a result of smoking. Knowing now that classmates of mine use e-cigarettes and tobacco products breaks my heart because I know this will take a toll on their health in the future.

It is important to include menthol in the ban in both vapes and cigarettes so youth do not switch from one to the other. Tobacco products cause enough deaths as it is, we don't need flavors targeted towards youth, it can cause serious problems for the future.

I hope that you will help my generation and community to be safe from these products and live healthy lives by ending the sale of all flavored tobacco products in Hawaii. Please remove the amendments that are not needed to pass a flavor ban bill and support the original purpose of HB1570

Neva Leung

Senator Keohokalole, Chair
Senator Baker, Vice Chair
Members of the Committee on Health

Senator Kidani, Chair
Senator Mercado Kim, Vice Chair
Members of the Committee on Education

My name is Caleb and I am writing in support of HB 1570 in its original version.

Currently, the perception that some youth have about e-cigarettes makes kids want to try vaping. Once they do, like many other types of tobacco products, they become addicted. Flavors play a big role in this. For the past few years in older grade levels, I have been seeing kids that I would never expect to vape. Recently, this problem has spread amongst kids the same age as me.

Some kids believe that smoking e-cigarettes can help relieve stress, especially due to the pandemic and having to adapt to virtual learning. However, e-cigarettes are not a healthy alternative. If we do not regulate them now, e-cigarettes will continue to negatively impact our generation and leave us with terrible health effects later down the line.

Again, I ask you to please remove the unnecessary amendments and support HB 1570 original purpose.

Caleb Plowman
Lihue

Date: March 17, 2022

To: Senator Keohokalole-Chair, Senator Baker-Vice Chair and members of the Committee on Health

Senator Kidani-Chair, Senator Mercado Kim-Vice Chair and members of the Committee on Education

Re: Comments on HB 1570 HD1

Dear Senators,

My name is Nigel and I would like to share why I **support the original HB 1570**.

I know many students from my high school who are impacted by e-cigarettes. Many who start vaping have become addicted and abuse it. It breaks my heart to see other young people my age deal with addiction, which I know will only get worse. However, this problem is not just found in my school, but practically all schools across Hawaii. I even see on my Tiktok that teens are vaping all the time.

Flavors play a big role in why students try e-cigarettes and other tobacco products, so it's important that all tobacco products and flavors are included. Menthol in particular gets so many students addicted, creating a new generation where nicotine is normalized.

Unless action is taken now, the devastating outcomes that we know go along with tobacco use may be irreversible. It is important that we address e-cigarettes right now and pass this important piece of legislation.

Nigel Agcaoili

Senator Keohokalole, Chair
Senator Baker, Vice Chair
Members of the Committee on Health

Senator Kidani, Chair
Senator Mercado Kim, Vice Chair
Members of the Committee on Education

Comments on HB 1570 HD1

E-cigarettes should be regulated the same as other tobacco products because they have dangerous chemicals that can be inhaled. They are also as addictive as other tobacco products. The availability of flavored tobacco in general negatively impacts youth or other targeted groups by tricking them into buying more tobacco products. It entices them and lures them in with flavors and hooks them onto using tobacco. Menthol flavors must be included in the ban for both e-cigarettes and other tobacco products because they are the sole reason why so many of our youth start using them in the first place.

My uncle frequently vapes and it affects his household. His house always smells like the thick, sweet, cotton candy vape juice. I think it spreads a message to his kids that it's ok to start vaping. It seems like almost everyone I know vapes because of how easy it is to obtain one.

Youth are the victims of the marketing scams that e-cig companies put out. They are just caught in the act and these companies are putting out more flavors to make more money. The health and well-being of the youth are not being considered. Please support HB 1570 without the current amendments.

Jeanine Longboy

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON EDUCATION

Senator Michelle N. Kidani, Chair
Senator Donna Mercado Kim, Vice Chair

I supported HB 1570 because kids are getting more and more addicted to tobacco products because of the lack of regulations, in particular all of the flavors that are available.

My best friend vapes, he has stopped coming to church and started doing more and more drugs and it's because he has access to purchase these supplies. And he only buys FLAVORED pods.

The ease of purchasing e-cigarettes online means anyone can buy it and anyone can use it. Please help protect Hawaii's keiki and support HB 1570 original purpose to end the sale of all flavored tobacco products.

Savannah Hubbard

Chair-Senator Keohokalole
Vice Chair-Senator Baker
Members of the Committee on Health

Chair-Senator Kidani
Vice Chair-Senator Mercado Kim
Members of the Committee on Education

RE: **Comments on HB 1570**

My name is Marissa Matsushige. We need to regulate e-cigarettes and other tobacco products to save the lives of those that are affected by this. Flavored tobacco products can easily hook the youth thus resulting in a higher chance in addiction.

On a daily basis in the school bathroom I notice people vaping. I choose to block out and ignore that aspect of school. I don't appreciate the second hand smoke and other things that affect myself and others that don't participate in smoking, but I have no choice but to be subjected to it.

In my community a lot of people are affected by this and they could potentially be harshly affected by the health risks. Tobacco is easily accessible with many menthol flavors, masking the harsh flavor of the tobacco products thus, making it easier to be addicted.

The companies that make and sell these products should be held accountable for their actions which negatively affect the youth. **I urge you to remove the onerous amendments and return to the original language of HB 1570.**

Senator Keohokalole-Chair, Senator Baker-Vice Chair and members of the Committee on Health

Senator Kidani-Chair, Senator Mercado Kim-Vice Chair and members of the Committee on Education

I supported HB 1570 because the availability of flavored tobacco negatively impacts youth by deceiving them with packaging and flavors similar to name brand candies and cereals. By the time they first try vapes, they are hooked, and are forced to continue to profit the tobacco and e-liquid market.

Although I do not have any personal connections to this issue, I realize that it is a massive issue in the community of Hawaii, and although it may sound foolish, I want to protect the rest of the community who remain untouched by this epidemic. There are kids who are just 11 years old and have already started using tobacco and e-liquid products! This needs to be solved, and the only way to is to create hard and fast rules for tobacco companies to follow.

It is important to me that menthol flavors are included in the ban for both e-cigarettes and other tobacco products because they are just as addictive, if not more! They are also targeting youth and Native Hawaiians with menthol, a market that may be unaware of the health consequences. Tobacco and e-liquid companies are specifically targeting them, knowing they will fall for the traps they set. These companies are the ones who need to be punished for hooking our people, all to make a profit.

Please return HB 1570 HD1 to its original language by removing the amendments that were made in the House.

Thank you for the opportunity to submit testimony.

Eden Thompson

March 17, 2022

Chair-Senator Keohokalole
Vice Chair-Senator Baker
Members of the Committee on Health

Chair-Senator Kidani
Vice Chair-Senator Mercado Kim
Members of the Committee on Education

Support for HB 1570

Flavored tobacco products are the most effective when it comes to hooking and intriguing the interest for younger groups. For health concerns, it is important to ban menthol flavors in both e-cigarettes and other tobacco products due to the industry using menthol to target younger groups, being unaware of the health risks they are taking.

During my time in high school, many of my peers believed e-cigarettes are a healthy alternative to smoking cigarettes or other tobacco products. Due to their ignorance, many have ended up being treated in the hospital for poor lungs.

Please protect our youth and end the sale of all flavored tobacco in Hawaii

Aron Taguam

COMMITTEE ON HEALTH
Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON EDUCATION
Senator Michelle N. Kidani, Chair
Senator Donna Mercado Kim, Vice Chair

I am writing in support of the original HB 1570

Youth are more likely to fall victim to e-cigarettes and other tobacco products because of their flavors and easy access. Vaping is a problem at my school, and bathrooms are almost always filled with vapor. Second hand smoke is a problem to me and many other students. Bathrooms are hardly usable during breaks. Flavors tempt youth to want to try tobacco products of all types. And it can only take once for some youth to get addicted. I possible life long addiction with many harmful effects on the body

Easy access has made it simple to try, and once you do, get addicted. Not only is their health affected but their financial situation could be at risk too. Given the total cost of a lifelong addiction.

The youth is the victim in this case. More penalties won't have much of an effect on the people who are addicted or people who don't think they will get caught. Also the toll on their bodies is a major penalty by itself. We need to focus on the industry and stop the sale of all flavored tobacco products in Hawaii.

Tanner Hubbard
Kauai

Senator Keohokalole-Chair, Senator Baker-Vice Chair and members of the Committee on Health

Senator Kidani-Chair, Senator Mercado Kim-Vice Chair and members of the Committee on Education

I am writing to ask for your support for HB 1570 with its original purpose and ask that you remove the amendments that are unnecessary for a ban on all flavored tobacco.

My name is Kirra Carvalho. I believe we need to end the sale of all flavored tobacco products because they have similar negative effects on our bodies. The availability of flavored tobacco products negatively impacts youth and other targeted groups because it makes it easy for them to access and try it. When they soon become addicted, they will continue to get more and more. It is important that menthol flavors be included in the ban for both e-cigarettes and other tobacco products because they are just as much a flavor as any other one. It still has the same negative effect and should be banned.

My younger sister, who is a 7th grader, came up to me one day and said she found out so many of her classmates vape. I thought that was crazy because she's so young and I couldn't believe kids her age were vaping.

I support the stance that youth penalties should not be included in flavor ban bills because for these young students it is their time to learn. We want to help them quit and show them the harmful effects of it. Not punish them for falling victim to an industry that targets them.

Date: March 17, 2022

Senator Keohokalole, Chair
Senator Baker, Vice Chair
Members of the Committee on Health

Senator Kidani, Chair
Senator Mercado Kim, Vice Chair
Members of the Committee on Education

Support HB 1570

I believe we need to end the sale of all flavored tobacco products since these products are relatively cheap and easily accessible which makes youth more vulnerable. They are highly addictive and can cause many illnesses that youth may not be aware of. Tobacco products cause many of the same health effects and one isn't better than the other. They all end in pain or death.

My best friend is majorly affected by vaping and I wish he could come to terms with his addiction and quit. Banning all flavored tobacco and regulating vapes like other tobacco products would be a big help to him and many others. These kids don't understand the purchase they are making and how detrimental it is to their health. I urge you to support legislation to ban all flavored tobacco.

Maddison Hubbard

Chair-Senator Keohokalole
Vice Chair-Senator Baker
Members of the Committee on Health

Chair-Senator Kidani
Vice Chair-Senator Mercado Kim
Members of the Committee on Education

Support HB1750 but remove the amendments and return to the original language of the bill.

Students and my peers should not be addicted to tobacco products this young when they still have the rest of their life to live and tobacco products could overtake that life. Flavored tobacco products help get them to try and become addicted when young, it could affect them for the rest of their life.

This is personal for me, my brother is addicted to e-cigarettes. I can tell it affects his exercises, and if flavors were banned and e-cigarettes controls were put in place, there would have been less of a chance he would've gotten addicted in the first place.

Many teenagers now can get a hold of e-cigarettes without an ID or a parent even knowing. E-cigarette companies cater to a younger audience, please control these products like other tobacco products and help protect kids like my brother.

Leia Mokiao-Higashi
Lihue

Senator Keohokalole-Chair, Senator Baker-Vice Chair and members of the Committee on Health

Senator Kidani-Chair, Senator Mercado Kim-Vice Chair and members of the Committee on Education

Please support the original language of HB 1570

Among the many issues of e-cigarettes and other flavored tobacco products, there is one that sticks out: The availability of these flavored products and how it can have a long-lasting impact on youth. Menthol flavors cover the harsh taste of e-cigarettes and other tobacco products alike and causes adolescents to get addicted to the taste of tobacco products.

The deaths and hospitalization of children who consume e-cigarettes has increased and as long as there is cheap and easy access to flavored tobacco, it will only grow. **Please ban the sale of all flavored tobacco products**

Jacob Trujillo

March 17,. 2022

Senator Keohokalole, Chair
Senator Baker, Vice Chair
Members of the Committee on Health

Senator Kidani, Chair
Senator Mercado Kim, Vice Chair
Members of the Committee on Education

RE: Support for HB1570 in its original form

By making flavored tobacco products available, teens are being drawn to and marketed towards which can lead to addiction to tobacco products. As we know, tobacco has major negative health effects including lung, heart, and brain problems. Naturally, youth and other people who aren't educated on the effects of tobacco would be curious to try flavored products, and thereby get hooked.

Although I am not a user of tobacco products, in my freshman year of high school, I had several classmates have allergic reactions to their vapes, as well as a friend faint due to the amount that they were using e-cigarettes. I remember being scared and incredibly concerned for these people, as I talked to them in my day to day life. I knew of the health concerns, but I had never seen them laid out right before my eyes. I knew that I was making the right choice by continuing to not vape, and that I wanted to help others quit.

I can tell that the many flavors and ease of access has created a boom in the amount of people who use e-cigarettes. I see people walking down the street in possession of one, and I've seen several people easily buying them on their cell phones. Banning flavors including menthol flavors is important because if only e-cigarettes and not other flavored tobacco products are banned, then that leaves menthol products available, meaning that targeted audiences will still have access to them and just switch. It seems pointless to only remove a portion of the problem.

Kiele Casillas
Kalaheo

Senator Keohokalole-Chair, Senator Baker-Vice Chair and members of the Committee on Health

Senator Kidani-Chair, Senator Mercado Kim-Vice Chair and members of the Committee on Education

Please support HB 1570. The availability of flavored tobacco products negatively impacts youth because it attracts younger kids, the packaging of flavored tobacco products also makes the younger kids have a sense of familiarity when they see names like POG, Bubble Gum or Cotton Candy.

Tobacco or the use of e-cigs have impacted one of those around me. My step brother. He was hit by the popularity wave of e-cigs. Many people in his grade were taken in, he's in high school and has been put under the pressure of owning an e-cig, just to feel the need of fitting in.

With countless flavors, relatively easy access to e-cigarette purchases online combined with the low cost have negatively impacted my community because it is now common to see my peers vaping or having an e-cig.

I think that it is important to protect the youth from harmful substances/products, because youths still have a lot ahead of them. Please support HB 1570, Hawaii's keiki are depending on you.

Mikayla Lumabao

Kalaheo

Aloha, Senator Keohokalole-Chair, Senator Baker-Vice Chair and members of the Committee on Health, Senator Kidani-Chair, Senator Mercado Kim-Vice Chair and members of the Committee on Education

I am writing in support of HB 1570. Flavored tobacco products get kids hooked on nicotine at a very young age which can lead Hawai'i's youth to have ongoing health problems later in life and can get kids in trouble. Students get addicted to the menthol flavor because it masks the taste of tobacco. Flavored tobacco (including menthol) does the opposite of helping kids get rid of their addictions.

I've seen many of my own friends become addicted to e-cigarettes because of the flavors and advertisements targeted towards kids. When I walk into the bathroom at school, it is very normal to see a group of people passing around an e-cigarette in the stalls because they're addicted. If flavored tobacco was banned, students would not be as interested in these products, which could lead to a lower rate of addiction.

Youth penalties should not be included in bills because in most instances, using e-cigarettes is a form of peer/social pressure that students give into. The kids giving into peer pressure to seem "cool" form an addiction to these nicotine products. Instead of punishing kids for giving into these pressures, end the sale of all flavored tobacco products that attract and hook kids.

Thank you for the opportunity to provide my testimony.

Kailee Oyama
Lawai

Chair-Senator Keohokalole
Vice Chair-Senator Baker
Members of the Committee on Health

Chair-Senator Kidani
Vice Chair-Senator Mercado Kim
Members of the Committee on Education

RE: Comments on HB 1570

Flavors hook kids. The fact that big tobacco companies are using such sweet flavors shows that they know young teens and young adults are more likely to try it. All of their flavors should speak for themselves, they know what age demographic is most likely to be impressionable and interested in their products.

Menthol is a sweet flavor of particular concern, it opens up your lungs. When it's inhaled, menthol can reduce airway pain and irritation from cigarette smoke and e-cigarettes aerosol, it suppresses coughing, giving users the illusion of breathing more easily. When big tobacco products use menthol, they are making sure more nicotine is inhaled. This is setting up millions of young teens for addiction.

Teens are hooked in by the flavors big tobacco companies offer. Some are misinformed and under the impression that vaping calms you down and lowers anxiety. e-cigarettes are leaving young teens addicted, depressed, and anxious. When adolescents use nicotine products it harms the parts of the brain that control attention, learning, mood, and impulse control. Nothing good can come from flavored tobacco products being accessible to our communities.

On a personal note, there was a girl about my age in my drivers Ed class, she was 15 or 16 years old. I noticed that she was going to the bathroom a lot. I dismissed this at first, and then noticed that the guy sitting next to her was sneaking her a vape pen whenever she would use the bathroom. At first she was going to the bathroom every half an hour or so. Then she started missing so much of the class, she was leaving every ten minutes. She missed so much class that she failed and had to reschedule to retake the class all over again.

After class as we were all waiting outside to be picked up, she would keep asking to use this guy's vape pen. He kept telling her no, he knew the dangers of nicotine products and vaping and told her that he was going to quit and that she shouldn't be vaping in the first place. After asking a few more times she started begging him to use it and tried to take it from him.

Now that I've seen first hand what nicotine products can do to people; I want to do everything I can do to advocate for the young teens out there who have been through this. I want to make sure that all teens are aware of the damage that this causes physically and mentally. But we need your help too!

Ending the sale of all flavored tobacco, as was the original intent of HB1570, would go a long way to keeping new youth from starting to use tobacco products. Please return HB1570 HD1 to its original language.

Sydney Ryan
Kapolei

Flavored tobacco products negatively impact teens, new flavors keep coming out that they keep wanting to try. The chemicals that are in the flavoring might be even worse than the original thing.

Tobacco products are bad for your lungs and can give you lung cancer

Please end the sale of all flavored tobacco products.

Kyle F.
After-School All-Star
Waikiki

My name is Laisha and I'm in middle school.

We need to end the sale of all flavored tobacco because youth wants to taste the flavor. It's important to include menthol so they don't smoke more and more.

It's not healthy for kids. When i'm at school I walk into the bathroom everyday and their is people in the bathroom that vapes. Please help protect us.

Latisha
After-School All-Star
Keaau Hawaii

Flavored Tobacco hooks the youth when they try the flavored tobacco products, without them knowing the problems behind trying them. It is important that menthol flavors are included to be in the ban for both e-cigarettes and other tobacco products because menthol is a popular flavor for kids.

Please stop the sale of all flavored tobacco, we are counting on you to protect us.

Kristine
After-School All-Star
Kalihi

I don't want flavored tobacco because it may taste good. I never tried it because it has many bad chemicals in it, also because your lungs are compromised by the vape juice because of the chemicals in it. Please protect our keiki from tobacco.

C.H.

After-School All-Star

Nanakuli

The availability of flavored tobacco products negatively impacts youth by getting them addicted early so the vape companies have customers for their entire lives. It is important to ban menthol because it makes vapes and cigarettes highly addictive. E-cigarettes should be regulated the same as other tobacco products because they are just as dangerous.

My favorite smell growing up was when a cigarette was first lit. I don't think any child should find a cigarette or a vape pen as their favorite smell.

Please end the sale of all flavored tobacco products and protect the keiki.

Tulasi S.
After-School All-Star
Haleiwa

The availability of flavored tobacco products impacts youth negatively by enticing them with appetizing flavors. Without the flavors, many people wouldn't want to use the tobacco products.

It's important to me that menthol flavors be included in the flavor ban for all tobacco products since it's the most popular flavor and masks the harshness of the tobacco.

At my school, many people vape in the bathroom and the vast majority of the people who I know that vape, use flavors.

Please ban the sale of all flavored tobacco products to help protect kids.

Nhi N.

After-School All-Star

Honolulu

Flavored tobacco makes kids want the products more. If you end the sale of flavored tobacco it will make it harder for underage persons to get the products and make it less likely they will start using tobacco products.

My great aunt died of pneumonia, from complications of smoking. After my grandma came to take care of her sister she still persisted in the use of nicotine, but in a different form, e-cigarettes. Even if she stopped a while ago the damage was still done to her lungs. My mother vapes even though she has tried to stop. I told her how i wish she would stop at my aunt's funeral, she told me that she'll be okay. I know she won't and that's what I fear the most in my life.

The tobacco companies are targeting children that have no full knowledge of the irreversible damage being done. Please help people like my mom quit and kids to never start. End the sale of all flavored tobacco products.

Imogen
After-School All-Star
Pahoa

Flavored tobacco makes kids want to have it more.

It is important for us to ban e-cigarettes and/or tobacco products that include flavors, including menthol, because it will cause not just kids but people who are addicted and/or people we love to stop using these products. This is impacting quite a lot of people in my community considering how much students in my school do it.

I believe that we should regulate e-cigarettes the same as other tobacco products because then it will cause people to slow down on tobacco and they may quit. I wanna help our community and stop vaping, ending the sale of all flavored tobacco products will help do this.

Aneka

After-School All-Star

Hilo

Flavored tobacco products negatively impact the youth because it affects the way the youth thinks and it hooks them on nicotine so they continue to vape. Menthol is a flavor that should be BANNED because it has the same effects as other flavors.

Angela-Rose

After-School All-Star

Honolulu

HB-1570-HD-1

Submitted on: 3/17/2022 10:55:25 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Andy Takaaze	Individual	Oppose	Written Testimony Only

Comments:

We don't need anymore laws keeping law abiding adults from using flavored vapes to quit smoking cigarettes. Enforce the current laws that prevent underage vaping. Laws don't stop kids from using, parents do.

HB-1570-HD-1

Submitted on: 3/17/2022 11:29:43 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Valerie Smalley	Individual	Comments	Written Testimony Only

Comments:

While I strongly support evidence-based policies like ending the sale of flavored tobacco products in Hawai'i, I am concerned that the amendments added to HB1570 are not necessary to implement a flavored tobacco ban, does not have research to support their effectiveness, and distracts from the original intent of the bill. I respectfully request that the committee restore the bill to its original version, which focused on ending the sale of flavored tobacco products in Hawaii.

HB-1570-HD-1

Submitted on: 3/17/2022 11:56:42 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Kathleen Koga	Individual	Comments	Written Testimony Only

Comments:

Dear Members of the Senate Committees on Health and Education,

As a public health educator, concerned Hawaii resident and most of all the grandparent of two teenagers, I would like to offer comments on HB 1570 that would end the sale of flavored tobacco and synthetic nicotine products in Hawaii.

Please take action to address the public health crisis of the vaping epidemic among Hawaii's youth. There is overwhelming evidence on the detrimental effects of vaping on their health and well-being and the shocking statistics reveal how popular these deadly and addictive products are in our communities statewide. In a recent poll conducted by the Star Advertiser on Wednesday, March 16, 2022, 73% support a ban on flavored vaping and tobacco products.

I strongly support evidence-based policies that have been proven to reduce tobacco use in our communities and believe that they can reverse the youth vaping epidemic in our state. This includes ending the sale of flavored tobacco products, taxing e-cigarettes, and restricting on-line sales. I am very concerned that amendments added to HB 1570 in the House Health Committee are not proven strategies, unnecessary and distract from the original intent of the bill. I respectfully request that the committee restore the bill to its original version, which focuses on ending the sales of flavored tobacco and synthetic nicotine products in Hawaii. Please take this urgent action that will prevent our youth from accessing any form of these harmful tobacco products.

Thank you for your consideration and the opportunity to provide comments on HB 1570.

HB-1570-HD-1

Submitted on: 3/17/2022 12:11:12 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Kelli Schroeder	Individual	Oppose	Written Testimony Only

Comments:

I am a strong advocate for adult access to harm reduction vaping products and allowing flavors to be sold to adults legally by retailers in the State of Hawaii. We must keep everyone away from harmful cigarettts and to use vaping as a tool to help them quit or stay away from cigarettts. It is cigarettts that are harmful, not vaping.

Aloha~

HB-1570-HD-1

Submitted on: 3/17/2022 12:57:55 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Taryn Amberson	Individual	Comments	Written Testimony Only

Comments:

Dear Chair Senator Jarrett Keohokalole, Vice Chair Senator Rosalyn H. Baker, members of the Senate Committee on Health, and Chair Senator Michelle N. Kidani, Vice Chair Senator Donna Mercado Kim, and members of the Senate Committee on Education,

Mahalo for this opportunity to provide comments of strong concern for the amendments in HB1570, HD1. This bill sought to identify the responsibilities of the DOH and the DOE towards our youth that are part of the vaping epidemic. It is our understanding that these amendments have caused a loss of support for enforcement due to their onerous nature.

I am a registered nurse (emergency nurse) and member of the Hawai'i American Nurses Association. As a health care professional, it is my duty to advocate for the health of vulnerable populations in our community. Measures in this bill would help to protect young people in our community from these predatory flavored tobacco products and a lifetime of addiction. Health hazards of tobacco products are well known. This is a place where we can intervene collectively to influence the health habits of our young population. In establishing reporting, education and disposal responsibilities of the DOH and DOE and youth vaping, I believe this bill would have assisted our young people to avoid health-hazard vaping behaviors. As it reads now, we doubt that it will pass the Governor's scrutiny, if it even makes it through the Legislative process.

I, along with the Hawai'i American Nurses Association, respectfully request that HB1570, HD1 be re-amended to allow for the original intent of enforceability and responsibility by our government departments. Thank you for your continued support for measures that address the healthcare needs of vulnerable populations in our Hawaii community.

Mahalo,

Taryn Amberson, MPH, BSN, RN, CEN, NHDP-BC

amberson.taryn@gmail.com / 520-474-1812

5105 Kamehameha Loop, Honolulu HI 96818

Written Only

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

KEITH T. HAYASHI
INTERIM SUPERINTENDENT

LATE

Date: 03/18/2022

Time: 01:31 PM

Location: CR 225 & Videoconference

Committee: Senate Health

Senate Education

Department: Education

Person Testifying: Keith T. Hayashi, Interim Superintendent of Education

Title of Bill: HB 1570, HD1 RELATING TO THE YOUTH VAPING EPIDEMIC.

Purpose of Bill: Requires DOH to post online monthly updates on all deposits and expenditures of the tobacco enforcement and Hawaii tobacco settlement special funds and Hawaii tobacco prevention and control trust fund. Requires DOH to submit annual reports to the legislature on the receipts and expenditures of the Hawaii tobacco settlement special fund and Hawaii tobacco prevention and control trust fund. Requires the attorney general to monitor online sales of tobacco products and electronic smoking device products and post online monthly updates. Requires DOH to establish a standardized and scientific testing process for the presence of flavoring in tobacco products and synthetic nicotine products and post this information online. Beginning 1/1/2023, prohibits the sale or distribution of all flavored tobacco and synthetic nicotine products in the State. Requires DOH to coordinate with DOE to establish a take back program for students to voluntarily dispose of electronic smoking devices, flavored tobacco or synthetic nicotine products, and tobacco products in their possession. Requires DOH and DOE to coordinate quarterly meetings with students on addressing the youth vaping epidemic. Effective 7/1/2060. (HD1)

Department's Position:

The Hawaii State Department of Education (Department) provides comments on HB

1570, HD 1. The Department prefers the original language in HB 1570 to address the youth vaping epidemic and protect Hawaii's youth from lifelong tobacco addiction as many of the Department's principals have indicated that youth vaping is a top issue of concern at the school-level.

The Department has concerns with the take back provisions in the HD 1, found on page 2, lines 10-15, and in part V on pages 21-23 of this measure, as an additional administrative burden to implement. The Department would request that these provisions be eliminated from this measure.

The Department currently partners with the Department of Health and community organization on programs for youth to help them to make positive health decisions and defers to the Department of Health on the implementation of this law.

The Department is committed to ensuring that our students are educated, healthy and lifelong learners who contribute positively to our community and global society. In our Department schools, there is a policy of zero-tolerance for tobacco products and electronic smoking devices that extend to Department transportation and during school-sponsored activities.

In 2019, the Hawaii Youth Risk Behavior Survey results indicate that 30.6% of high school students used an electronic vapor product and 5.3% of high school students smoked cigarettes within the 30 days prior to the survey administration.

To raise awareness about the risks and dangers of tobacco products and electronic smoking devices, the Department's efforts focus on the following:

- Providing health education to develop students' skills that support healthy behaviors;
- Collaborating with the Department of Health and the University of Hawaii at Manoa Curriculum Research and Development Group on the administration of the Youth Risk Behavior Survey to monitor students' tobacco use and the associated risk and protective factor;
- Promoting public awareness through parent letters and flyers of Section 712-1258, Hawaii Revised Statutes, which makes it unlawful for anyone under the age of 21 years of age to be sold, purchase, use, or possess tobacco products and electronic smoking devices; and
- Monitoring students for compliance or violation of Title 8, Chapter 19, Hawaii Administrative Rules, Student Misconduct, Discipline, School Searches, and Seizures, Reporting of Offenses, Police Interviews and Arrests, and Restitution for Vandalism, Complaint Procedure and Investigation of Discrimination, Harassment (Including Sexual Harassment), Bullying and/or Retaliation, as it relates to using tobacco products and electronic smoking devices.

Thank you for the opportunity to provide testimony on HB 1570, HD 1.

Hawaii Senate Health and Education committees**Testimony: HB 1570****Guy Bentley, Director of Consumer Freedom, Reason Foundation****March 18, 2022**

Chair Keohokalole, Chair Kidani, members of the committee, thank you for allowing me the opportunity to submit testimony on HB 1570.

My name is Guy Bentley, and I'm the director of consumer freedom at the Reason Foundation, a 501(c)3 nonprofit think tank. The consumer freedom project analyzes and promotes policy solutions that improve public health while avoiding unintended consequences and protecting consumer choice.

The intention behind HB 1570 to limit tobacco use, especially among youth, is to be applauded. However, the evidence on the success of such prohibitions should raise significant concern that the ban will promote further inequalities in the criminal justice system, push sales and tax revenue to other states, increase the illicit tobacco trade, and fail to improve public health in Hawaii.

Case Studies: Massachusetts and Canadian Provinces

Massachusetts's ban on flavored tobacco products went into effect in June 2020. A preliminary analysis conducted by Reason Foundation which compared cigarette sales in Massachusetts the year prior to the ban and the year following the ban's implementation found that in total there was a net increase in cigarette sales of 7.2 million packs for Massachusetts and its bordering states. These figures underestimate cross-border trade because they do not account for lost sales of flavored e-cigarettes, smokeless tobacco, or cigars. There was also an increase of non-menthol cigarettes sales in Massachusetts of 15.6 million packs as consumers switched brands.

Furthermore, according to a study published by the *Journal of Law and Economics*, Canadian provinces' menthol prohibition has significantly increased non-menthol cigarette smoking among youths, resulting in no overall net change in youth smoking rates.¹ As for adult smokers, the study discovered, provincial menthol bans shifted smokers' cigarette purchases away from grocery stores and gas stations to First Nations reserves (where the menthol bans do not apply). These results are important not just because they demonstrate an immediate economic impact

¹ Christopher Carpenter, Hai V. Nguyen. "Intended and Unintended Effects of Banning Menthol Cigarettes." *The Journal of Law and Economics*. August 2021.
<https://www.journals.uchicago.edu/doi/abs/10.1086/713978>

on jurisdictions that introduce prohibition but thanks to cross-border trade and the substitution of non-menthol cigarettes any health benefits are severely limited. In other words, the loss in tax revenue is unlikely to be made up by lower healthcare costs.

Public Health and Disparate Impacts

Advocates for the prohibition of menthol cigarettes correctly observe a disproportionate number of Black, Native Hawaiian, Pacific Islander and Filipino smokers choose a menthol product. In Hawaii, some hope the ban will dramatically reduce the state's smoking rate. While these populations are more likely to use a menthol product and White smokers use a non-menthol product, smoking prevalence is, in fact, lower among Black youth and adults.

Black non-Hispanic and other, non-Hispanic youth are less likely to smoke than their White peers.² These data conform to Reason Foundation's study published in 2021, showing that states with higher menthol cigarette use, such as Hawaii, tend to have lower, not higher, youth smoking rates.³ From a public health standpoint, as Black adults and youth smoke at lower rates than non-Hispanic Whites, it's hard to ascertain why non-menthol cigarettes, which are equally dangerous, will not be subjected to prohibition and menthol products will be.

Because menthol cigarettes are overwhelmingly the choice of minority smokers, prohibition will necessarily lead to a concentration of the illicit tobacco market in minority communities. The American Civil Liberties Union and other civil rights groups warn prohibition could disproportionately impact people of color, trigger criminal penalties, and prioritize criminalization over public health and harm reduction.⁴ The National Organization of Black Law Enforcement Executives (NOBLE), Grand Council of Guardians (GCGNY), National Association of Black Law Enforcement Officers (NABLEO), and Law Enforcement Action Partnership (LEAP) have argued that prohibitions of all kinds disproportionately affect communities of color and this is especially the case when it comes to banning menthol cigarettes.⁵

² Gentzke AS, Wang TW, Jamal A, et al. Tobacco Product Use Among Middle and High School Students — United States, 2020. <https://www.cdc.gov/mmwr/volumes/69/wr/mm6950a1.htm>

³ Guy Bentley and Jacob Rich. "Does Menthol Cigarette Distribution Affect Child or Adult Cigarette Use?." <https://reason.org/policy-study/does-menthol-cigarette-distribution-affect-child-or-adult-cigarette-use/>

⁴ American Civil Liberties Union. "Coalition Concerns with Blanket Prohibition on Menthol and Other Flavored Tobacco within H.R. 2339, Reversing the Youth Tobacco Epidemic Act." <https://www.aclu.org/letter/coalition-letter-criminal-justice-concerns-hr-2339-reversing-youth-tobacco-epidemic-act>

⁵ Franklin, Neil. "Ban on Menthol Cigarettes Would Have Unintended Consequences." *City Limits*. December 2, 2019. <https://citylimits.org/2019/12/02/opinion-ban-on-menthol-cigarettes-would-have-unintended-consequences/>

Food and Drug Administration Review and Tobacco Harm Reduction

Last year, the Food and Drug Administration authorized an e-cigarette as “appropriate for the protection of public health” for the first time. The FDA is also currently reviewing e-cigarette product applications that contain reams of data on safety, efficacy, and potential threats to youth. If the FDA finds that any product is a net harm to public health, it will be removed from the market. But if the product is deemed to be net beneficial, it will be authorized for sale as appropriate for the protection of public health.

If Hawaii chose to ban these products prior to the FDA concluding its review it would limit consumer access to products the FDA may deem as a positive for public health. According to a survey conducted by the International Tobacco Control Policy Evaluation Project 57 percent of vapers said they would continue vaping if flavors were banned, but half said they would find a way to get their preferred flavor. Of most concern, was the finding that close to one five vapers said they would stop vaping and smoke instead.⁶

While prohibiting flavors may seem an attractive solution to the problem of youth vaping, policymakers should be recognize that according to the 2021 National Youth Tobacco Survey (NYTS), 89 percent of high schoolers are not using e-cigarettes at all and 95 percent are not using them frequently. Youth vaping has also fallen to its lowest point in seven years.⁷ Furthermore, data released by the Centers for Disease Control and Prevention (CDC) shows flavors are not the leading reason why youth initiate vaping. According to the CDC, the primary reason youth initiate vaping is “curiosity,” followed by “friend or family member used them,” with “they are available in flavors, such as mint, candy, fruit, or chocolate” coming a very distant third.⁸ Banning flavored tobacco products may also induce perverse outcomes contrary to the promotion of public health among adolescents.

In 2018, San Francisco banned the sale of all flavored tobacco products, including e-cigarettes with flavors other than tobacco. Yale University’s Abigail Friedman found that after the ban was enacted, San Francisco area youth had double the odds of smoking compared to similar

⁶ Gravely, Shannon et al. “Responses to potential nicotine vaping product flavor restrictions among regular vapers using non-tobacco flavors: Findings from the 2020 ITC Smoking and Vaping Survey in Canada, England and the United States.” *Addictive Behaviors*. Volume 125. February 2022. <https://www.sciencedirect.com/science/article/pii/S0306460321003373?via%3Dihub>

⁷ Park-Lee E, Ren C, Sawdey MD, et al. Notes from the Field: E-Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. https://www.cdc.gov/mmwr/volumes/70/wr/mm7039a4.htm?s_cid=mm7039a4_w

⁸ Wang TW, Gentzke AS, Creamer MR, et al. “Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019.” *MMWR Surveill Summ* 2019;68(No. SS-12):1–22. https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm#T6_down

jurisdictions with no tobacco flavor ban.⁹ “While neither smoking cigarettes nor vaping nicotine are safe per se, the bulk of current evidence indicates substantially greater harms from smoking, which is responsible for nearly one in five adult deaths annually. Even if it is well-intentioned, a law that increases youth smoking could pose a threat to public health,” said Friedman.

According to a 2020 study by researchers at Yale School of Public Health, the use of e-cigarette flavors is positively associated with smoking cessation outcomes for adults but not associated with increased youth smoking.¹⁰ The prestigious Cochrane Review concluded e-cigarettes are more effective than traditional nicotine replacement therapies for helping smokers quit.¹¹ Prohibition of flavored e-cigarettes, which are overwhelmingly the choice of adult vapers, risks fueling illicit markets, forcing the closure of Hawaii’s vape shops, and driving vapers back to smoking.

Thank you for your time.

Guy Bentley, Director of Consumer Freedom
guy.bentley@reason.org

⁹ Friedman AS. “A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California.” *JAMA Pediatr*. Published online May 24, 2021. doi:10.1001/jamapediatrics.2021.0922

<https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248>

¹⁰ Abigail S. Friedman, PhD; SiQing Xu, BS. “Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation.” *JAMA*. June 5, 2020.

<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2766787>

¹¹ Cochrane Review. “Updated Cochrane Review shows electronic cigarettes can help people quit smoking.” October 14, 2020.

<https://www.cochrane.org/news/updated-cochrane-review-shows-electronic-cigarettes-can-help-people-quit-smoking>

HB-1570-HD-1

Submitted on: 3/17/2022 1:52:03 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Alan Watanabe	Individual	Oppose	Written Testimony Only

Comments:

Strong opposition. All these regulations are bad for consumers who enjoy these products.
Remember that Consumers = constituents.

HB-1570-HD-1

Submitted on: 3/17/2022 2:13:13 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Michael S. Nakasone	Individual	Oppose	Written Testimony Only

Comments:

Yes, I'm opposed to this. I'll have to get my liquid from the mainland and you won't get any taxes then. All this bill does is give voters like me a hard time. This bill is just stupid.

HB-1570-HD-1

Submitted on: 3/17/2022 3:51:21 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Kimo Cruz	Individual	Oppose	Written Testimony Only

Comments:

Opposed!

HB-1570-HD-1

Submitted on: 3/17/2022 4:33:38 PM

Testimony for HTH on 3/18/2022 1:31:00 PM



Submitted By	Organization	Testifier Position	Testify
Deborah G. Nehmad	Individual	Support	Written Testimony Only

Comments:

While I strongly support the provisions to end the sale of flavored tobacco products in Hawai'i, the **significant amendments** were added to HB 1570 in the House Health Committee are not necessary to implement a flavored tobacco ban, do not have research to support their effectiveness, and distracts from the original intent of the bill.

Please restore the bill to its original version, which focused on ending the sale of flavored tobacco products in Hawai'i

Thank you

Deborah Nehmad

HB-1570-HD-1

Submitted on: 3/17/2022 4:44:37 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Amy Lau	Individual	Oppose	Written Testimony Only

Comments:

Flavored vape products are safe. They help me cut back on my tobacco use. These vape products save lives.

-Amy L.

HB-1570-HD-1

Submitted on: 3/17/2022 4:53:54 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Holly Taguma	Individual	Comments	Written Testimony Only

Comments:

Aloha, my name is Holly Taguma and I am a high school senior on the island of Kauai. The youth vaping epidemic has had a severe impact on my life growing up from middle school. The strong smell of vape smoke and tobacco has become an everyday thing. I am asking to take back the bill to the original language used and the unnessasary language that is currently used to be removed. If the bill passes with the original language it will make a huge impact on youth lives today. Thank you for reading my testimony.

HB-1570-HD-1

Submitted on: 3/17/2022 5:34:28 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Clayton Silva	Individual	Oppose	Written Testimony Only

Comments:

No more tax and no more regulations on e-cigs.

HB-1570-HD-1

Submitted on: 3/17/2022 6:40:36 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Jeffrey Albo	Individual	Oppose	Written Testimony Only

Comments:

I have been a cigarette smoker for the better part of 20 years. Vaping as an alternative has offer me a way out. I have tried for many years to quit and failed as many others have. I have been cigarette free for 10 years because of my options to vape. I understand that this bill wants to curb youth consumption and I 100% am against youth vaping. However banning Vaping will affect so many of us that have made huge strides in our Journey of being cigarette free. I am afraid many of us will relapse.

HB-1570-HD-1

Submitted on: 3/17/2022 7:08:49 PM

Testimony for HTH on 3/18/2022 1:31:00 PM



Submitted By	Organization	Testifier Position	Testify
Kimeona Kane	Individual	Support	Written Testimony Only

Comments:

Aloha kākou,

Kimeona Kane from Waimānalo in strong support of this bill. As an uncle of three middle schoolers and a kumu who works with our keiki in Waimānalo and beyond, I have seen the use of vapes in real time. It is a true epidemic and needs as many safeguards as possible. Please pass this bill.

Mahalo nui,

Kimeona

HB-1570-HD-1

Submitted on: 3/17/2022 7:20:55 PM

Testimony for HTH on 3/18/2022 1:31:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Jason Park	Individual	Oppose	Written Testimony Only

Comments:

Asking to leave vape products out of this bill and limit it to underage persons only. Mahalo.

HB-1570-HD-1

Submitted on: 3/17/2022 8:01:38 PM

Testimony for HTH on 3/18/2022 1:31:00 PM



Submitted By	Organization	Testifier Position	Testify
Jason Grehawick	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

My name is Jason Grehawick and I oppose Bill HB1570 HD1

I've been Vaping for 8 + Year and Flavors are one of the main reason I've enjoyed vaping and was able to quit smoking.

Adults love flavors. These vaping products were created by adults, to be sold to other adults!! Banning Flavored vape products wont stop the the youth Vaping epidemic!! Its just going to create a larger black market then there already is. If you dont believe me, go search "Flavored Bars," on facebook market place and you'll see people selling these products illegally!!

If you ask me, more needs to be done to impose fines on people selling these products without the proper licensing, as well as potentially making a law that Bans the possession of any vape products to anyone under the age of 21. Fine the youth that are buying these products or fine the people that are buying these products for them. Including thier parents.

The Vape Shops out in Hawaii do thier best to constantly check ID and prevent the sale of these products to the youth.

Imposing a flavors ban will only hurt the adult consumer and hundreds of small business around Hawaii. We adults love flavored vapes just like we love flavored alcohol!!! Its our choice to make and an all out ban wont solve anything.

Also, Synthetic nicotine is no longer a loop hoole for these vape products to stay on the market. The FDA was recently appointed jurisdiction to enforce the PMTA process over synthetic nicotine products just a few days ago. They now will have to go through the same regulation as other products on the market.

Mahalo for reading my testimony and I wish you all the best health.

- Jason

CLIFFORD CHANG, MPH

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Date: March 18, 2022
To: Senator Jarrett Keohokalole, Chair; Committee on Health
Senator Rosalyn H. Baker, Vice Chair, Committee on Health
Members of the Committee on Health



Senator Michelle N. Kidani, Chair; Committee on Education
Senator Donna Mercado Kim, Vice Chair, Committee on Education
Members of the Committee on Education

Re: Comments on HB1570 Relating to the Youth Vaping Epidemic
Hrg: Friday, March 18, 2022; 1:31 am; Conference Room 225 and Videoconference

My name is Clifford Chang, testifying today both as the principal in my public health consulting business, Clifford Chang Consulting, and as a private individual with over 40 years of public health experience. I have been professionally involved in tobacco prevention and control for almost ten years and have continued my direct involvement on a voluntary basis for over fifteen years.

I am testifying today to provide comments on HB 1570HD1. I **do not support the changes** incorporated in HB 1570 HD1, but **support the original version** of this bill, which is to prohibit the sale or distribution of all flavored tobacco and synthetic nicotine products in the state.

I respectfully urge this committee to restore this bill to its original version, as in my opinion, the changes made in the HD1 version simply add unnecessary changes which distract from the original intent of the bill and reduces its effectiveness. In other states where similar good for public health bills such as HB 1570 have been introduced and similar changes as outlined in HD1 were added, evidence has it that such changes have been supported by the tobacco industry to distract from the original intent of the bill and thereby make it less effective. There is no research to my knowledge that supports that the changes introduced in HD1 have any effect in preventing the sale or distribution of all flavored tobacco products, the purpose of this bill.

As described below, my friend Davina, dead of tobacco use at age 62, began smoking long long before the advent of e-cigarettes as a result of the use of menthol-flavored cigarettes. Today, while most of today's youth may begin using tobacco via an e-cigarette, most will start with a flavored tobacco product, with many dying prematurely as a result of the insidious addition to nicotine. Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our youth from a lifetime of addiction. such as menthol did for Davina,

In March 2021, Davina, the wife of my best friend from high school, died after a long, over 10 year struggle against lung cancer caused by smoking that also metastasized to her brain. Davina was only 62 years of age, leaving behind her husband of 35 years, Paul, their two daughters, and her first granddaughter who was born just one month ago. Davina was able see and hold her granddaughter just once before passing away.

Davina started smoking while in high school around the age of 15, beginning with menthol-flavored cigarettes. She tried to quit repeatedly throughout her life, cut way too short because of the insidious, addictive nicotine in tobacco. Davina was one of the strongest people I know, and despite this she ended up smoking for over the 50 years

It took her multiple attempts to quit, the pull of the nicotine addiction outweighing her resolve. With professional cessation treatment assistance she was finally able to quit, but not before she developed a malignant carcinoma in her lung which also metastasized to her brain. She underwent multiple surgeries, including a lobectomy and lung removal, numerous bouts of chemotherapy, and numerous clinical trials, before her body succumbed to fluid accumulation in the pleural space of her remaining lung. With the assistance of hospice and palliative care, Davina was able to pass away peacefully and without pain.

As evidenced by Davina, flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our youth from a lifetime of addiction.

I applaud the committee's attention to the major role flavors play in attracting youth to use tobacco products. Given the experience of Davina and so many thousands like her, I urge the committee to restore this bill to its original version.

Thank you for this opportunity to testify.

Aloha,

A handwritten signature in black ink, appearing to read 'Clifford Chang', with a stylized flourish at the end.

Clifford Chang, MPH

LATE

HB-1570-HD-1

Submitted on: 3/18/2022 8:58:39 AM

Testimony for HTH on 3/18/2022 1:31:00 PM

Submitted By	Organization	Testifier Position	Testify
Ann S Freed	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Keohokalole and Kidani, Vice Chairs Baker and Kim, and members,

Strong support for this bill.

This bill, designed to reign in the drug pusher tobacco companies' full on assault on our youth, is overdue. We need to stop this obvious campaign to addict the next generation to tobacco products.

Please protect our keiki and pass this bill,

Mahalo,

Ann S. Freed in Mililani