

STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of H.B. 476, H.D. 1
RELATING TO TAXATION**

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

Hearing Date: 2/17/2021

Room Number: Videoconference

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

4 **Department Testimony:** The DOH supports, and offers amendments to, House Bill 476, House
5 Draft 1 (H.B. 476, H.D. 1) as a public health measure to address Hawaii's youth vaping
6 epidemic. This measure establishes new taxes for some e-liquid products and amends relevant
7 sections to reference these new definitions. An amendment was added to also include a tax for
8 modified risk tobacco products. H.B. 476, H.D. 1 extends permitting requirements to include
9 taxed e-liquids and classifies failures to obtain a permit as a petty misdemeanor. H.B. 476,
10 H.D. 1 also addresses record keeping of taxed e-liquids, delivery sales, and directs the DOTAX
11 to adopt rules related to products shipped out of the State. The DOH offers recommendations on
12 amendments for parity and consistency.

13 Electronic smoking devices (ESDs), also known as e-cigarettes, have become the most
14 commonly used tobacco products among youth in the United States and in Hawaii. The 2019
15 Youth Risk Behavior Survey reported that cigarette smoking among Hawaii high school students
16 decreased to 5.3%, a 73.5% reduction from 20% in 2000. At the same time, youth ESD use has
17 continued to rise. High school youth experimentation with ESDs grew from 22% in 2015 to

1 48% in 2019. In 2015, over one in four (26%) high school students reported being current users,
2 and today it is almost one in three (31%).¹

3 In Hawaii, ESDs are not taxed like other tobacco products and often can be purchased at
4 lower prices than cigarettes. According to the U.S. Surgeon General, increasing the price of
5 tobacco products is the single most effective way to reduce consumption.² Data from the
6 University of Illinois report that increasing the price of ESDs by 10% has been shown to lead to
7 a 10% to 18% reduction in the demand and consumption of ESDs – a higher price elasticity
8 compared to combustible cigarettes. Increasing the price of tobacco products has the greatest
9 impact on youth, who are particularly price sensitive.³ The DOH recommends the imposition of
10 an excise tax equal to 70% of the wholesale price of each e-liquid and ESD to be consistent with
11 the tax on other tobacco products. Achieving tax parity for all tobacco products will protect
12 against price disparities and the resultant migration from one product to another in the event that
13 some products are significantly more affordable.

14 In the fall of 2019, the U.S. Food and Drug Administration (FDA) granted modified risk
15 orders to eight smokeless tobacco products for the first time ever.⁴ The current amendment to
16 tax modified risk tobacco products (MRTP) at a rate that is lower than 70% is premature. Given
17 the newness of these products on the market and current inaccessibility in Hawaii, creating a tax
18 structure lower than other tobacco products is without merit and the DOH offers an amendment
19 recommending this section be deleted.

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

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

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

⁴ Commissioner, O. of the. (2020, March 24). *FDA grants first-ever modified risk orders to eight smokeless tobacco products*. FDA; FDA. <https://www.fda.gov/news-events/press-announcements/fda-grants-first-ever-modified-risk-orders-eight-smokeless-tobacco-products>

1 The DOH supports H.B. 476, H.D. 1 as a means to address the youth vaping epidemic
2 and offers recommended amendments to use standardized definitions and achieve tax parity
3 with other tobacco products and consistency with other tobacco control laws.

4 **Offered Amendments:**

5 Delete page 1, line 1 through line 9.

6 Delete page 10, line 3 through line 17 and insert the following three definitions:

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

13 "Tobacco products" means ~~tobacco~~: (1) Tobacco in any form, other than cigarettes or little
14 cigars ~~[that is prepared or intended for consumption or for personal use by humans, including~~
15 ~~large cigars and any substitutes thereof other than cigarettes that bear the semblance thereof,~~
16 ~~snuff, chewing or smokeless tobacco, and smoking or pipe tobacco.] that is intended for human~~
17 consumption, or is likely to be consumed whether smoked, heated, chewed, absorbed, dissolved,
18 inhaled, or ingested by other means; (2) E—liquid; or (3) Electronic smoking device. Tobacco
19 products includes but is not limited to large cigars and any substitutes thereof other than
20 cigarettes that bear the semblance thereof, pipe tobacco, chewing or smokeless tobacco, snuff,
21 snus, e—liquid, electronic smoking device, any cartridge or other component part of the device
22 or product, and related products."

23 "Smoke" or "smoking" means inhaling, exhaling, burning, carrying, or possessing any lighted or
24 heated tobacco product, or similar substance intended for human consumption, including the use
25 of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form."

26 Delete page 27, line 12 through page 28, line 2 and insert the following:

1 (14) An excise tax equal to seventy per cent for each e-liquid cartridge sold, used, or possessed
2 by a wholesaler or dealer on and after July 1, 2021, whether or not sold at wholesale, or if not
3 sold then at the same rate upon the use by the wholesaler or dealer; and

4 (15) An excise tax equal to seventy per cent of the wholesale price of open system e-liquid sold,
5 used, or possessed by a wholesaler or dealer on and after July 1, 2021, whether or not sold at
6 wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

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

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



STATE OF HAWAII
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ISAAC W. CHOY
DIRECTOR OF TAXATION

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

From: Isaac W. Choy, Director
Department of Taxation

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

Re: H.B. 476, H.D. 1, Relating to Taxation

The Department of Taxation (Department) offers the following comments on H.B. 476, H.D. 1, for your consideration.

H.B. 476, H.D. 1, creates a 50% tax on modified risk tobacco products, and also subjects e-liquid cartridges and e-liquid to the tobacco tax under chapter 245, Hawaii Revised Statutes (HRS). It makes several related amendments such as amending the title of chapter 245, HRS, requiring wholesalers and retailers of e-liquid cartridges and e-liquid to obtain licenses and permits to operate, amending definitions, and making conforming amendments to other parts of the tax law to treat e-liquid cartridges and e-liquid like cigarettes and tobacco products. The measure has a defective effective date of July 1, 2060.

First, the Department notes the new tax on modified risk tobacco products requires clarifying amendments to be enforceable. While the Department appreciates a readily verifiable standard such as whether a product has been declared a modified risk tobacco product in an order by the Secretary of the U.S. Department of Health and Human Services, the measure requires further clarification. Specifically, this new tax does not specify on what amount its 50% rate is applied. The Department suggests clarifying this new imposition by stating the amount on which the new tax will be imposed (wholesale, retail, etc.), who the new tax will be imposed on, and whether the tax will be imposed only once or at every level of sale.

Second, on page 34, the Department recommends the amendments to section 245-31, HRS, be changed to instead delete section 245-31, HRS, entirely. That section creates a reporting requirement redundant with the Department's authority to already collect this information on the return under section 245-5, HRS.

Finally, the Department respectfully requests that the effective date be changed to January 1, 2022. This will allow sufficient time to make the form, instruction, and computer system changes required by this measure.

Thank you for the opportunity to provide comments on this measure.



HB476 HD1 Tax e-Liquid and E-Cigarette

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE:

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

Wednesday, Feb. 17, 2021: 2:00 pm: Videoconference

Hawaii Substance Abuse Coalition Supports HB476 HD1:

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

HSAC is in full support to tax, both for the economic recovery and out of major concern for our children:

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

HSAC humbly recommends that the House consider that some of the tax could support the much needed youth tobacco prevention programs.

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

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TOBACCO, GENERAL EXCISE, USE, Include electronic smoking devices

BILL NUMBER: HB 476; HD1

INTRODUCED BY: House Committee on Health, Human Services, & Homelessness

EXECUTIVE SUMMARY: Imposes a fifty per cent tax on products with a modified risk tobacco product order issued by the Secretary of the United States Department of Health and Human Services. Establishes taxation of e-liquids used in electronic smoking devices. Requires wholesalers and dealers to be licensed. Requires retailers of tobacco and e-liquids to obtain permits. Effective 7/1/2060.

SYNOPSIS: Adds a new section to chapter 245, HRS, to establish a 50% tax on any product for which a modified risk tobacco product order has been issued by the U.S. Department of Health and Human Services under 21 U.S.C. section 387k(g).

Retitles chapter 245, HRS, as the Cigarette Tax, Tobacco Tax, and E-Liquid Tax Law.

Amends section 245-1, HRS, by adding definitions for E-liquid, E-liquid cartridge, electronic smoking device, open system e-liquid, and unit of open system e-liquid.

Makes various changes in chapter 245, HRS, to make the tobacco tax provisions apply to E-liquid as well.

Imposes tax of 25 cents per e-liquid cartridge sold, used, or possessed by a wholesaler or dealer.

Imposes tax of 15% of the wholesale price of each unit of open system e-liquid sold, used, or possessed by a wholesaler or dealer.

Makes technical and conforming amendments to sections 237-24, 237-25, and 238-3. HRS.

EFFECTIVE DATE: 7/1/2060.

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

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

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

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

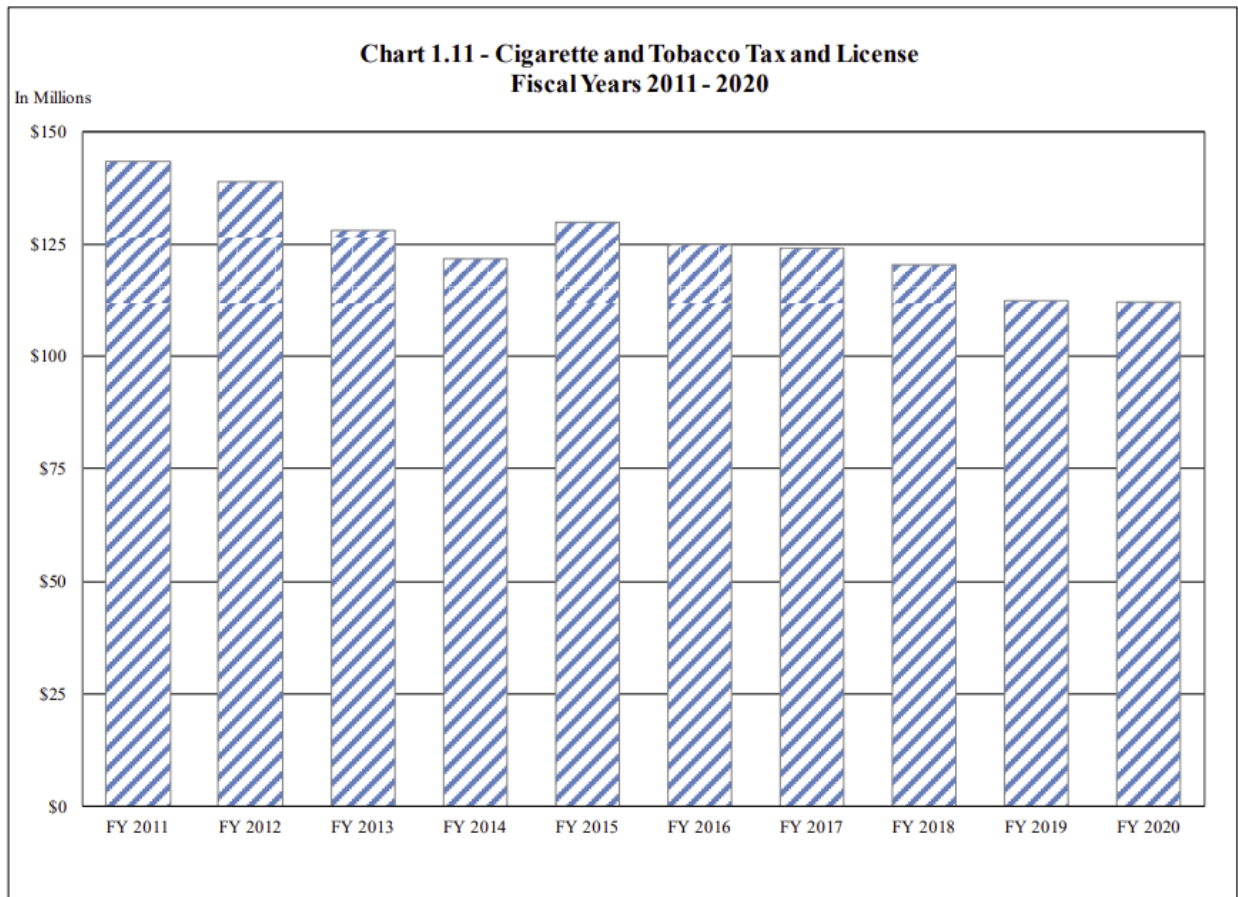
The problem is that lawmakers also like the revenues that are generated from the sales of these products and, in some cases, they have tried to link the use and sale of these products with noble causes such as the funding of the Cancer Research Center that is currently being built. Again, the argument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

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

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

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

As predicted, programs that have been fed by earmarks from the tobacco tax, like the Cancer Research Center, have become a victim of the success of tobacco cessation programs and publicity. Revenues produced by the tobacco tax have been in steady decline over the past few years despite tax rate increases, and hoisting the smoking age to 21 in the 2015 session certainly didn't reverse the trend.



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

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

Digested 2/14/2021



Corey Rosenlee
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TESTIMONY BEFORE THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

RE: HB 476, HD1 - RELATING TO TAXATION

WEDNESDAY, FEBRUARY 17, 2021

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Johanson and Members of the Committee:

The Hawaii State Teachers Association **supports HB 476, HD1**, relating to taxation, **with suggested amendments**. This bill establishes taxation of e-liquids used in electronic smoking devices. Requires wholesalers and dealers to be licensed. Requires retailers to obtain permits.

We are concerned that the definitions in this bill for "e-liquid cartridge" and "open system e-liquid" may not capture the disposable e-cigarettes that are popular with youth. Instead, we recommend amending the language by using the broader definition of electronic smoking devices to avoid potential loopholes.

We also recommend amending this bill to create policy parity between electronic smoking devices and other tobacco products through the Other Tobacco Product (OTP) tax, which is 70% of the wholesale price.

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

The use of e-smoking products among youth is at epidemic levels. According to data from the Centers for Disease Control and Prevention and the Food and Drug Administration's National Youth Tobacco Survey, **the percentage of high school-age children reporting past 30-day use of e-cigarettes rose by more than 75 percent between 2017 and 2018. Use among middle school-age children also increased nearly 50 percent.** Furthermore, 1 in 5 high school students reported

using e-cigarettes in the past month according to the Surgeon General. **Locally, Hawaii's 2017 Youth Risk Behavior Survey revealed that over 42% of Hawaii high school students have tried using electronic smoking devices and over 25% of Hawaii high school students indicated that they are regular users. Our schools are seeing a rise in cases of e-cig use even in our elementary schools now.**

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

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

Furthermore, the allocation of a portion of excise tax funds to go towards health education, prevention, and nicotine cessation programs extends protections for our youth and goes hand in hand with the regulations outlined in this bill as well as a portion of the collections going to our state's general fund to shore up our lost revenue as a state.

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



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

RE: HOUSE BILL NO. 0476, HOUSE DRAFT 1, RELATING TO TAXATION.

Chair Johanson, Vice Chair Kitagawa, 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 **COMMENTS** on House Bill No. 0826, House Draft 1, RELATING TO TAXATION.

The bill, as received by your Committee, would:

- (1) Imposes a 50% tax on products with a modified risk tobacco product order issued by the secretary of the United States Department of Health and Human Services;
- (2) Apply the Cigarette Tax and Tobacco Tax Law, Chapter 245, Hawaii Revised Statutes, to E-liquid, E-liquid cartridges, and electronic smoking devices;
- (3) Require wholesalers and dealers to be licensed; and
- (4) Require retailers to obtain permits.

The bill would also take effect on July 1, 2060, to facilitate continued discussion on this issue.

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

FQHCs have long seen first-hand how tobacco has literally destroyed the lives of our patients and their families. Because of the ubiquity of cigarettes, chewing tobacco, and now electronic smoking

Testimony on House Bill No. 0476, House Draft 1
Wednesday, February 17, 2021; 2:00 p.m.
Page 2

devices, the impacts of tobacco affect our citizenry on a generational basis with people experimenting at even earlier ages.

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

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

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

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

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

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

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



American
Heart
Association.

American Heart Association comments for HB476, HD 1
"Relating to Taxation" with suggested amendments

The American Heart Association supports the intent of HB476, HD 1 but recommends amendments.

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The American Heart Association supports taxing electronic smoking devices but feels that the tax should create parity with the taxes already applied to traditional cigarettes and other tobacco products. The taxes proposed under HB476 fall well below a level of parity. **The Association recommends that an excise tax be set at 70 percent of the wholesale price of the gross proceeds from the retail sale of each electronic smoking device sold.** Without parity with other tobacco products, electronic smoking devices would remain more attractive to Hawaii youths.

We also recommend that all electronic smoking devices, including modified risk tobacco products, and their components should be subject to the tobacco tax. All tobacco products pose some harm to health.

In addition, the definitions in HB476, HD 1 for electronic smoking devices are too narrow and leave possible gaps that would allow newer devices untaxed. In fact, the proposed definitions may not cover all current e-cigarettes. It is unclear where disposable e-cigs would fall - as "e-liquid cartridge," "open system e-liquid," or as devices? Disposable e-cigarettes are in pre-filled and sealed disposable containers, but they are not "used with an electronic smoking device" because they are devices already containing e-liquid. The word "can" in the "e-liquid cartridge" definition may cause confusion and may not be sufficient to ensure disposables are included. So, it is possible that disposables would then be considered "electronic smoking devices," and since the proposed tax specifically only applies to "e-liquid cartridges" and "open system e-liquid" but not devices, disposables wouldn't be taxed at all. This is a major concern because disposables have grown in popularity with youth, and this possible loophole needs to be eliminated so that those and any new electronic smoking devices that come onto the market in the future would be subject to the tax. **The American Heart Association recommends that the definitions be amended to include "e-liquid, electronic smoking devices containing e-liquid, and components or parts containing e-liquid."**

Mahalo for opportunity to recommend amendments to HB476, HD 1 to begin reducing Hawaii's youth electronic cigarette epidemic.

Respectfully submitted,

Don Weisman

Government Relations/Communications Director

Serving Hawaii since 1948

Our Mission:

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

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



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*Catherine Taschner, JD
McCorriston Miller Mukai
MacKinnon LLP*

Date: February 15, 2021

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

Re: Comments to HB 476, HD1, Relating to Taxation

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

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ **Offers Comments on HB 476, HD1** and offers recommendations. HB 476 establishes a tax on e-liquids used in electronic smoking devices and modified risk tobacco products, creates new definitions for e-liquids, e-liquid cartridges, electronic smoking devices, open system e-liquids, and units of open system e-liquid, requires wholesalers and dealers to be licensed, and retailers to obtain permits.

The Coalition supports the intent of HB 476 however, this bill falls short of achieving tax parity for e-cigarettes. The Coalition respectfully offers the following **recommendations**:

The Coalition prefer the original language used in HB 598 which:

- (1) includes e-liquid and electronic smoking devices within the definition of "tobacco products" as used in the cigarette tax and tobacco tax law;
- (2) Establishes a tax at the same rate as other tobacco products, 70% of other tobacco products;
- (3) Requires electronic smoking device wholesalers obtain a tobacco license and retailers obtain a tobacco permit.
- (4) Restricts the shipment of tobacco products to tobacco licensees only.

The Coalition is also concerned with the addition of modified risk tobacco products on page 1 of the bill. The FDA has cautioned that the modified risk designation does not mean that these products are safe or "FDA-approved," and all tobacco products are potentially harmful. Fewer than 15 products have been granted this status,ⁱⁱ and most are not available within the state^{iii,iv}. As such, it is premature for the state to regulate modified risk tobacco products differently from cigarettes and other tobacco products.

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

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

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

In 2016, the FDA deemed e-cigarettes, including its components and parts as tobacco products. In a poll^{viii} conducted by Ward Research Inc. for the Coalition in October 2020, 91% of registered Hawai'i voters were in support of taxing e-cigarettes at the same rate as cigarettes or other tobacco products. Because ESDs are not subject to current State tobacco tax laws, they are seen as lower-priced tobacco alternatives with virtually no restrictions that can be appealing to the youth. A local retailer is selling 30mL of e-liquid, some with strengths up to 50 mg of nicotine per mL, for as little as \$2.99^x. Some companies have starter kits for \$0.99. Raising taxes and increasing the price of tobacco products is a proven strategy to reduce consumption for both adults and youth.

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

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^{xi}." Hawai'i has made enormous progress on tobacco control and we ask the legislature to take the necessary steps to reverse our youth vaping epidemic in order to save our youth from a lifetime of addiction. Thank you for the opportunity to testify.

Mahalo,



Jessica Yamauchi, MA
Executive Director

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

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

ⁱⁱ U.S. Food and Drug Administration. (2020, July 21). Modified Risk Orders. Retrieved from <https://www.fda.gov/tobacco-products/advertising-and-promotion/modified-risk-orders>

ⁱⁱⁱ <https://www.generalsnus.com/StoreLocator/>

^{iv} <https://www.getiqos.com/>

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

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

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

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

^{ix} <https://volcanoecigs.com/collections/nicotine-salt-e-liquids/products/beard-vape-the-salty-one-apple-nicotine-salt-30ml?variant=29461231992855> on January 29, 2020

^x <https://med.stanford.edu/news/all-news/2020/08/vaping-linked-to-covid-19-risk-in-teens-and-young-adults.html>

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

HB-476-HD-1

Submitted on: 2/16/2021 9:00:15 AM

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

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

Comments:

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



AMERICANS *for* TAX REFORM

February 8, 2021

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

Dear Representative,

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

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

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

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

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

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

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

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

Sincerely,

Tim Andrews
Director of Consumer Issues
Americans for Tax Reform

hawaiiCigar

ASSOCIATION

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

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

From: Les Drent
for the Hawaii Cigar Association

Re: HB 476, HD1, Relating to Tobacco Products

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

The Hawaii Cigar Association (HCA), and its members oppose HB 476 in its current form. The HCA would like to provide the following comments, and proposes that the bill be amended to exclude licensees who sell only premium cigars.

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

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

The HCA contends that premium hand made cigars are rarely, if ever, possessed or consumed by minors and therefore pose negligible risk to them. Children are not attracted to premium non flavored cigars, and their cost between \$10 and \$30 a piece on average prices them far beyond the reach of minors. They should also be capped at 50 cents per cigar, not 50% of wholesale price.

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

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

Sincerely,



Les Drent
for the Hawaii Cigar Association

For More Information on the Hawaii Cigar Association please visit

hawaiicigarassociation.org



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

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

From: Les Drent
for the Kauai Cigar Company

Re: HB 476, HD1, Relating to Tobacco Products

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

The Kauai Cigar Company, its employees, and 300 plus Hawaii small business partners kindly ask that you amend HB 476 to exclude premium cigars from additional licensing fees, and taxes.

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

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

For years our company has been paying much more than its fair share of taxes as a result of an extremely high cost of production here in the Islands. Our premium cigars as defined by the FDA should not be treated the same as other tobacco products. Premium cigars are not purchased, or consumed by youth. They should also be capped at 50 cents per cigar.

Therefore, we kindly ask the Committee on Consumer Protection & Commerce add a definition of premium cigar to HB476, and consider lessening the burden on local farms and businesses who sell this adult product.

Sincerely,

Tai Erum
Operations Manager

Trevyn Pless
Farm Manager

Les Drent
Owner

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



Dear Committee on Consumer Protection & Commerce,

On behalf of the Premium Cigar Association (PCA), and more than 3,000 premium cigar retail locations across the country and 250+ manufacturers of premium cigars, we write in reference to HB 476 that is being heard this week in the Hawaii House Consumer Protection & Commerce Committee. This bill relates to taxation of Modified Risk Tobacco products, which will be taxed at a lower rate of 50 cents per product vs. 50%, which is the current tax on premium cigars. In January of 2020, the Food & Drug Administration acknowledged that premium cigars are the lowest enforcement priority of tobacco products because of their lack of appeal to youth. In addition to this fact, the FDA and National Institute of Health PATH Study indicate that the average premium cigar smoker has the same health risk as a non-smoker due to infrequent consumption.

The Premium Cigar Association and Hawaii Cigar Association believe that a tax cap for premium cigars should also be included in this bill of 50 cents per premium cigar. This tax cap would apply to tobacco products meeting the FDA definition of a premium cigar:

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

This tax cap would benefit the many small businesses in Hawaii that sell legal products to legal adults and result in more revenue for the state overall with a tax cap in place. “The State of Hawaii can anticipate collecting 2-5% more in annual OTP collections, as a result of enacting a .50 cap on the sale of premium handmade cigars, defined herein. This is as a result of allowing local small businesses to capture sales, that otherwise would go to lower cost alternatives for purchases.” If you would like to discuss this legislation further, please contact Joshua Habursky PCA’s Head of Government Affairs joshua@premiumcigars.org

Respectfully,

John Anderson
Chairman
Premium Cigar Association

Scott Pearce
Executive Director
Premium Cigar Association





American Vaping Association | www.vaping.org

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

February 16, 2021

RE: HB 826 HD 1, relating to electronic smoking devices

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

On behalf of the American Vaping Association, a nonprofit organization that advocates for tobacco harm reduction policies to reduce smoking rates, I am writing to urge the committee to reject HB 826 HD1 unless Section 4 of the bill is eliminated. The language appears to have been hastily written and we are concerned that it could lead to unintended consequences on legally operating small businesses.

The FDA makes the determination of what is and is not a “tobacco product” on a case-by-case basis in a process that involves career-level scientists. This process cannot be replicated by the Hawaii AG’s office.

The Food & Drug Administration has regulated certain vaping products under its “tobacco products” authority since August 2016. Since then, the agency has conducted hundreds of thousands of retail compliance checks, forced the removal of non-menthol and non-tobacco closed pod systems (i.e., JUUL) from the market pending authorization, gone after companies selling products with labeling that may appeal to youth, and seized illegal disposable vaping products coming in from overseas.

Most significantly, as of September 9, 2020, the FDA now requires that manufacturers of vaping products submit each of their products to a retroactive premarket review process. Right now, the FDA is reviewing applications from hundreds of different manufacturers and conducting enforcement against those who failed to file applications. No PMTA for a vaping product will be authorized unless the FDA concludes the product will be **“appropriate for the protection of public health”** under a rigorous population-level health standard that considers potential impacts on users and non-users of the product, including youth.

In the future, we expect that the FDA will expand its existing contract with the Hawaii DOH to have them assist with enforcement of product authorizations. If that occurs, FDA will likely supply the Hawaii DOH with an internal database of all products authorized and not authorized to be on the U.S. market. Without that list, each investigation by the Hawaii Attorney General's office will end up amounting to a fishing expedition.

While this is not our principal point of opposition, we must also point out that ambiguities in this language could lead to problems for marijuana and CBD users, both legal and otherwise. The definition of "electronic smoking device" in Hawaii law covers all classes of vaping products, likely out of a desire to protect youth. However, the FDA's definition of what qualifies as a "tobacco product" does NOT include standalone devices intended or expected to be used with CBD or marijuana (legal or otherwise) or liquids that do not contain tobacco-derived nicotine.

Instead of jumping the gun with a new section of law that is just 76 words, we encourage the committee to initiate a study of the FDA regulatory process and how it may provide opportunities to protect consumers from the harms of illicit products and combustible tobacco products.

Sincerely,

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

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



Date: February 16, 2021

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

From: Liza Ryan Gill, Campaign Manager, Campaign for Tobacco-Free Kids HI

Re: **Comments for HB476 HD1, Relating to Taxation**

Hrg: February 17th, 2021 at 2:00pm

Thank you for the opportunity to submit comments on HB476 HD1, which would establish taxation for electronic smoking devices and the e-liquids used in them.

The Campaign for Tobacco-Free Kids' goal is to protect children and save lives from the leading cause of preventable death: tobacco use. We envision a future free of death and disease caused by tobacco and support policies that will help us achieve those goals.

The need for us to act quickly has never been more urgent, as new tobacco products have come to market in sweet candy flavors aimed at attracting our youth. Hawai'i has one of the highest rates of middle school students who vape in the US and nearly one in three of our high schoolers have used an e-cigarette in the last 30 days. Of those youth who use e-cigarettes, more than 80% of them use flavored products.

Taxation of tobacco products is a proven strategy that improves the health of residents, and helps to balance budgets. Nationally, every 10 percent increase in cigarette prices reduces consumption by about four percent. Taxing e-cigarettes is an important tool to curb this dramatic rise in e-cigarette use.

The e-cigarette tax established in this bill is a great first step in seeking to address this issue. When coupled with strong regulatory protections, and an end to the sale of flavored tobacco products, will result in real wins for our youth.

In addition to a comprehensive approach to addressing this critical issue, we recommend that a stronger definition be considered. We are concerned that the current definitions for "e-liquid" and "open system e-liquid" may leave out popular devices used by youth here in Hawai'i.

Furthermore, as we have learned across the country, any effective tobacco tax establishes parity in taxation among tobacco products. Without such parity, youth will continue to gravitate to lower price, lower taxed options.

Recently adopted amendments to this bill would establish a lower tax rate for products approved by the FDA to be Modified Risk. Modified Risk Tobacco Products should not be taxed any differently than other

tobacco products. This ensures that tobacco users are encouraged to quit smoking, rather than transition to a different tobacco product.

Mahalo,

Liza Ryan Gill, Campaign for Tobacco-Free Kids HI



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

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

Hearing Date: Wednesday, February 17, 2021

HB 476 HD1 – RELATING TO TAXATION.

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

Thank you for the opportunity to COMMENT on HB 476 HD1 – RELATING TO TAXATION which would establish taxation of e-liquids used in electronic smoking devices, requires wholesalers and dealers to be licensed and requires retailers of tobacco and e-liquids to obtain permits.

ACS CAN supports regular and significant tax increases on all tobacco products, including e-cigarettes, to reduce tobacco use and recommends defining e-cigarettes as a tobacco product and regulating them as such. To maximize health and revenue gains, simplify tax collections, and make many dangerous and addictive products that are attractive to kids cost prohibitive, ACS CAN recommends taxing all e-cigarettes as a tobacco product at a percent of their price parallel to the cigarette tax rate.

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

“Electronic smoking device” means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include any battery or battery charger when sold separately. In addition, electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

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

ACS CAN opposes a two-tier tax system for e-cigarettes, or any efforts to tax them at any taxation methods other than a percent of price. To maximize health and revenue gains, simplify tax collections, and make many dangerous and addictive products that are attractive to kids cost prohibitive, ACS CAN recommends taxing all e-cigarettes as a tobacco product at a percent of their price parallel to the cigarette tax rate. For Hawaii, this means taxing all e-cigarette products at 70% of their wholesale price.

Currently in Hawaii, e-cigarettes are not included in tobacco excise taxes making them an appealing alternative for price-sensitive consumers including youth. Increasing tobacco taxes is one of the best ways to reduce tobacco use. It is important that tax increases apply to all tobacco products at an equivalent rate to encourage people to quit rather than switch to a cheaper product as well as to prevent youth from starting to use any tobacco product. If all tobacco products are not taxed at an equivalent rate, Hawaii can expect to see diminished positive outcomes for both revenue and public health. **ACS CAN recommends that all e-cigarette products, including both the liquid and the devices, are taxed at 70% of their wholesale price, in line with other tobacco products (OTP).** To prevent consumers from switching to lower-taxed, lower-cost products, we recommend to increase the tax on cigarettes by at least \$1 per pack and tax all OTP including e-cigarettes at a rate parallel to the new cigarette tax.

ACS CAN has serious concerns on the tax reductions on "modified risk" products. Increasing tobacco taxes is one of the most effective ways to reduce tobacco use, especially among kids, and tobacco companies know it. Lowering the tax, and therefore the price of tobacco products is one major way for the tobacco industry to protect their bottom line, addict people with cheap products, and keep them addicted.

- Any action at the state or local level to regulate so-called modified risk tobacco products differently from cigarettes and other tobacco products (OTPs) is premature.
- Modified risk does not mean "safe." All tobacco products have health harms.
- Lowering taxes on any tobacco product reduces state tax revenue.
- States should not change state tobacco control laws to accommodate any new product marketing claims.

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

reduce tobacco-related health disparities among disparate populations.¹ When appropriately funded in accordance with CDC recommendations, comprehensive tobacco control programs are able to reduce tobacco use.²

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

Thank you for the opportunity to comment on this matter.

¹ CDC, 2014.

² CDC, 2014.

Smoke-Free Alternatives Trade Association

1629 K Street NW
Suite 300
Washington, DC 20006



House of Representatives of Hawaii
COMMITTEE ON CONSUMER PROTECTION & COMMERCE
(Hearing Date February 17, 2021)
Position: Oppose

RE: H.B. 476 Title: Electronic Smoking Devices; E- Liquid; Taxation; Regulation; Modified Risk Tobacco Products; Retail Tobacco and E-Liquid Permits

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

Thank you for the opportunity to submit testimony regarding House Bill 476 (HB476).

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

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

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

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

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

It is our assessment that HB476, if enacted, would significantly harm consumer welfare, lead to avoidable negative health outcomes, and cause unnecessary hardship on Hawaii small businesses.

These restrictions would be particularly harmful to Hawaii's consumers, because it would prevent those trying to stop smoking from accessing vaping products that have been proven to help smokers quit, or switch from combustible cigarette use, the deadliest form of nicotine consumption.

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In 2016, the tobacco age was raised to 21 in Hawaii. In January 2020, the Food and Drug Administration (FDA) banned the sale of all fruit and sweet flavors in pod and cartridge-based e-cigarettes. The FDA took this action as they found, based on science, that cartridge-based e-cigarettes were the predominant vehicle of youth use of flavored vapor products. The FDA also noted that **open-system flavored e-liquid did not play a substantial role in youth use.**

HB476 does not distinguish between e-cigarettes and traditional tobacco products, placing both under the same category as “smoking” products, even though e-cigarettes are much safer than the combustible alternative. The scientific evidence from both the United States and European Union has proven beyond any reasonable doubt that e-cigarettes are safer than combustible cigarettes and are significantly more successful in helping smokers quit than traditional nicotine replacement therapies.¹²³

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

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

The bill HB476 provides an alternative tax rate of 50% for Modified Risk Tobacco Products. This clear delineation shows an inherent misunderstanding of the Federal Tobacco Control Act of 2009. If a tobacco product is a new tobacco product and applies for a Modified Risk Tobacco Product order, it must also satisfy the requirements of a new tobacco application and receive a marketing order.

SFATA does not believe our products are tobacco products, but the deeming by the FDA has brought vapor products under the Tobacco Control Act. However, the Pre-Market Tobacco Application (PMTA),

¹ Royal College of Physicians. “Nicotine without the smoke: Tobacco harm reduction.” London RCP, 2016.

<https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

² Stephens WE. “Comparing the cancer potencies of emissions from vapourised nicotine products including e-cigarettes with those of tobacco smoke.” Tobacco Control 2018;27:10-17.

<https://tobaccocontrol.bmj.com/content/27/1/10>

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

⁴ Buckell J, Marti J, Sindelar JL. “Should flavours be banned in cigarettes and e-cigarettes? Evidence on adult smokers and recent quitters from a discrete choice experiment.” Tobacco Control. 2019;28:168-175.

<https://tobaccocontrol.bmj.com/content/28/2/168.citation-tools>

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requires that the product be appropriate for the protection of public health (APPH) to be authorized to sell.

This includes a comprehensive scientific review and as such will be compared to current conventional cigarettes. The application must also show the effects on non-users and the potential for initiation. If authorized for market, the FDA will have clearly determined that products are appropriate for the protection of public health and do not pose a significant risk on non-users—in which it would make no sense to tax these products at all, but to encourage the switching of current smokers to the authorized products for sale.

The historical purpose of excise taxes on conventional cigarettes was to reduce smoking rates. Smoking is the number one preventable reason for death and disease of its users. Tobacco takes many forms but burning shredded leaves is by far the deadliest form according to the Centers for Disease Control (CDC). Vaping and electronic cigarettes show a significant benefit to users who have switched completely, and it is this reason that we oppose the introduction of any taxes on vapor products.

In a Wall Street Journal article, a CDC employee made the following comment: “‘Adults using e-cigarettes as an alternative to cigarettes shouldn’t go back to smoking,’ said Brian King, a deputy director of the CDC’s Office on Smoking and Health and a senior official involved in the agency’s vaping-related illness response.”⁵

While we are in support of the noble goal of preventing youth use, we cannot support this bill with the inevitable outcome of hurting adults. However, if Hawaii follows US trends, then we should see the following: teen vaping dropped 29% between 2019 and March 2020 (when schools closed)⁶, and another 32% by Nov. 2020⁷. We should build on this and make vapor products stronger as an alternative.

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

⁵ <https://www.wsj.com/articles/during-covid-19-lockdowns-people-went-back-to-smoking-11611829803>

⁶ <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6937e1-H.pdf>

⁷

https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2773494?utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_term=120320

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or perceived themselves as able to switch, had e-cigarettes only been available in the flavors that are available through conventional cigarettes.”⁸

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

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

This application and scientific review are very expensive, as well as exhaustive. Introducing and passing HB476 would effectively cause significant financial harm to our members, but it would also render the FDA process mute. This would not only be harmful to the businesses trying to comply, but would also put consumers in peril, especially if the FDA finds these products appropriate for the protection of public health.

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

SFATA believes that we can accomplish the goal of both restricting youth access while also allowing adult access. This is the best strategy to keep reducing the overall smoking rates of adults. We have introduced our Responsible Industry Network (RIN) program to the Centers of Tobacco Products (CTP) at FDA. This program is designed to restrict flavors to adult-only vape stores, to products that have gone through the PMTA process. This will allow marketing to adults of products in the program, while at the same time putting strict conditions and compliance checks on the retailers selling these products.

You will find a summary of this program attached at the end of this testimony. We hope you will find it informative and proves that the vapor store retailers are responsible community members who take Tobacco Harm Reduction seriously.

⁸ Russell, C., McKeganey, N., Dickson, T. *et al.* Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA. *Harm Reduct J* **15**, 33 (2018).
<https://doi.org/10.1186/s12954-018-0238-6>

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

SFATA opposes this legislation, and we urge the committee to vote NO on HB476.

Respectfully,

Mark Anton

Executive Director

Smoke-Free Alternatives Trade Association

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Smoke-Free Alternatives Trade Association (SFATA) Responsible Industry Network (RIN):

Proposal and Program Overview

I. Summary

- As a national trade association of businesses in the electronic nicotine delivery systems (ENDS) industry, the Smoke-Free Alternatives Trade Association (“SFATA” or “Organization”) requires its members to uphold the highest standards of excellence and adhere to the Organization’s Member Code of Responsible Conduct to offer less risky alternatives to combustible cigarettes for adult smokers that are appropriate for the protection of the public health. SFATA believes its members, including its retailer members, can further the U.S. Food and Drug Administration’s (FDA) public health mission by self-regulating and complying with Organization’s set standards, as well as all applicable health and safety requirements of state and local health authorities.
- SFATA advocates ENDS such as electronic cigarettes and e-liquids for adult use only. Accordingly, SFATA supports age restrictions on all tobacco products, including ENDS. We expect FDA to be supportive of innovative solutions to limit youth access. SFATA believes that controlled distribution would advance FDA’s goals of restricting youth access to ENDS products, as described in FDA’s Youth Tobacco Prevention Plan.⁹
- SFATA proposes its Responsible Industry Network (“RIN”) program, which requires adherence to certain regulatory standards and SFATA’s own, additional criteria for participation in a controlled network of eligible ENDS manufacturers, distributors, and retailers, implementation of robust age verification (including requirements for adult-only retail establishments) and product tracking measures, routine monitoring and data collection to further FDA’s postmarket surveillance efforts and enhanced enforcement through program-related corrective actions and penalties and data sharing with law enforcement and regulatory authorities.

II. SFATA Background and Mission Statement

- SFATA is a national trade association of businesses that work in, or in service of, the ENDS industry. Our members represent a wide cross-section of ENDS industry members, including

⁹ See U.S. Food & Drug Admin., FDA’s Youth Tobacco Prevention Plan (updated September 14, 2020) (available at <https://www.fda.gov/tobacco-products/youth-and-tobacco/fdas-youth-tobacco-prevention-plan>).

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distributors, manufacturers, and retailers. Firms must agree to uphold SFATA Principles as a condition of membership.

- SFATA believes in self-regulation and setting the standard for the vaping industry. As responsible business owners, our members understand that model corporate citizenship is vital to ensuring the continued availability of effective, innovative products that have the potential to eliminate the public health hazards caused by use of combusted cigarettes. Specifically, our members believe we have a responsibility to self-regulate the manufacturing, marketing, and sale of ENDS products based on compliance with regulatory requirements and commitment to SFATA's mission and adherence to the association's member Code of Conduct.
- We believe that a controlled distribution network that spans from the manufacturer, to the distributor, and on to the retailer, coupled with the robust age verification and data gathering measures described in this Proposal, would advance FDA's goals of restricting youth access to ENDS products and protecting the public health.

III. Program Objectives

SFATA's proposed RIN is intended to help FDA fulfill its public health mission by seeking to:

- Facilitate and monitor compliance of SFATA member ENDS products companies, including retailers, distributors, and manufacturers, to the Organization's mission and guiding principles, FDA regulatory requirements, and state and local laws.
- Control product marketing and sales and limit access via a controlled distribution buying network.
- Enable robust product tracking and tracing (and deter straw sales) via TraceVerify partnership or other measures that allow the product RFID tag/ QR Code (tracing lot number) to the purchaser ID at the point of sale.
- Direct accountability to manufacturers, distributors, and retailers with concrete, tangible corrective actions and consequences for non-compliance, including loss of the Organization's membership, program participation, and access to industry partners.
- Require retail participants in SFATA's RIN to sell products distributed by manufacturers also participating in the program, ensuring a closed loop system of control.

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- Generate and compile comprehensive, broader postmarket surveillance data. By using a collaborative, joint approach to discover any new youth-attractive trends, industry can take a proactive approach in curbing youth uptake and assist in fulfilling FDA’s public health mission.
- Establish a robust reporting and records system that will help eliminate youth use of adult vapor products.
- Further enforcement efforts by regulatory and law enforcement authorities to deter bad actors and straw purchasers.

IV. Responsible Industry Network – Program Overview

- SFATA’s RIN program requires adherence to FDA regulatory standards and SFATA’s own, additional criteria for participation in a controlled network of eligible manufacturers, distributors, and retailers. Key components of the RIN program are:
 - Controlled Distribution Network - Retail participants in the RIN program are committed to selling ENDS products distributed by manufacturers also participating in the program, ensuring a closed-loop system of control. Membership criteria ensures the RIN program is limited to responsible, like-minded business members. RIN members will only sell products that submitted Pre-Market Tobacco Applications (PMTAs) to FDA.
 - Robust Age Verification – Includes requirements for adult-only¹⁰ retail establishments and eCommerce platforms.
 - Upgraded Product Tracking Measures – Partnership with TraceVerify or other tools to link product manufacturing history (RFID tag/QR code) to Purchaser ID.
 - Routine Monitoring and Data Collection - To further FDA’s postmarket surveillance efforts, a SFATA compliance officer will work with SFATA’s Oversight Committee to ensure participating members operate within the parameters of the RIN Program.
 - Enhanced Enforcement - Through program-related corrective actions and penalties, and data sharing with law enforcement and regulatory authorities.
 - This Proposal is intended to reduce the resource burden on both FDA and responsible industry members while furthering the public health, and

¹⁰ “Adult-only” is defined as requiring each person present to provide a government-issued identification showing a photograph and a date of birth indicating the holder is at least 21 years of age. Parents with minors present are allowed in when necessary to obtain supplies. See SFATA RIN “Program Requirements.”

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establishes a more robust reporting and record system that will help minimize youth access to adult ENDS products.

V. Postmarket Surveillance

- Although postmarket surveillance typically requires well-designed monitoring of product safety for *users*, given that FDA’s mandate is to protect population health, SFATA believes that surveillance must be broader and must assess impact on users and non-users, transitions among tobacco-use states, and change over time.
- Postmarket data is needed to assess these parameters and how those data apply to real-world users. The challenge, however, is that new tobacco products may have small user bases. Thus, although surveillance mandates fall on each company, multiple, overlapping efforts may be wasteful, yielding fragmented and contradictory results. Rather, industry would benefit from collaboration on surveillance efforts, since collaborative joint effort would allow more robust, consistent results and perspective.
- Data will be submitted to FDA on an as-needed basis on behalf of all RIN program participants, streamlining the process for both industry and FDA.

VI. Enforcement

- SFATA believes members can work together to increase law enforcement and regulatory agencies’ effectiveness, by means of deterring straw buyers and bad actors, to drastically reduce underage use of ENDS products by utilizing our controlled network to predict trends, to locate weaknesses, and build strengths.
- Through TraceVerify, the customer’s age, driver’s license number, and the state of issue will be permanently linked to the unique identifying number of the purchased ENDS product and be stored in a secure cloud database that law enforcement can access to cross-reference purchase data against DMV information. This will identify the offending straw buyer, or conversely, the employee who either did not scan the customer’s ID or scanned the ID of an underage user, so authorities can levy the appropriate enforcement actions.



February 16, 2020

To: The Honorable Aaron Ling Johanson, Chair
Rep. Lisa Kitagawa, Vice Chair

From: Scott Rasak, VOLCANO Vape Shops
Chief Operating Officer

RE HB476 HSCR 141– oppose.

Thank you for the opportunity to submit testimony.

VOLCANO is the largest independent retailer & wholesaler of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 16 locations statewide and employ over 80 full-time workers to support sales of our products not only here in Hawaii, but to most USA states as well as over 30 International countries. We stand in opposition to HB476 for the following:

- 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.
- Vapor products and e-liquids contain NO tobacco, often times contain NO nicotine, and ultimately emit NO smoke when vaporized; yet HB476 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.
- HB476 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 ecigarettes are doing so to replace the use of traditional tobacco.
o <https://www.cdc.gov/media/releases/2017/p0615-youth-tobacco.html>
- The most Recent CDC report has shown e-cigarettes have supplanted all other traditional nicotine replacement therapies and are now the most commonly used product by consumers to quit using traditional tobacco cigarettes
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

- HB476 justification states that without taxing vapor products, "smokers may be tempted to purchase less expensive products such as e-liquid". This is false. Virtually all e-cigarette starter kits and bottles of e-liquid are already higher priced in comparison to tobacco cigarettes.

- Most troubling is the fact that by subjecting vapor products to this proposed tax, the additional costs to consumers will likely result in the state seeing less tax revenue, and even worse, former smokers returning to tobacco use. The tax will result in current vapor users purchasing from online vendors who would not be subject to state taxes. Local manufacturers, wholesalers and retailers would be put at a massive competitive disadvantage and most retail customers would send their money out-of-state effectively lowering the tax revenue already being generated by sales of vapor products here in the state. We would be unable to compete in other out-of-state and international markets with competitors who are not subjected to the same tax, which would put our local operations in severe jeopardy meaning an immediate loss of jobs and existing revenues. This bill would also effectively reduce access to a modified risk product that has been a public health win and would simply prop up and protect the proven deadly tobacco market.

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,



VOLCANO®

Scott Rasak
Chief Operating Officer
VOLCANO Vape Shops
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Honolulu, HI 96819
scott@volcanoecigs.com

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

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

Wednesday, February 17, 2021 2:00 PM

Testimony in Support with Amendments for House Bill 476 House Draft 1 Relating to Taxation

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

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

1. **Include disposable e-cigarettes in the definition of devices included in this legislation.** Disposable e-cigs are in pre-filled and sealed disposable containers, but are not "used with an electronic smoking device" because they are devices with e-liquid already in them, and therefore may cause confusion for retailers and a loophole for the industry.
2. **Bring tax parity with other tobacco products.** The current language of this bill makes the taxes for electronic devices lower than other types of tobacco. Research has shown that increasing taxes on tobacco decreases its use, particularly amongst youth. Bringing tax parity between electronic smoking devices and other tobacco products has the best chance for reducing our youth vaping rates.
3. **Invest in tobacco cessation for youth.** As Hawaii currently only spends a 66% of what are the Centers for Disease Control and Prevention recommended spending levels for tobacco control¹, we recommend a portion of this new tax revenue to be reserved to support Hawaii's cessation resources for youth.

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

The American Lung Association in Hawaii urges legislators to continue to support and advocate for policies to protect youth from tobacco use through tax parity. We support the intent of House Bill 476, House Draft 1 and welcome the suggested edits to make this bill even stronger.



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

¹ American Lung Association (2021, January). State of tobacco control - Hawaii.



ALOHACARE

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

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

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

RE: **HB476 HD1, Relating to Taxation – Support with Comments**

AlohaCare appreciates the opportunity to provide testimony in support of **HB476 HD1**, which has been amended to establish a tax on modified risk tobacco products and e-liquids and would require licensing and permitting for electronic smoking devices (ESDs).

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

AlohaCare would like to offer the following comments. Modified risk tobacco products were not originally addressed in HB476 and while we appreciate the Legislature’s intent to tax these products, it is important to note that despite being designated as “modified risk”, that these products are still not safe, as there’s still a level of risk with all tobacco products. AlohaCare believes that this measure will help to create more policy parity between e-cigarettes and other tobacco products. AlohaCare respectfully requests that the existing tax rate of 70% on wholesale products be applied to all electronic smoking devices and e-liquids as it is important to treat all ESDs and e-liquids as tobacco products for the protection of public health. Increasing prices through taxation is a proven strategy to reduce consumption and initiation of tobacco products.

We appreciate the legislature’s intent to ensure that e-liquids are treated as tobacco products and bring these products closer to parity in taxation. We also support the mandate for permitting and licensing for e-cigarette sellers.

We are grateful to the Committee for hearing HB476 HD1 and the opportunity to testify.



Cigar Rights of America, Hawai'i

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

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

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

RE: HB 476, HD1, Relating to Tobacco Products

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

On behalf of Cigar Rights of America (CRA), and more than 500 local members across the State, we write in reference to HB 476 that is being heard this week in the Hawai'i House Consumer Protection & Commerce Committee. This bill relates to taxation of Modified Risk Tobacco products, which will be taxed at a lower rate of 50 cents per product vs. 50%, which is the current tax on premium cigars. In January of 2020, the Food & Drug Administration (FDA) acknowledged that premium cigars are the lowest enforcement priority of tobacco products because of their lack of appeal to youth. In addition to this fact, the FDA and National Institute of Health PATH Study indicate that the average premium cigar smoker has the same health risk as a non-smoker due to infrequent consumption.

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

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

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

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

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

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

Sincerely,
Johnathon Myers
Ambassador, Cigar Rights of America

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

cigarrights.org



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 5, 2021**

Re: HB 476 HD1 Relating to Taxation

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

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

We **OPPOSE HB 476** Relating to Taxation. This measure imposes a fifty per cent tax on products with a modified risk tobacco product order issued by the Secretary of the United States Department of Health and Human Services; establishes taxation of e-liquids used in electronic smoking devices; requires wholesalers and dealers to be licensed; requires retailers of tobacco and e-liquids to obtain permits; and is effective 7/1/2060.

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

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

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

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

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

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

HB-476-HD-1

Submitted on: 2/16/2021 4:50:56 PM

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

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

Comments:

We are opposed to this bill because it is harmful to business and to civil liberties. Bills such as hb476 are purely special interest in nature and don't reflect the needs of normal citizens. Furthermore this needless tax will only cause a drop in sales because of the internet.

HB-476-HD-1

Submitted on: 2/12/2021 7:55:07 PM

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

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

Comments:

STRONGLY OPPOSE

Date: February 13, 2021

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

Re: **Comment on HB476 HD1**, Relating to Taxation

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

Aloha House Committee on Consumer Protection & Commerce,

As a parent, community member and healthcare professional I am writing in regard to **HB476 HD1**, which imposes a fifty per cent tax on products with a modified risk tobacco product order issued by the Secretary of the United States Department of Health and Human Services; establishes taxation of e-liquids used in electronic smoking devices; requires wholesalers and dealers to be licensed; requires retailers of tobacco and e-liquids to obtain permits.

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

HB476 HD1 would impose a 50%_tax on "modified risk" tobacco products and establish a tax on electronic smoking devices (25 cents per e-liquid cartridge or 15% of the wholesale price for "open systems e-liquid"). Both proposed taxes are lower than the tax on conventional cigarettes.

"Modified risk" products and electronic smoking devices and their components should be subject to a tobacco tax, and at a tax rate that is on par with other tobacco products (70% wholesale price), rather than lower tax rates on some products, as all tobacco products pose harm to health, including "modified risk" products.

I respectfully request that **HB476 HD1** be amended to assure that **all tobacco products are taxed similarly**.

Many thanks for your consideration,

Forrest Batz, PharmD
Kea'au, HI

HB-476-HD-1

Submitted on: 2/15/2021 11:25:54 AM

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

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

Comments:

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

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

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

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

Sincerely,
Johnathon Myers
Concerned Constituent

HB-476-HD-1

Submitted on: 2/15/2021 2:06:43 PM

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

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

Comments:

I oppose this bill

HB-476-HD-1

Submitted on: 2/15/2021 2:16:27 PM

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

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

Comments:

I strongly oppose this bill!

HB-476-HD-1

Submitted on: 2/15/2021 2:29:40 PM

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

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

Comments:

Dear Representatives

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

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

Hawaii has one of the highest rates of middle schoolers (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 appropriately regulating and taxing these products, we have the chance to improve the health of many, especially of our keiki.

All electronic smoking devices and their components should be subject to a tobacco tax, and at a tax rate that is on par with other tobacco products. Please close the loophole for electronic smoking devices and any modified-risk tobacco products, as all tobacco products pose harm to health.

Mahalo for your consideration.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

HB-476-HD-1

Submitted on: 2/15/2021 4:10:47 PM

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

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

Comments:

I am writing in regards to the E-cigarette Tax HB 476 that requires licensing and permitting of e-cigarette wholesalers and retailers, and imposes a 50% tax on modified risk tobacco products as well as a tax on cartridges. I am urging that the House impose a 75% tax on the wholesale price of all so-called modified risk tobacco products, the same as regular tobacco products. Electronic tobacco products have a concentrated nicotine amount, similar to smoking multiple cigarettes. This predisposes the user to become addicted to the nicotine content. Medical research has demonstrated that e-cigarettes are actually a gateway to regular cigarette smoking, due to the nicotine addiction. In addition, e-cigarettes are associated with severe lung disease, and even death (EVALI) in young users. The goal is to prevent young people from becoming users of electronic tobacco products, for which high taxation would be a disincentive. There is no reason to tax electronic tobacco products at a lower rate than regular tobacco products.

Linda Weiner, MD

Pediatrics

Kalaheo, Kauai

HB-476-HD-1

Submitted on: 2/15/2021 4:36:30 PM

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

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

Comments:

I Oppose this bill because you guys already put so much tobacco taxes, specially to Hawaii. How Much more are you going to take.
We Should Focus more on making a program for underaged instead of charging more taxes to people like my self that is way over 21 to be able to purchase it

HB-476-HD-1

Submitted on: 2/15/2021 5:18:38 PM

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

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

Comments:

Stop attacking the vaping community!

HB-476-HD-1

Submitted on: 2/15/2021 5:33:45 PM

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

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

Comments:

There are so many rules and regulations for e-cigarettes already, why make it so much harder to get. It doesn't hurt people like cigarettes or alcohol. Now there is research to prove it. You cannot keep taxing the people who put you in office. This is by far the most ridiculous I've seen the government handle a situation. Just plain sad if you ask me. I'm getting fed up opposing these bills while they're are way more important issues on these islands.

HB-476-HD-1

Submitted on: 2/15/2021 5:53:15 PM

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

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

Comments:

Foolish overregulation.

HB-476-HD-1

Submitted on: 2/15/2021 8:48:23 PM

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

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

Comments:

I oppose to bill HB476 because raising taxes on anything during a pandemic sounds like a horrible thing to do to the people. Also against making things harder for wholesalers in the tobacco industry .

HB-476-HD-1

Submitted on: 2/15/2021 11:33:32 PM

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

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

Comments:

Oppose

HB-476-HD-1

Submitted on: 2/16/2021 7:52:34 AM

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

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

Comments:

i oppose

HB-476-HD-1

Submitted on: 2/16/2021 9:24:04 AM

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

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

Comments:

Please no new taxes! As you all know COVID has wrecked both Hawaii businesses and residents. The burden of a 50% tax would shut down many if not all of Hawaii small businesses that specialize in Ecigs! Please support us locals not punish us with taxes and kill our businesses!

HB-476-HD-1

Submitted on: 2/16/2021 10:29:21 AM

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

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

Comments:

No way bruh

HB-476-HD-1

Submitted on: 2/16/2021 10:56:57 AM

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

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

Comments:

I oppose bill HB476, as a resident of Hawaii for 32 years.

HB-476-HD-1

Submitted on: 2/16/2021 11:26:23 AM

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

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

Comments:

I oppose this bill.

HB-476-HD-1

Submitted on: 2/16/2021 11:38:30 AM

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

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

Comments:

Adding taxes to these products will make them less accessible to those in the community seeking alternatives to conventional cigarettes. It will also encourage underground markets to open up which could bring unregulated products into the community, putting the health of the very people you are trying to protect at risk.

HB-476-HD-1

Submitted on: 2/16/2021 11:56:56 AM

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

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

Comments:

Aloha,

Please Oppose Bill HB476. I feel if there is a penalty for minors in possession of Vape Products that will slowly reduce under age usage not an TAX increase.

Thanks for your time,

Valentino Miranda-Kepa

HB-476-HD-1

Submitted on: 2/16/2021 12:05:18 PM

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

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

Comments:

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

HB-476-HD-1

Submitted on: 2/16/2021 1:29:23 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Chung	Individual	Comments	No

Comments:

Aloha Chair & Members of the CPC Committee:

I humbly request your consideration to revise the proposed tax for closed systems to a per mL/volume basis instead of per pod/cartridge. Revenue would remain the same. Unlike traditional tobacco products that are sold in uniform quantities and packaging, vapor products differ significantly in terms of volume and other quantity and packaging characteristics. Closed systems consist of small cartridges or pods that are sealed and not refillable, and the sizes of these cartridges or pods varies significantly (e.g. from 0.5 mL to 1.9mL or more).

As currently drafted HB476 HD1 would impose a \$0.25 tax on all cartridges, regardless of size.

This tax structure would incentivize adult consumers to shift to larger cartridges, thereby giving large cartridge manufacturers an unfair competitive advantage. This is especially true since any changes to a vapor product, including changing the cartridge size, requires the manufacturer to obtain FDA review and approval before the change can be made. A tax based on volume in milliliters is uniform, fair, and would better reflect tax neutrality within the closed system category.

Please consider the following changes:

Page 27, strike line 12, and insert the following:

“(14) An excise tax equal to 35.00 cents per milliliter of the e-liquid contained therein for each e-liquid”.

Page 30, line 8, strike “The number” and insert “The total volume in milliliters”.

Page 31, line 5, strike “The number” and insert “The total volume in milliliters”.

Mahalo for your consideration.



ReplyForward

HB-476-HD-1

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

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

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

Comments:

Aloha Please oppose this bill

HB-476-HD-1

Submitted on: 2/16/2021 5:42:49 PM

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

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

Comments:

Vaping products are helping people quit. Raising taxes won't help anyone.

HB-476-HD-1

Submitted on: 2/16/2021 7:26:30 PM

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

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

Comments:

Please don't pass this bill. These high taxes are bad for working people.