

STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony COMMENTING on H.B. 598, H.D. 2
RELATING TO TOBACCO PRODUCTS**

SENATOR JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON HEALTH

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date: 3/19/2021

Room Number: Videoconference

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

4 **Department Testimony:** The DOH offers comments and recommends an amendment, for
5 House Bill 598, House Draft 2 (H.B. 598, H.D. 2). The bill proposes prohibiting online sales
6 through the offense of unlawful shipment of tobacco products. It increases fees to provide for
7 sustainable licensing and permitting, dedicates specific funds for youth prevention and education
8 programs, and eliminates delivery sales of tobacco products. The DOH offers amendments by
9 reinserting the original definition of “tobacco products,” to realign with the original intent of
10 H.B. 598 to, “encourage users of e-liquids to quit, sustain cessation, prevent youth initiation, and
11 reduce consumption among those who continue to use them.”

12 The DOH recommends that language in this measure clearly provide for the definition of
13 “tobacco products” to include electronic smoking devices (ESDs), and any component or
14 accessory used in their consumption. This would establish the necessary regulatory authority
15 and create parity between other tobacco products and ESDs. By preventing the inclusion of
16 ESDs in the definition of “tobacco products” in Chapter 245, Hawaii Revised Statutes (HRS),
17 and not attaching a specific ESD tax, there is no clear vehicle to impose a tax on ESDs nor to

1 require licensing and permitting by wholesalers and retailers of ESDs. The intent to provide
2 regulatory authority and to create tax parity between other tobacco products and ESDs would be
3 restored with the definition of “tobacco products” Amendment.

4 ESDs are the most commonly used tobacco product among youth in Hawaii. High school
5 youth experimentation with ESDs grew from 22% in 2015 to 48% in 2019. In 2015, over one in
6 four (25.5%) high school students reported being current users, and today it is almost one in
7 three (30.6%). Regular use is highest for Native Hawaiian youth at 42% and neighbor island
8 counties, Kauai and Maui (36%), and Hawaii (35%).¹

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

19 Requiring licensure and retail permitting under the DOTAX would bring ESD and
20 vendors in alignment with the traditional tobacco retailers and would provide accurate data for
21 compliance surveillance. As of 2020, 31 states, the District of Columbia, the Northern Mariana

¹ Hawaii State Departments of Health and Education, Hawaii Health Data Warehouse, Youth Risk Behavior Survey. [YRBS 2019](#). Accessed 3-17-2021.

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).

1 Islands, and the U.S. Virgin Islands required retailers to have a license to sell ESDs.⁴ Tobacco
2 licensing is an effective tool for limiting the negative public health consequences of tobacco use
3 by ensuring that wholesalers and retailers comply with responsible sales practices. Increasing
4 the licensure and permitting fees, which have remained unchanged since 1995, despite high
5 tobacco taxes and ever-increasing tobacco industry expenditures in marketing and advertising,
6 would be a further positive move.

7 The DOH offers an amendment requesting to restore the original language of H.B. 598
8 with the definition of “tobacco products” that includes ESDs.

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

10 **Offered Amendment:**

11 Section 3, page 6, line 13, add the following:

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

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

- 14 • “Tobacco products” means [tobacco in any form,] any product, other than cigarettes or
15 little cigars, that is [prepared or intended for consumption or for personal use by humans,
16 including large cigars and any substitutes thereof other than cigarettes that bear the
17 semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe
18 tobacco.] made from or derived from tobacco, or that contains nicotine, that is intended
19 for human consumption or is likely to be consumed, whether smoked, heated, chewed,
20 absorbed, dissolved, inhaled or ingested by any other means, including but not limited to
21 a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. “Tobacco products”
22 also means electronic smoking devices and any component or accessory used in the
23 consumption of a tobacco product, such as filters, rolling papers, pipes, e-liquid, and any

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

1 other substances used in electronic smoking devices, whether or not they contain
2 nicotine. "Tobacco products" does not include drugs, devices, or combination products
3 authorized for sale by the U.S. Food and Drug Administration, as those terms are defined
4 in title 21 United States Code chapter 9."

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

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

The Honorable Rosalyn H. Baker, Chair;
The Honorable Stanley Chang, Chair;
and Members of the Senate Committee on Commerce and Consumer Protection

From: Isaac W. Choy, Director
Department of Taxation

Date: March 19, 2021
Time: 9:30 A.M.
Place: Via Video Conference, State Capitol

Re: H.B. 598, H.D. 2, Relating to Tobacco Products

The Department of Taxation (Department) offers the following comments regarding H.B. 598, H.D. 2, for your consideration.

H.B. 598, H.D. 2, makes numerous amendments to chapter 245, Hawaii Revised Statutes, including creating a new offense for unlawful shipment of tobacco products, repealing a related section dealing with delivery sales of tobacco products, raising tobacco wholesaler license and retailer permit fees, requiring retailers to specify whether they sell electronic smoking devices, modifying tobacco tax allocation, and repealing the Electronic Smoking Device Retailer Registration Unit. The bill has a defective effective date of July 1, 2050.

First, the Department notes the House Committee on Consumer Protection & Commerce made amendments to this measure at the Department's suggestions. The Department appreciates the consideration of its testimony.

Second, the Department notes that this measure adds a definition of "electronic smoking device" to chapter 245, HRS, but does not actually tax those devices. As a general matter, the Department notes that it is not appropriate to require registration under chapter 245, HRS, if the taxpayer is not subject to that tax.

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

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



American Cancer Society
Cancer Action Network
2370 Nuʻuanu Avenue
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808.432.9139
www.fightcancer.org

Senate Committee on Health
Senator Jarrett Keohokalole, Chair
Senator Rosalyn Baker, Vice Chair

Senate Committee on Commerce And Consumer Protection
Senator Rosalyn Baker, Chair
Senator Stanley Chang, Vice Chair

Hearing Date: Friday, March 19, 2021

HB 598 HD2 – RELATING TO TOBACCO PRODUCTS.

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

Thank you for the opportunity to **OPPOSE** HB 598 HD2 – RELATING TO TOBACCO PRODUCTS. The current version of the bill does not reflect the original intent of the bill to regulate electronic smoking devices. Please restore the bill to its original language of HB 598 which would require licensing and permitting for electronic smoking device wholesalers and retailers, and create tax parity between electronic smoking devices and other tobacco products (70% of wholesale price).

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.

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

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

Smoking has a monetary cost placed on the State of Hawaii. The annual health care costs in Hawaii directly caused by smoking is \$526 million. Medicaid costs caused by smoking in Hawaii is \$141.7 million annually. Residents' state & federal tax burden from smoking-caused government expenditures is \$835 per household. Smoking-caused productivity losses in Hawaii is \$387.3 million. These amounts do not include

¹ CDC, 2014.

² CDC, 2014.

health costs caused by exposure to secondhand smoke, smoking-caused fires, smokeless tobacco use, or cigar and pipe smoking. Proportion of cancer deaths in Hawaii attributable to smoking is 24.6%.³

Thank you for the opportunity to oppose HB 598 HD2.

³ ACS, State-Specific Smoking-Related Cancer Cases and Deaths, 2017 Updated December 3, 2020
<https://www.fightcancer.org/sites/default/files/State-Specific%20Smoking-Attributable%20Cancer%20Cases%20and%20Deaths%20Factsheet%20FINAL%2012.11.20.pdf>



**American
Heart
Association.**

American Heart Association testimony for HB 598, HD 2 “Relating to Tobacco Products” with suggested amendment

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Michael Rembis, FACHE

Andrew S. Rosen

Timothy Slottow

Jennifer Walker

The American Heart Association supports the intent of HB 598, HD2, but requests the following amendment. Please restore the bill to its original language of HB 598 which would require licensing/permitting for electronic smoking device wholesalers and retailers and create tax parity between electronic smoking devices and other tobacco products (70% of wholesale price).

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

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

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

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

Safety of vaping vs. cigarettes

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

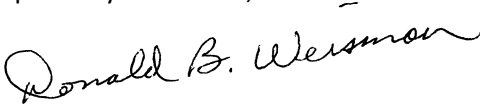
That’s especially troubling because many studies in animals show nicotine is a neurotoxin (a poison affecting the nervous system). It can affect brain development from early fetal life through adolescence, permanently changing the ability to think or reason.

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

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

The American Heart Association of Hawaii urges you to amend HB 598, HD 2, to its original language as a way to create parity between e-cigarette and traditional tobacco product regulations and taxes, and to help reduce Hawaii youth vaping epidemic.

Respectfully submitted,

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

Donald B. Weisman
Government Relations/Communications Director

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

Friday, March 19, 2021 9:30 AM, Conference Room 229

Comments for Amendments for House Bill 598 House Draft 3 Relating to Tobacco Products

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

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

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

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

The American Lung Association in Hawaii urges legislators to continue to support and advocate for policies to protect youth from tobacco use through tax parity. We support the intent of House Bill 598 House Draft 3 and welcome the suggested edits to make this bill even stronger.



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



American Vaping Association | www.vaping.org

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

March 18, 2021

RE: HB 598 HD 2 (companion to SB 621), unlawful shipment of tobacco products and electronic smoking devices

Chairs Keohokalole and Baker, Vice-Chairs, and members of the committee:

On behalf of the American Vaping Association, a nonprofit organization that advocates for tobacco harm reduction policies to reduce smoking rates, I am writing to urge the committee to reject HB 598 HD 2. While we understand the legislature's concern about internet sales of vaping products, the combination of existing Hawaii law governing these sales in combination with new federal laws provide ample enforcement power to stop bad actors. Hawaii is also given special status in the new federal law allowing USPS to continue to handle intrastate shipments under strict conditions.

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

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

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

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

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

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

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

Again, we urge you to reject this bill.

Sincerely,

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

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



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Exercise Sciences*

*Garret Sugai
Kaiser Permanente*

Date: March 18, 2021

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

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Members of the Senate Committee on Commerce and Consumer
Protection

Re: Comments to HB 598, HD2, Relating to Tobacco Products

Hrg: March 19, 2021 at 9:30 AM via Videoconference

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Institute **provides comments on HB 598, HD2**, which aims to (1) establish the offense of unlawful shipment of tobacco products; (2) increase the price of the tobacco license and permit; (3) fund health education and prevention programs relating to risks and dangers of electronic smoking devices (ESDs) youth use; and (4) repeal various statutory provisions relating to ESDs.

The Coalition notes that the removal of ESDs from the tobacco definition removes ESDs from the restrictions referenced above and would **support** the bill if ESDs were included. The Coalition **recommends the original language of HB 598**. This language includes ESDs in the definition of tobacco products, thus taxing ESDs at 70% of the wholesale price, the same rate of other tobacco products, and requires ESD retailers and wholesalers to obtain tobacco permits and licenses.

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

In 2019, 1 in 3 (30.6%) public high school students and more than 1 in 6 (18%) public middle school students in Hawai'i reported that they are regularly vapingⁱⁱ. Because ESDs remain unregulated, e-cigarette companies have aggressively marketed their products by glamorizing their use, using celebrities and young adults as endorsers, and making false health claims. E-cigarettes often contain nicotine, which is addictive and harmful particularly to adolescents, whose brains are still developing. A 2016 report by the Surgeon General concluded that cigarettes are dangerous and a health

threat to youth and young adultsⁱⁱⁱ. According to an article published by Dr. Jackler and Dr. Ramamurthi, “JUUL has triggered a widespread rush among aerosol purveyors to market e-liquid in unprecedentedly high nicotine concentrations^{iv}.”

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

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

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

COVID-19 Risks

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

ESD licensing and permits protect both consumers and merchants.

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

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

The “Preventing Online Sales of E-Cigarettes to Children Act” expands the 2009 Prevent All Cigarette Trafficking (PACT) Act to cover electronic smoking devices, requiring age verification by online retailers and private delivery companies, labeling on packaging to indicate they contain tobacco products, compliance with state and local tobacco taxes, and prohibiting shipments of electronic smoking devices through USPS^{vii}. However, private delivery companies like UPS and FedEx to deliver e-cigarettes to consumers. States have the authority to impose stricter

regulations, and at least six states have laws that prohibit direct-to-consumer shipments of e-cigarettes. This measure would restrict shipments of ESDs to registered and licensed seller, allowing the State to enforce current tobacco selling and taxation laws. According to the same independent poll conducted by Ward Research, 82% of Hawai'i registered voters support prohibiting on-line sales of ESDs and e-liquid.

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

Thank you for the opportunity to testify. We support the intent of HB 598, HD2 and recommend reverting to the original language of the bill.

Mahalo,



Jessica Yamauchi, MA
Executive Director

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

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

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

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

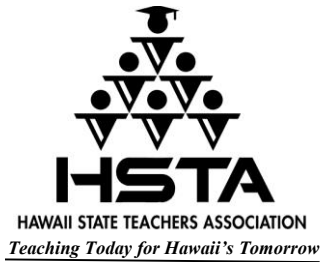
^{iv} Jackler RK, Ramamurthi D. Tob Control Epub ahead of print: 2.6.19.doi:10.1136/tobaccocontrol-2018-054796. <https://tobaccocontrol.bmj.com/content/early/2019/01/31/tobaccocontrol-2018-054796>

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

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

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

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



Corey Rosenlee
President

Osa Tui, Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE SENTATE COMMITTEE ON HEALTH and
THE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

RE: HB 598, HD2 - RELATING TO TOBACCO PRODUCTS

FRIDAY, MARCH 19, 2021

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Keohokalole, Chair Baker, and Members of the Committees:

The Hawaii State Teachers Association **supports HB 598, HD2**, relating to tobacco products, **with suggested amendment**. This bill establishes the offense of unlawful shipment of tobacco products. Increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products. Increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products. Allocates a portion of funds collected from excise taxes on tobacco products to health education and prevention programs concerning the risks and dangers of the use of electronic smoking devices for youth. Repeals certain provisions of the Hawaii Revised Statutes relating to electronic smoking devices. Effective 7/1/2050. (HD2)

Please ensure this bill is amended to include “electronic smoking devices” in the definition of tobacco products for all parts of this bill, that would require licensing/permitting for electronic smoking device wholesalers and retailers and create tax parity between electronic smoking devices and other tobacco products (70% of wholesale price).

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

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

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

We oppose any increase of any fines for youth that may be suggested as an addition to this bill. It is the predatory tactics of the vaping industry on our youth that need to be regulated and taxed. So please do NOT add any fines or punishment on our youth who are the victims here.

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

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TOBACCO, Include electronic smoking devices, hike fees

BILL NUMBER: HB 598, HD2

INTRODUCED BY: House Committee on Consumer Protection & Commerce

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

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

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

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

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

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

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

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

Makes technical and conforming amendments.

EFFECTIVE DATE: 7/1/2050.

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

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

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

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

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

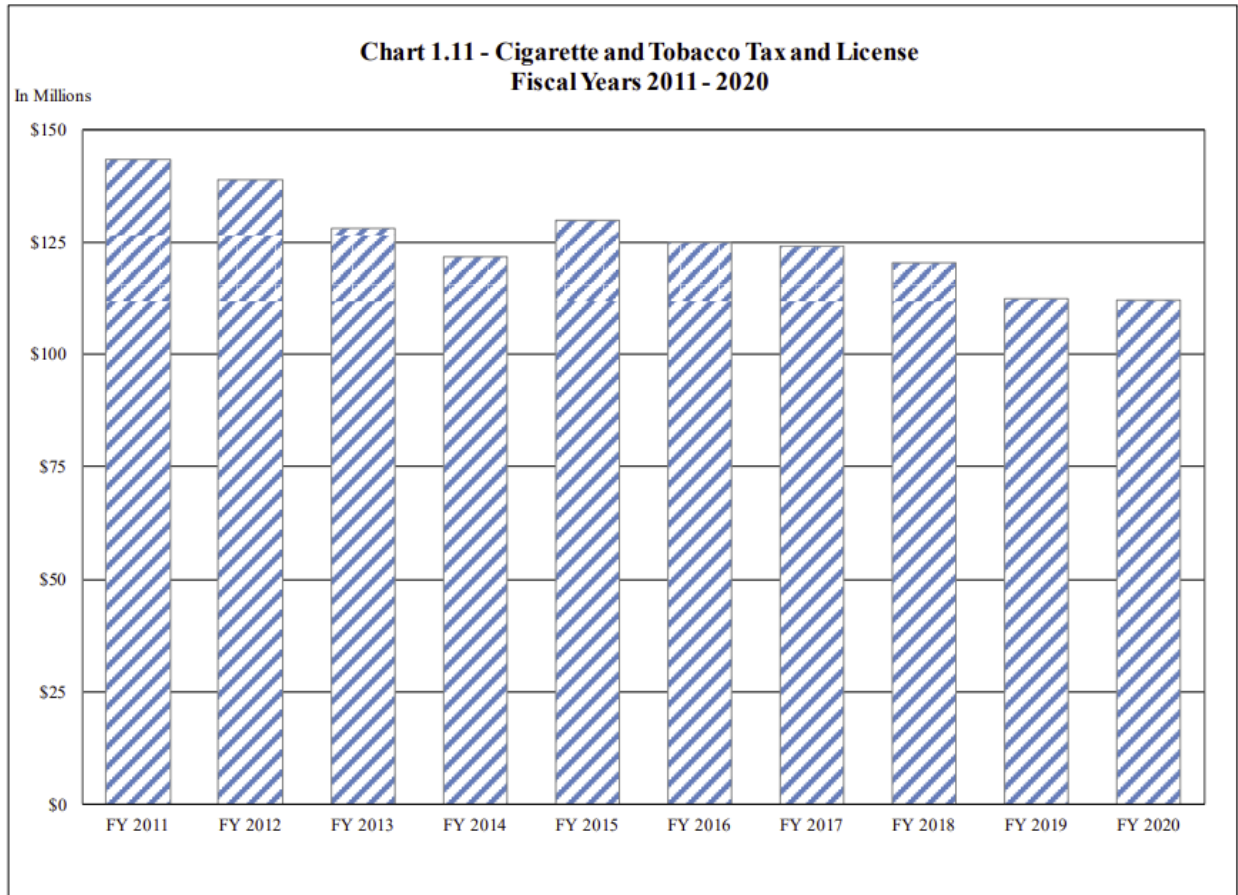
The irony is that arguments to increase the tax on tobacco and, more specifically, cigarettes, is a goal of getting smokers to quit while depending on the revenues from tobacco and cigarette taxes to fund an ongoing program, in this case the Cancer Research Center. So, which is it folks, stop smokers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

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

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

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

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



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

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

Digested 2/23/2021

HB 598, HD 3
Committees on Health and Consumer Protection and Commerce
March 19, 2021

Good Morning
Chairs Keohokaole, Baker Luke, Vice Chairs, Members

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

I am testifying in support of HB 598, HD 3 with suggested amendments.

The bill proposes to:

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

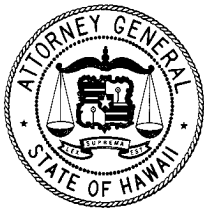
The Hawaii State Legislature has enacted numerous pieces of legislation on traditional tobacco prevention and control measures that have resulted in significant declines in both adult and youth smoking rates. Hawaii has achieved some of the lowest smoking rates in the nation, saving both money and lives.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

To maximize the preventive impacts of this measure, it is suggested that HB 598, HD 3 restore the original language from HB 598 as it applies to:

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

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

Thank you for the opportunity to testify.



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

ON THE FOLLOWING MEASURE:

H.B. NO. 598, H.D. 2, RELATING TO TOBACCO PRODUCTS.

BEFORE THE:

SENATE COMMITTEES ON HEALTH AND ON COMMERCE AND CONSUMER PROTECTION

DATE: Friday, March 19, 2021 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229, Via Videoconference

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

Chairs Keohokalole and Baker and Members of the Committees:

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

The purposes of this bill are to (1) establish the offense of unlawful shipment of tobacco products; (2) raise the fees for obtaining a tobacco wholesaler/dealer license and a retail tobacco permit; (3) allocate a portion of the excise tax on cigarettes and tobacco products to health education and prevention programs for youth on the dangers of using electronic smoking devices; (4) require retailers to specify if their retail establishment sells electronic smoking devices when applying for or renewing a retail tobacco permit; and (5) repeal certain provisions of the Hawaii Revised Statutes (HRS) relating to electronic smoking devices.

Section 2 of the bill at page 4, line 15, through page 6, line 12, essentially adopts the wording of section 245-16, HRS, which sets forth the offense of unlawful shipment of cigarettes. The bill replaces the term "cigarettes" with "tobacco products" to create a new offense. The term "tobacco products" is currently defined in section 245-1, HRS, as "tobacco in any form, other than cigarettes or little cigars, that is prepared or intended for consumption or for personal use by humans, including large cigars and any substitutes thereof other than cigarettes that bear the semblance thereof, snuff, chewing or smokeless tobacco, and smoking or pipe tobacco." This definition of "tobacco

products", which excludes reference to electronic smoking devices and e-liquids, would be applicable to the new offense.

It should be noted that subsection (b)(1) on page 5, lines 8 to 11, seeks to exempt tobacco products "from taxes as provided by section 245-3(b) or are otherwise exempt from the applicability of this chapter as provided by section 245-62[.]"

(Emphasis added.) Section 245-62, HRS states:

"(a) This chapter shall not apply to:

- (1) Cigarettes allowed to be imported or brought into the United States . . . ;
- (2) Cigarettes sold or intended to be sold as duty-free . . . ;
- (3) A delivery service when engaged in the business of transporting or delivering packages or other containers of cigarettes,"

(Emphasis added.)

As section 245-62, HRS, only applies to cigarettes, the reference to section 245-62, HRS, at page 5, lines 9 through 11, should be stricken so the paragraph reads:

"(1) The tobacco products are exempt from taxes as provided by section 245-3(b); or"

Another option would be to amend section 245-62, HRS, to include tobacco products. The Department recommends that reference to section 245-62, HRS, be stricken from the new offense.

Additionally, the definition of "electronic smoking device" on page 6, line 16 through page 7, line 7, makes reference to "aerosolized or vaporized nicotine" and a "substance intended to be aerosolized or vaporized during the use of the device[.]" The definition does not include the term e-liquid. The Department suggests that the phrase "or any other substance" be added to page 6, line 17, following the word nicotine, and the phrase "e-liquid or other" be added to page 7, line 1, before the word "substance" so the definition starting on page 6, line 16, reads as follows:

"Electronic smoking device" means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device, including but not limited to an e-cigarette, e-cigar,

e-pipe, vape pen or e-hookah. "Electronic smoking device" includes any component, part, or accessory of such device, whether or not sold separately, and includes any e-liquid or other substance intended to be aerosolized or vaporized during the use of the device. . . . "

Expanding the definition of "electronic smoking device" to include "other substance" would take into account that not all aerosolized or vaporized substances used in electronic smoking devices contain nicotine. Including "e-liquid or other substance" in the definition adds clarity to the definition by using a common term that will be clearly understood by applicants for a retail tobacco permit.

For clarity, a definition of "e-liquid" should be added as a definition to section 245-1, HRS. The following definition of "e-liquid" could be inserted in section 3, starting on page 6, line 13:

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

""Electronic smoking device" means . . .

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

Finally, this bill repeals part XII of chapter 28, HRS. See section 8, page 15, lines 7 to 8. By requiring retailers to specify if their retail establishment sells electronic smoking devices when applying for a retail tobacco permit renders the Electronic Smoking Device Retailer Registration Unit established under part XII of chapter 28, HRS, unnecessary. Including electronic smoking devices under the purview of the Department of Taxation would conserve resources and make the regulation of

electronic smoking devices a more efficient process for retailers and the State. The Department supports the repeal of part XII of chapter 28, HRS.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

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

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON HEALTH AND
COMMERCE AND CONSUMER PROTECTION
ON
HOUSE BILL NO. 598, H.D. 2

March 19, 2021
9:30 a.m.
Room 229

RELATING TO TOBACCO PRODUCTS

The Department of Budget and Finance (B&F) offers comments on House Bill (H.B.) No. 598, H.D. 2.

H.B. No. 598, H.D. 2, establishes a new offense for the unlawful shipment of tobacco products; increases tobacco wholesaler license and retailer permit fees from \$2.50 to \$250 and \$20 to \$300, respectively; requires tobacco retailers to specify whether they sell electronic smoking devices; establishes a new allocation of \$750,000 in tobacco excise taxes to be deposited annually into the Hawai'i Tobacco Prevention and Control Trust Fund to support health education and prevention programs concerning the risks and danger of the use of electronic smoking devices for youth; and repeals certain provisions of the HRS relating to electronic smoking devices.

B&F is concerned that the proposed amendments would decrease revenues to the State general fund and impact the State's share of direct federal aid from the American Rescue Plan Act of 2021 (ARPA). Provisions of the ARPA specifically state:

“A state or territory shall not use the funds provided under this section or transferred pursuant to section 603(c)(4) to either directly or indirectly offset a reduction in the net tax revenue of such state or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.”

B&F notes that any reduction in State tax revenues could result in reduced ARPA funding. Hawai'i's estimated allocation of ARPA funds is in excess of \$1.6 billion and is critical to mitigating the negative financial impacts the COVID-19 pandemic has had on the State budget.

B&F defers to the Department of Taxation and the Department of the Attorney General regarding the implementation of this bill.

Thank you for your consideration of our comments.

March 18, 2021

TO: Chair Rosalyn H. Baker
Vice Chair Stanley Chang
Members of the Senate Committee on Commerce and Consumer
Protection

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

RE: **HB 598 HD2** - Relating to Tobacco Products
Hearing Date: March 19, 2021
Time: 9:30 a.m.

The Cigar Association of America, Inc. (CAA) **opposes HB 598 HD2** which in part makes unlawful the shipment of tobacco products except to a licensee to the extent that it includes cigars. The primary focus of this bill is to address the rising use of electronic smoking devices (“ESG”) by youth in Hawaii. Cigars are primarily the choice and custom of mature, responsible and informed adults and are not the tobacco product of choice among Hawaii’s youth. There are or will be in place regulations at both the state and federal level on the shipment of ESGs. Therefore, any prohibition on the shipment of tobacco products unless to a licensee should exclude cigars.

Thank you for considering this testimony.



Hawaii COPD Coalition
700 Richards St., Suite 2410
Honolulu, HI 96813
Valerie@hawaiicopd.org
(808)699-9839

March 16, 2021

Honorable Chairs Senators Jarrett Keohokalole and Rosalyn Baker
Honorable Vice-Chairs Senators Rosalyn Baker and Stanley Chang
Members of the Health Committee and Commerce & Consumer Protection Committee

RE: **Comments with Requested Amendment to HB598,HD2**

Dear Honorable Senators Keohokalole, Baker and Chang, Members of the Health Committee and members of the Commerce & Consumer Protection Committee,

This measure is extremely critical to the health of the people of our state, especially our keiki. **Please amend and pass HB598,HD2 to add back electronic smoking devices to the definition of tobacco products, so that they will be appropriately regulated and taxed, as the bill was originally written.** There is absolutely no health justification for reducing taxes as all tobacco products post harm to health of those using the products and those who may inhale or come into contact with any emissions. The amendment would create tax parity between electronic smoking devices and other tobacco products (70% of whole sale price).

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

Thank you for considering this important issue and the bills to tax electronic smoking devices. **Please amend HB598, to put back the original language which would define electronic smoking devices as tobacco products and regulate and tax them as other tobacco products; please vote in favor of the amended bill.**
Thank you.

Very truly yours,

Valerie Chang

Valerie Chang
Executive Director



Hawaii Dental Association

To: Senate Committee on Health
Senate Committee on Commerce and Consumer Protection

Time/Date: 9:30 A.M., March 19, 2021

Location: State Capitol Room 229 and Via Teleconference

Re: HB 598 HD2, Relating to Tobacco Products

Aloha Chair Keohokalole, Chair Baker, Vice Chair Chang, and members of the committees:

The Hawaii Dental Association (HDA) is a professional association comprised of approximately 950-member dentists. **We are in support of HB 598 HD2**, relating to tobacco products. This bill establishes the offense of unlawful shipment of tobacco products, increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products, and increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products. Among other provisions, it allocates a portion of funds collected from excise taxes on tobacco products to health education and prevention programs concerning the risks and dangers of the use of electronic smoking devices for youth.

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

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

Mahalo for the opportunity to testify in support of HB 598 HD2.



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814

Phone (808) 536-7702 Fax (808) 528-2376

www.hawaiimedicalassociation.org

SENATE COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair

Senator Rosalyn H. Baker, Vice Chair

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

Date: March 19, 2021

From: Hawaii Medical Association

Michael Champion MD, President

Christopher Flanders DO, HMA Legislative Liaison

Roger Kimura MD, AMA Representative for HMA

Elizabeth Ann Ignacio MD, Chair HMA Legislative Committee

Linda Rosehill, Legislative Affairs

Re: HB 598 HD2 RELATING TO TOBACCO PRODUCTS

Position: SUPPORT

The Hawaii Medical Association (HMA) strongly supports any and all legislation that helps tobacco cessation efforts.

The HMA was a collaborator with the State of Hawaii that led to the 1998 Master Settlement Agreement that resulted in the payment of over \$246 billion from four major tobacco companies to forty-six states, five territories, and the District of Columbia for tobacco-related health care costs and sweeping restrictions on tobacco-related advertising and marketing.

The HMA is aligned with the American Medical Association (AMA) on these issues. The AMA has robust positions on this subject with sixty-six relevant policies.

The impacts of tobacco and or nicotine to society in disease burden, social and family structure, and direct and indirect costs far outweigh any tax revenue benefit to the State of Hawaii or support for small businesses.

The following are selected AMA Policies relevant to the statements above. The complete compendium of AMA Policies related to tobacco can be found at <https://policysearch.ama-assn.org/policyfinder/search/Tobacco/relevant/7/>.

H-495.988: On the broad inclusion of all tobacco products as health hazards. The AMA “acknowledges that all tobacco products (including but not limited to, cigarettes, smokeless tobacco, chewing tobacco, and hookah/water pipe tobacco) are harmful to health, and that there is no such thing as a safe cigarette,” and “recognizes that currently available evidence from short-term studies points to electronic cigarettes as containing fewer toxicants than combustible cigarettes, but the use of electronic

HMA OFFICERS

President – Michael Champion, MD President-Elect – Angela Pratt, MD

Immediate Past President – Jerry Van Meter, MD Treasurer – Elizabeth A. Ignacio, MD

Executive Director – Thomas Kosasa, MD



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www.hawaiimedicalassociation.org

cigarettes is not harmless and increases youth risk of using combustible tobacco cigarettes.”

H-425.993: On health hazards and health promotion. Tobacco is among health hazards leading to preventable illnesses and “preventable illness is a major deterrent to good health and accounts for a major portion of our country's total health care expenditure.”

H-495-987: On taxation as a tool to decrease tobacco use. The AMA continues “to support efforts, including education and legislation, to increase federal, state, and local excise taxes on all tobacco products and electronic nicotine delivery systems (ENDS), including e-cigarettes, in order to discourage use.

Thank you for allowing the Hawaii Medical Association to testify on this issue.

HMA OFFICERS

President – Michael Champion, MD President-Elect – Angela Pratt, MD
Immediate Past President – Jerry Van Meter, MD Treasurer – Elizabeth A. Ignacio, MD
Executive Director – Thomas Kosasa, MD



**Testimony to the Senate Joint Committee on Health, and Commerce and Consumer
Protection
Friday, March 19, 2021; 9:30 a.m.
State Capitol, Conference Room 229
Via Videoconference**

RE: HOUSE BILL NO.0598, HOUSE DRAFT 2, RELATING TO TOBACCO PRODUCTS.

Chair Keohokalole, Chair Baker, and Members of the Joint Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** House Bill No. 0598, House Draft 2, RELATING TO TOBACCO PRODUCTS.

The bill, as received by your Committee, would:

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

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

Testimony on House Bill No. 0598, House Draft 2
Friday, March 19, 2021; 9:30 a.m.
Page 2

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

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

It should be noted that previous tax increases as well as public health media campaigns have been effective in reducing consumption of tobacco to the point where collections of the Cigarette Tax and Tobacco Tax have steadily diminished in recent years. 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. However, it is unclear whether the use of Cigarette Tax and Tobacco Tax collections as a dedicated source of revenue for essential public health programs will continue to be sustainable.

It should be noted that the House of Representatives approved on Third Reading House Bill No. 1296, House Draft 1, a measure that would, among other things, repeal the Hawaii Tobacco Prevention and Control Trust Fund (Trust Fund), and transfer all unencumbered balances to the General Fund on July 1, 2021. Should that measure be enacted, it is unclear whether SECTION 6 of this bill would be operative. The HPCA opposes House Bill No. 1296 and believes that the Trust Fund is an essential funding mechanism for vital public health programs. **To the extent that this measure can help to preserve the Trust Fund, the HPCA wholeheartedly supports this bill.**

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.



Testimony of Kimo Haynes,
President of the Hawaii Petroleum Marketers Association

HOUSE BILL 598 HD2, RELATING TO TOBACCO PRODUCTS

SENATE COMMITTEE ON HEALTH
The Honorable Jarrett Keohokalole, Chair
The Honorable Rosalyn H. Baker, Vice Chair

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Friday, March 19, 2021 at 9:30 a.m.

Chair Keohokalole and Vice Chair Baker, and members of the Committee on Health. Chair Baker and Vice Chair Chang, and members of the Committee on Commerce and Consumer Protection:

I am Kimo Haynes, president of the Hawaii Petroleum Marketers Association (“HPMA”). HPMA is a non-profit trade association comprised of members who directly market liquid fuel products and operate convenience stores across the Hawaiian Islands. Our membership includes individuals and companies who operate as independent marketers, jobbers or distributors of petroleum products and convenience store items such as tobacco products.

House Bill 598 HD2 seeks to, among other things, increase the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products from \$20 to \$300.

HPMA comments on HB 598 HD2.

HPMA takes no position on most of the changes proposed in HB 598 HD2, but would like to offer comments on the proposed increase in the retail tobacco permit fee. As you all know, most local businesses are struggling to stay afloat during this global pandemic. Many local businesses cannot sustain the continued operating losses and are shutting down permanently.

This is simply not the time to increase our cost of doing business in Hawaii by increasing our retail tobacco permit fee from \$20 to \$300. Local retailers will suffer as a result of this proposed increase. Hawaii already has one of the highest tobacco taxes of any state. Attempting to increase retail tobacco permit fees will increase prices to consumers, and will continue to drive away our loyal customers and encourage mail order or gray market purchases from exempt Indian reservation outlets as well as from sources outside the country.

Please also keep in mind that the retail tobacco permit fees were created to help pay for the permitting process, administration and enforcement, and were not meant to fund other programs.

Thank you for allowing HPMA the opportunity to comment on this bill.



HB598 HD2 Tobacco Shipping and Taxes

COMMITTEE ON HEALTH:

- Sen. Jarrett Keohokalole, Chair; Sen. Rosalyn Baker, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION:

- Sen. Rosalyn Baker, Chair; Sen. Stanley Chang, Vice Chair

Friday, Mar. 19, 2021: 9:30: Videoconference

Hawaii Substance Abuse Coalition Supports HB598 HD2:

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

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

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

Given the concern for our children's health, we recommend that Tobacco preventions resources be designated as an allocation of the tax funds.

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

HB-598-HD-2

Submitted on: 3/16/2021 5:28:16 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Dau	Testifying for Keiki Injury Prevention Coalition	Support	No

Comments:

My name is Lisa Dau and I am the Injury Prevention Coordinator for Keiki Injury Prevention Coalition and I support HB598 HD2 with amendments to restore bill to the original language of HB598, requiring licensing and permitting for electronic smoking device wholesalers and retailers and creating tax parity between electronic smoking devices and other tobacco products. Appropriately regulating and taxing these electronic nicotine devices brings these products in line with laws regarding other tobacco products. This will improve the health and safety of our keiki.

Thank you,
Lisa Dau, RN

HB-598-HD-2

Submitted on: 3/17/2021 10:35:36 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
makela	Testifying for irie hawaii	Oppose	No

Comments:

Oppose

HB-598-HD-2

Submitted on: 3/16/2021 5:15:31 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Anthony Orozco	Individual	Oppose	No

Comments:

Opposed to this business unfriendly bill.

HB-598-HD-2

Submitted on: 3/16/2021 7:00:20 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

Opposed to HB598. Leave our e-cigs alone. They help me smoke less and that helps my health.

Date: March 17, 2021

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

The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection

Re: **Comment and request for amendment for HB598 HD2**, Relating to Tobacco Products

Hrg: March 19, 2021 at 9:30 AM in Conference Room 229 & Videoconference

Aloha Senate Committees on Health and Commerce and Consumer Protection,

As a parent, community member and healthcare professional I am writing with a comment and **request for amendment of HB598 HD2**, which establishes the offense of unlawful shipment of tobacco products; increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products; increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products; allocates a portion of funds collected from excise taxes on tobacco products to health education and prevention programs concerning the risks and dangers of the use of electronic smoking devices for youth; repeals certain provisions of the Hawaii Revised Statutes relating to electronic smoking devices.

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.

HB598 HD2 fails to include e-liquids and electronic cigarettes in the definition of "tobacco products", leaving a huge loophole for youth to continue to easily access e-liquids and e-cigs, and, at disparately lower untaxed prices for e-cigs compared with combustible tobacco cigarettes.

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

I am writing to request that you **restore HB598 HD2** to the original language of HB598 to **include e-liquid and electronic smoking devices within the definition of "tobacco products"**, as used in the cigarette tax and tobacco tax law and require licensing/permitting for electronic smoking device wholesalers and retailers and create tax parity between electronic smoking devices and other tobacco products (70% of wholesale price).

Please restore HB598 HD2 to its original language and pass this bill out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Kea'au, HI

HB-598-HD-2

Submitted on: 3/17/2021 9:15:00 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erin R.	Individual	Oppose	No

Comments:

Dear Chair and Committee Members:

I am very strongly opposed to all of the vaping bills that are in committees this year as vaping is extremely important to me as It has allowed me to not smoke deadly cigarettes. If you were in mine and millions of others' shoes you would understand why being able to afford to vape and how important this is for us. Since I started vaping over two years ago I have cut the nicotine in my e-liquid from 24mg to zero nicotine, but still being able to obtain the hand to mouth ritual that was embedded in me when I smoked for 45yrs. You don't have the opportunity to go to zero nicotine with cigarettes. I feel you need to separate vaping from tobacco and put vaping as a completely separate category of its own. I feel it is not justifiable for us vapers to be clumped into the same category as smoking because smoking causes cancer and vaping does not. I cannot find any data on people dying from vaping.

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

There are also studies out there that are old and not reputable and have been debunked. I have yet to figure why the Health Care Organizations want to keep quoting these bad science reports. I thought we are all working toward the same goal, which is to get people off cigarettes and stop all the related deaths it causes.

I am asking you to please put our health and our Adult choices above trying to obtain more revenue from vaping. It saddens me to see all the taxes you are trying to impose

on vaping. This could cause vaping to go underground which would mean that Hawaii will get less tax money coming in and will put people's lives in jeopardy by possibly obtaining products that are not safe. I don't want to be forced to buy unsafe products which will put even more burden on our health care system if people get sick or die from using the unsafe products.

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

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

Mahalo,

A considered community member.

HB-598-HD-2

Submitted on: 3/17/2021 9:16:16 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Anderson	Individual	Oppose	No

Comments:

These vaping ban bills are only going to hurt the people of Hawaii. This all comes down to a rhetorical question. Does the state want to see an increase in the use of traditional tobacco? 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.

HB-598-HD-2

Submitted on: 3/17/2021 10:46:27 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Blaine K	Individual	Oppose	No

Comments:

I am oppose this bill.

HB-598-HD-2

Submitted on: 3/17/2021 11:39:34 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

I oppose this bill.

HB-598-HD-2

Submitted on: 3/17/2021 11:42:08 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

I highly Oppose this bill. Small businesses will be forced to close and many people will have no jobs and rely on Government support. Please reconsider and find a better solution to help each other.

HB-598-HD-2

Submitted on: 3/17/2021 11:50:17 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
PAUL LACUESTA	Individual	Oppose	No

Comments:

HB-598-HD-2

Submitted on: 3/17/2021 1:07:04 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
naea oda	Individual	Oppose	No

Comments:

vaping is a better option for me than smoking cigarettes

HB-598-HD-2

Submitted on: 3/17/2021 2:54:54 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

Aloha,

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

Thanks

Valentino Miranda-kepa

HB-598-HD-2

Submitted on: 3/17/2021 2:56:40 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

Vaping helped me to stop smoking, I was a heavy smoker for 17 years, So I totally oppose any type of law or bill that will screw up my vaping.

HB-598-HD-2

Submitted on: 3/17/2021 2:57:08 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

I strongly oppose this bill!

HB-598-HD-2

Submitted on: 3/17/2021 2:59:44 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

Aloha,

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

Thanks

HB-598-HD-2

Submitted on: 3/17/2021 3:04:17 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

Aloha,

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

Thanks

HB-598-HD-2

Submitted on: 3/17/2021 3:06:08 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jonah K Manuel	Individual	Oppose	No

Comments:

Aloha,

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

Thanks

HB-598-HD-2

Submitted on: 3/17/2021 3:15:21 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

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

Linda Weiner, MD

Pediatrician

Kalaheo, Kauai

HB-598-HD-2

Submitted on: 3/17/2021 3:25:12 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Darren Gamayo Jr	Individual	Oppose	No

Comments:

i oppose this bill

HB-598-HD-2

Submitted on: 3/17/2021 4:40:48 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jake J. Watkins	Individual	Oppose	No

Comments:

Enough already!

HB-598-HD-2

Submitted on: 3/17/2021 5:35:23 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tj Robinson	Individual	Oppose	No

Comments:

Please don't make me go back to cigarettes. Don't take away or tax me more!

HB-598-HD-2

Submitted on: 3/17/2021 8:45:34 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

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

HB-598-HD-2

Submitted on: 3/17/2021 9:05:36 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

Do not favor.

HB-598-HD-2

Submitted on: 3/18/2021 12:40:36 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

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 support this bill with amendments.

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

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

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

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

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

Mahalo for your consideration and support of this important measure.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

HB-598-HD-2

Submitted on: 3/18/2021 7:49:12 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lucky Robinson	Individual	Oppose	No

Comments:

Please do not increase costs retailing businesses that are conducting such sales- when they are already abiding by the rules and regulations of the state.

To whom it may concern,

I am opposing the current bill (HB598 HD2) that will destroy the vaping industry here in Hawaii and put hundreds of people out of jobs. Our goal for public health is to have people quit smoking traditional tobacco cigarette which is the #1 cause of cancer here in America.

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

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

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

Vinh Tran,

Resident of Honolulu, Hawaii.

HB-598-HD-2

Submitted on: 3/18/2021 8:03:07 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

We don't need anymore laws!

In place the laws we already have instead of taking and spending our hard working tax money.

Focus on the laws that are already in place.

HB-598-HD-2

Submitted on: 3/18/2021 8:09:24 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

I'm tired of opposing these bills that don't even matter. We shouldn't have to pay more taxes on something that's safe and helps people quit smoking.

HB-598-HD-2

Submitted on: 3/18/2021 8:14:24 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Maher	Individual	Oppose	No

Comments:

I strongly disagree with HB598 HD. I have quit smoking regular cigarettes 4 yrs ago by using vape products. But I use only vg and organic products that are only available to me by mail. Existing laws of underage abuse are already on the books. Passing this greatly discriminates against me, a legal, lawful adult. It hurts small business as well, which has been harmed enough by the covid bans.

Mahalo for this opportunity to provide comments and request an amendment. This bill would prohibit the online sale of tobacco products, increase the fee for tobacco permits and licenses, and dedicate \$750K per year to the Tobacco Prevention & Control Trust Fund for youth e-cigarette prevention and education programs. Unfortunately, these regulations would *not* apply to e-cigarettes, as they were removed from the definition of tobacco products. Please provide this requested amendment of restoring the bill to the original language of HB598 and add electronic smoking devices to the definition of tobacco products, thus requiring licensing/permitting for electronic smoking device wholesalers and retailers and create tax parity between electronic smoking devices and other tobacco products (70% of wholesale price).

HB-598-HD-2

Submitted on: 3/18/2021 8:24:24 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

I oppose this bill.

HB-598-HD-2

Submitted on: 3/18/2021 8:55:34 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rob Shapiro	Individual	Oppose	No

Comments:

As an ex-smoker (of 40+ years smoking!) who was able to quit by using e-cigs, I **completely oppose this bill as it punishes me for doing something that society wants me to do, namely quit smoking!**



ALOHACARE

LATE

To: The Honorable Senator Jarrett Keohokalole, Chair
The Honorable Senator Rosalyn Baker, Vice-Chair
Committee on Health

The Honorable Senator Rosalyn Baker, Chair
The Honorable Senator Stanley Chang, Vice-Chair
Committee on Commerce and Consumer Protection

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

Hrg: February 19, 2021 at 9:30am, Room 229/Zoom

RE: **HB598 HD2 Relating to Tobacco Products – Comments**

AlohaCare appreciates the opportunity to provide testimony offering **comments** for **HB598 HD2**, which is a measure intended to regulate e-cigarettes by closing the online purchasing loopholes, require permitting and licensing, and dedicate funds for tobacco prevention and education programs. However, these regulations would not apply to e-cigarettes as they were removed from the definition of tobacco products in the HD1.

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 Ha waii.

AlohaCare applauds this measure's approach to regulate electronic smoking devices and protect public health. AlohaCare believes that taxation on e-cigarettes in addition to regulating the online shipment of tobacco products is necessary to improve the health of Hawaii's keiki and protect them from becoming the next generation addicted to nicotine.

AlohaCare offers the following comments:

AlohaCare respectfully requests electronic smoking devices be added to the definition of tobacco products and that the existing tax rate of 70% on wholesale products be applied to all electronic smoking devices and e-liquids as it is important to treat all ESDs and e-liquids as tobacco products for the protection of public health. Increasing prices through taxation is a proven strategy to reduce consumption and initiation of tobacco products. Tobacco consumption results in health problems that creates hundreds of millions in added health care costs for the State and contributes to health disparities and poor health outcomes.



ALOHACARE

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

Hawaii has been experiencing a youth vaping epidemic and we appreciate the Legislature's actions to protect our young people's health from the vaping and tobacco industry's efforts to get them addicted to life-threatening habits. Mahalo for this opportunity to testify on **HB598 HD2**.

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TO:

Committee on Health and Committee on Commerce and Consumer Protection
Senator Jarrett Keohokalole and Senator Rosalyn H. Baker, Chairs
Senator Rosalyn H. Baker and Senator Stanley Chang, Vice Chairs

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

LATE

DATE: March 19, 2021
TIME: 9:30am
PLACE: Via Videoconference

RE: HB598 HD2 Relating to Tobacco Products

Position: Comments

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

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

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

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

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

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

LATE

HB-598-HD-2

Submitted on: 3/18/2021 4:40:34 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Testifying for 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 hb598 are purely special interest in nature and don't reflect the needs of normal citizens.



March 18 , 2020

To:

Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair



From: Scott Rasak, VOLCANO Vape Shops
Chief Operating Officer

RE HB598 – oppose.

Thank you for the opportunity to submit testimony.

VOLCANO is the largest independent retailer & wholesaler of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 16 locations statewide and employ over 80 fulltime workers to support sales of our products not only here in Hawaii, but to most USA states as well as over 30 International countries. We stand in opposition to HB598 or the following:

- HB598 will deny current combustible tobacco smokers who live in remote areas of Hawaii vital products needed to help them quit smoking. Removing their ability to safely purchase vapor products will put them at risk of being sent back to combustible tobacco usage as their products are no longer obtainable.
- These products are already being regulated under the new PACT act and have federal oversight in this regard which is currently being finalized and implemented.
- An online sales ban would open up a black market “Do it yourself” market due to the massive adult population who currently use these products in Hawaii. Currently, all products being distributed online are through reputable age verified purchases as required by the FDA currently. The black market conditions which would arise from the passing of this bill would inflict a huge quality void in the market and expose the adult population to greater risks. The unintended consequences of this bill outweigh the hypothetical gain.
- Vapor products and e-liquids contain NO tobacco, sometimes contain NO nicotine, and ultimately emit NO smoke when vaporized; HB598 deceptively refers to vapor products as “Electronic Smoking Devices” to mislead the public and creates a false perception of the nature of these products. This misclassification establishes the idea that vapor products are the same as tobacco products and thus, should be viewed, controlled, and perceived the same way as traditional tobacco products. This is a complete disregard of the fact that vapor products are fundamentally different from tobacco products in every way.
- HB598 states in its justification that the bill and its regulations are needed to curb youth usage. However, it fails to mention the latest available CDC report that shows youth use of all tobacco products, including e-cigarettes are at the lowest levels ever. Furthermore, a study done the following year at the University of Michigan found that the majority of youth who have reported using



ecigarettes are not using e-liquids that contain nicotine - further suggesting that youth who do use ecigarettes are doing so to replace the use of traditional tobacco.

o <https://www.cdc.gov/media/releases/2017/p0615-youth-tobacco.html>

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

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

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

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

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

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

Sincerely,

Scott Rasak
Chief Operating Officer
VOLCANO Vape Shops
197 Sand Island Access Rd. #213 Honolulu,
HI 96819 scott@volcanoecigs.com

LATE

HB-598-HD-2

Submitted on: 3/18/2021 10:49:56 AM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jess Lovely	Individual	Oppose	No

Comments:

Limiting access to vapor products will only harm customers of legal age who depend on them. Raising the tobacco age in 2016 did nothing to prevent the underage use of tobacco products in Hawaii. The more restrictions that are put on a product generally just create a larger black market on the street and less control over the product. The state of Hawaii will one day realize that creating laws to "babysit" the people doesn't work. People will find a way to do whatever they want whether it's legal or not.

LATE

HB-598-HD-2

Submitted on: 3/18/2021 2:03:15 PM
Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

Strongly oppose imposing taxation.

LATE

HB-598-HD-2

Submitted on: 3/18/2021 5:01:39 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

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

Comments:

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LATE

HB-598-HD-2

Submitted on: 3/18/2021 7:08:23 PM

Testimony for HTH on 3/19/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Higa	Individual	Oppose	No

Comments:

HB598 is also bad for business and bad for consumers.