

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

---

**ON THE FOLLOWING MEASURE:**

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

**BEFORE THE:**

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):** Clare E. Connors, Attorney General, or  
Richard W. Stacey, Deputy Attorney General

---

Chairs Keohokalole and Baker and Members of the Committees:

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

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

2021-2022 and 2022-2023 to establish and hire an as yet unspecified number of full-time equivalent permanent positions and related equipment within the Department to carry out the additional responsibilities (section 7, page 8, lines 5 to 13).

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

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

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

annual MSA payment. The section 2 amendment would expand the use of tobacco enforcement money to purposes that would likely be deemed contrary to the purposes dictated by the MSA and could therefore jeopardize millions in Hawaii's MSA payments.

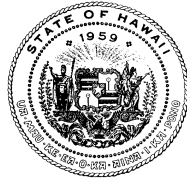
Section 5 changes the responsibilities of the ESDRR Unit from registration only to include enforcement of federal laws relating to electronic smoking device regulation and creates a special fund into which all moneys collected pursuant to such enforcement will be deposited. As currently set up, adding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

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

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

seven positions: one attorney; one legal assistant, one legal clerk, and four investigators to effectively regulate electronic smoking devices.

Thank you for the opportunity to provide comments.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in OPPOSITION to H.B. 826, H.D. 2  
RELATING TO ELECTRONIC SMOKING DEVICES**

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 the  
2 Attorney General (AG) for fiscal implications for implementation and enforcement.

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

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

---

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

<sup>2</sup> Ibid.

1 Psychologists have found that punishment is not an optimal strategy for behavior change,  
2 and even less effective for addictive behaviors.<sup>3</sup> Penalties disproportionately affect low-income  
3 communities, youth of color, LGBT youth, youth with disabilities, and boys.<sup>4</sup> Instead, policies  
4 that place responsibility on retailers, youth cessation and education programs, and other tobacco  
5 product regulations (e.g., price and flavor restrictions) are proven to be more effective.<sup>5</sup>

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

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

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

20 **Offered Amendments:** None

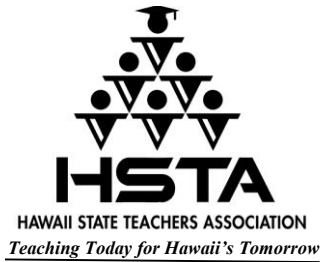
---

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

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

<sup>5</sup> Ibid.

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



Corey Rosenlee  
President

Osa Tui, Jr.  
Vice President

Logan Okita  
Secretary-Treasurer

Wilbert Holck  
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE ON HEALTH and THE  
COMMITTEE ON COMMERCE & CONSUMER PROTECTION

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

FRIDAY, MARCH 19, 2021

COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Luke and Members of the Committee:

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

**Although the Hawaii State Teachers Association supports not only taxing vaping products in the same way that other tobacco products are taxed and regulated, HSTA opposes any increase of fines for youth in this particular bill, as we feel they are the victims in this case.** It is the predatory tactics of the vaping industry on our youth that need to be regulated and taxed. So please do NOT add any fines or punishment on our youth. **Imposing fines on our youth is not what works to prevent youth vaping; however, raising the price point through taxes and banning flavors does work to reduce youth use.**

**In September 2009, the FDA banned flavored cigarettes. The ban was intended to end the sale of tobacco products with chocolate, vanilla, clove and other flavorings that lure children and teenagers into smoking.** According to Dr. Margaret A. Hamburg, commissioner of food and drugs for the FDA from 2009 – 2015 “flavored cigarettes are a gateway for many children and young

adults to become regular smokers.” **Nevertheless, here we are in 2021 with a proliferation of flavored tobacco in the form of e-liquids luring our children into becoming lifelong and habitual nicotine users.**

**The use of e-smoking products among youth is at epidemic levels.** According to data from the Centers for Disease Control and Prevention and the Food and Drug Administration’s National Youth Tobacco Survey, **the percentage of high school-age children reporting past 30-day use of e-cigarettes rose by more than 75 percent between 2017 and 2018. Use among middle school-age children also increased nearly 50 percent.** Furthermore, 1 in 5 high school students reported using e-cigarettes in the past month according to the Surgeon General. **Locally, Hawaii’s 2017 Youth Risk Behavior Survey revealed that over 42% of Hawaii high school students have tried using electronic smoking devices and over 25% of Hawaii high school students indicated that they are regular users. Our schools are seeing a rise in cases of e-cig use even in our elementary schools now.**

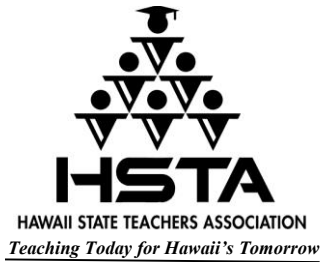
Adolescence is a time of crucial brain development; it has been documented that nicotine exposure during adolescence and young adulthood can cause addiction and harm the developing brain. Additionally, nicotine is not the only harmful ingredient in electronic smoking devices; other harmful and potentially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

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

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

Furthermore, the allocation of a portion of excise tax funds to go towards trauma system special fund, community health centers special fund, and emergency medical services special fund thus extending protections for our youth and goes hand in hand





Corey Rosenlee  
President

Osa Tui, Jr.  
Vice President

Logan Okita  
Secretary-Treasurer

Wilbert Holck  
Executive Director

with the regulations outlined in this bill as well as a portion of the collections going to our state's general fund to shore up our lost revenue as a state.

**Because research shows that increasing the cost of tobacco products, through taxes, not fining our youth, decreases the amount used by youth. The price point does matter. We respectfully ask you to oppose this bill until the increase in fines for our youth is removed.**



**American  
Heart  
Association.**

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

The American Heart Association opposes HB 826, HD2.

One of the stated purposes of the bill is to:

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

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

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

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

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

Mahalo for this opportunity to provide testimony on HB 826, HD2. We ask that you hold the bill.

Respectfully submitted,

**Chairman of the Board**

Glen Kaneshige

**President**

Michael Lui, MD

**Board Members**

Rick Bruno, MD, FACEP

Jackie De Luz

Brandt Farias

Jason Fujita

Mimi Harris

Zia Khan, MD

Brandon Kurisu

Arnold Martines

Michael Rembis, FACHE

Andrew S. Rosen

Timothy Slottow

Jennifer Walker

*Serving Hawaii since 1948*

**Our Mission:**

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

For more information on the AHA’s educational or research programs, visit [www.heart.org](http://www.heart.org) or contact your nearest AHA office.

Donald B. Weisman  
Government Relations/Communications Director



American Vaping Association | [www.vaping.org](http://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



## HIPHI Board

*Kilikina Mahi, MBA  
Chair  
KM Consulting LLC*

*Michael Robinson, MBA, MA  
Immediate Past Chair  
Hawai'i Pacific Health*

*JoAnn Tsark, MPH  
Secretary  
John A. Burns School of  
Medicine, Native Hawaiian  
Research Office*

*Debbie Erskine  
Treasurer  
Kamehameha Schools*

*Keshia Adolpho, LCSW  
Molokai Community Health  
Center*

*Keawe'aimoku  
Kaholokula, PhD  
John A. Burns School of  
Medicine, Department of  
Native Hawaiian Health*

*Mark Levin, JD  
William S. Richardson School  
of Law*

*Rachel Novotny, PhD, RDN, LD  
University of Hawai'i at  
Mānoa, College of Tropical  
Agriculture and Human  
Resources*

*May Okihiro, MD, MS  
John A. Burns School of  
Medicine, Department of  
Pediatrics*

*Misty Pacheco, DrPH  
University of Hawai'i at Hilo,  
Department of Kinesiology and  
Exercise Sciences*

*Garret Sugai  
Kaiser Permanente*

Date: March 17, 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: Opposition to HB 826, HD2, Relating to Electronic Smoking Devices

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 **opposes HB 826, HD2** due to the unspecified fines on youth under the age of 21 for possession or purchase of tobacco products. The bill would also expand the Electronic Smoking Device Registration Unit with the Department of the Attorney General to enforce recent federal regulations on electronic smoking devices.

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

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

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

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

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

After years of delays, the deadline for the FDA's pre-market tobacco product applications came in September 2020. The deeming rule, which was finalized in 2016, gave FDA the authority to regulate electronic smoking devices as tobacco products<sup>vi</sup>. With this rule, all electronic smoking devices would be need to submit a pre-market tobacco application (PMTA) in order to stay on the market. The FDA now has a year to review the PMTAs to ensure these tobacco products are "appropriate for the protection of public health." In the meantime, these products can remain on the market, despite the epidemic-levels of youth e-cigarette use driven by the abundance of kid-friendly flavors. As of March 2021, the FDA has yet to release a list of products that have submitted a PMTA, making it difficult for agencies to determine if products are being sold illegally.

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

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

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

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

Mahalo,



Jessica Yamauchi, MA  
Executive Director

---

<sup>i</sup> 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.

<sup>ii</sup> Wakefield M, Giovino G. Teen penalties for tobacco possession, use, and purchase: evidence and issues *Tobacco Control* 2003;12:i6-i13; via [https://tobaccocontrol.bmj.com/content/12/suppl\\_1/i6.citation-tools](https://tobaccocontrol.bmj.com/content/12/suppl_1/i6.citation-tools)

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

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

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

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

<sup>vii</sup> 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>.

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

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

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



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. 826, H.D. 2

**March 19, 2021  
9:30 a.m.  
Via Videoconference**

**RELATING TO ELECTRONIC SMOKING DEVICES**

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

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

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

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

Thank you for your consideration of our comments.



American Cancer Society  
Cancer Action Network  
2370 Nu'uau Avenue  
Honolulu, Hi 96817  
808.432.9139  
[www.fightcancer.org](http://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

HB826 HD2 – RELATING TO ELECTRONIC SMOKING DEVICES.

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

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

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

ACS CAN opposes laws that focus on penalizing youth for the purchase, use, or possession (PUP) of tobacco products. PUP laws are not an effective approach to reducing youth tobacco use and inappropriately shift the blame for underage tobacco use from the tobacco industry and retailers. We recommend the removal of the youth penalties in section [§245-17] and recommend holding the tobacco industry and tobacco retailers accountable instead of punishing kids who have fallen victim to their predatory marketing tactics. To truly reduce youth e-cigarette use in Hawaii, the state must regulate these products via taxation, restriction of online sales and ending the sale of flavors in tobacco products.

PUP laws unfairly punish youth, many of whom became addicted at a young age as a result of the tobacco industry's aggressive marketing to kids. As a result, PUP laws shift blame away from the industry's

irresponsible marketing, to its victims. PUP laws also minimize the responsibility of the retailer. Instead of treating children as the wrongdoers, youth access laws should focus on limiting access to tobacco products. Rigorous enforcement of restrictions against sales to underage persons is critical to minimizing the accessibility of tobacco products and, ultimately, reducing youth tobacco use. The most successful youth access programs incorporate routine retailer compliance checks which use underage persons to attempt tobacco purchases.<sup>1</sup>

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

Thank you for the opportunity to comment on this matter.

---

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

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



American Vaping Association | [www.vaping.org](http://www.vaping.org)

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

March 18, 2021

**RE: HB 826 HD 2, relating to 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 826 HD2 unless Section 4 of the bill is eliminated. The language appears to have been hastily written and we are concerned that it could lead to unintended consequences on legally operating small businesses.

The FDA makes the determination of what is and is not a “tobacco product” on a case-by-case basis in a process that involves career-level scientists. This process cannot be replicated by the Hawaii AG’s office. Furthermore, as the FDA Center for Tobacco Products has made clear, all vaping products that are awaiting authorization are on the market because of the FDA’s discretion. **In other words, this bill will give the Hawaii AG unfettered authority to remove from the market any product he pleases, even if the company is currently in compliance with all FDA guidance.**

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

Most significantly, as of September 9, 2020, the FDA now requires that manufacturers of vaping products submit each of their products to a retroactive premarket review process. Right now, the FDA is reviewing applications from hundreds of different manufacturers and conducting enforcement against those who failed to file applications. No PMTA for a

vaping product will be authorized unless the FDA concludes the product will be **“appropriate for the protection of public health”** under a rigorous population-level health standard that considers potential impacts on users and non-users of the product, including youth.

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

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

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

Sincerely,

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

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

**HB-826-HD-2**

Submitted on: 3/17/2021 9:16:32 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sean Anderson	Testifying for Black Lava Vape	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.



Hawaii COPD Coalition  
700 Richards St., Suite 2410  
Honolulu, HI 96813  
[Valerie@hawaiicopd.org](mailto: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: **Strongly Oppose HB826, HD2 Relating to Electronic Smoking Devices**

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 vote against this bill, HB826,HD2.** It is very concerning that this bill seeks to punish the victims, the youth with penalties instead of holding the predatory tobacco industry accountable.

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. The people I serve are victims of the predatory practices the tobacco industry has employed for decades and our youth today are just more victims.

As a state, we must regulate tobacco products via taxation, restriction of online sales and ending the sale of flavored and menthol tobacco products. This is the way to help reduce and address the ballooning youth epidemic of youth vaping!

Thank you for considering this important issue. **Please vote against HB826,HD2.** Thank you.

Very truly yours,

*Valerie Chang*

Valerie Chang  
Executive Director





**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. 0826, HOUSE DRAFT 2, RELATING TO ELECTRONIC SMOKING DEVICES.**

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 **OPPOSES** House Bill No. 0826, House Draft 2, RELATING TO ELECTRONIC SMOKING DEVICES.

The bill, as received by your Committee, would:

- (1) Expand the purposes for which moneys in the Tobacco Enforcement Special Fund be used, including all functions of the Department of the Attorney General (AG);
- (2) Regulate and ensure the removal of unsafe, noncertified electronic nicotine delivery systems from the marketplace by expanding the scope of the electronic smoking device retailer registration unit within the AG;
- (3) Establish a special fund for the deposit of moneys collected for violations of electronic smoking device compliance; and
- (4) Curb the use of electronic smoking devices and tobacco products by amending the fine amounts for persons under twenty-one who purchase or possess such devices or products.

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

**Testimony on House Bill No. 0826, House Draft 2**  
**Friday, March 19, 2021; 9:30 a.m.**  
**Page 2**

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

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

However, the HPCA respectfully disagrees with the premise of this bill -- that increased penalties on minors will be an effective deterrent on the consumption of electronic cigarettes. It is well-established that minors are specifically targeted by the tobacco industry because they are a captive audience. Because youths lack sufficient protections in the marketplace, they are enticed to try these products from a very young age. Once "hooked", it becomes extremely difficult to get them off these products.

From our perspective, it is inherently unfair to punish minors for society's failure to adequately protect them from these products in the first place.

A better approach would be to increase the regulation and taxation of these products as these approaches have shown to be more effective in serving as disincentives for the consumption of these products by youth.

For this reason, the HPCA respectfully asks that this measure be filed.

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](mailto:eabe@hawaiiipca.net).

**HB-826-HD-2**

Submitted on: 3/17/2021 10:36:00 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
makela	Testifying for irie hawaii	Oppose	No

Comments:

Oppose

# Smoke-Free Alternatives Trade Association

1629 K Street NW  
Suite 300  
Washington, DC 20006



## House of Representatives of Hawaii - Senate

### COMMITTEE ON Health/Commerce and Consumer Protection

(Hearing Date March 19, 2021)

Position: Oppose

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

Chair Senator Jarrett Keohokalole and Vice Chair Senator Rosalyn H. Baker and members of the Committee on Health:

Chair Senator Rosalyn H. Baker and Vice Chair Senator Stanley Chang and members of the Committee on Commerce and Consumer protection:

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

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

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

[https://www.sfata.org/content.aspx?page\\_id=22&club\\_id=89995&module\\_id=294336](https://www.sfata.org/content.aspx?page_id=22&club_id=89995&module_id=294336)

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

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

# Smoke-Free Alternatives Trade Association

1629 K Street NW  
Suite 300  
Washington, DC 20006



HB 826 does not distinguish between e-cigarettes and traditional tobacco products, placing both under the same category as “smoking” products, even though e-cigarettes are much safer than the combustible alternative. The scientific evidence from both the United States and European Union has proven beyond any reasonable doubt that e-cigarettes are safer than combustible cigarettes and are significantly more successful in helping smokers quit than traditional nicotine replacement therapies.<sup>123</sup>

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

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

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

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

---

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

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

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

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

# Smoke-Free Alternatives Trade Association

1629 K Street NW  
Suite 300  
Washington, DC 20006



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

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

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

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

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

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

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

---

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

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

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

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

# Smoke-Free Alternatives Trade Association

1629 K Street NW  
Suite 300  
Washington, DC 20006



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

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

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

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

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

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

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

---

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

# Smoke-Free Alternatives Trade Association

1629 K Street NW  
Suite 300  
Washington, DC 20006



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

Respectfully,

Mark Anton

Executive Director



**HB-826-HD-2**

Submitted on: 3/16/2021 4:55:47 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Shelly Ogata	Individual	Oppose	No

Comments:

To: Sen. Jarrett Keohokalole, Chair,

Sen. Roslyn Baker, Vice Chair

Committee on Health

Sen. Roslyn Baker, Chair

Sen. Stanley Chang, Vice Chair

Committee on Commerce and Consumer Protection

Re: Strong Opposition to HB 826 HD2

Hrg: March 19, 2021, at 9:30am via Conference Room 229 & Videoconference

As a public health professional, I am in **strong opposition to HB 826 HD2**, which would expand the Attorney General's Electronic Smoking Device Retailer Registration Unit to include enforcement and change the fine amount for underage youth possession and purchase of tobacco products.

I am very concerned about youth penalties in this bill and the "blaming the victim" mentality. I recommend holding the tobacco industry accountable instead of punishing kids who have fallen victim to their predatory marketing tactics. To truly reduce youth e-cigarette use in Hawaii, the state must regulate these products via taxation, restriction of online sales and ending the sale of flavors in tobacco products.

Please oppose Bill 826 as it does not conform with nationally recognized public health policy.

Sincerely,

Shelly Ogata, RN, MPH

**HB-826-HD-2**

Submitted on: 3/16/2021 5:17:11 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anthony Orozco	Individual	Oppose	No

Comments:

This bill is business unfriendly.

**HB-826-HD-2**

Submitted on: 3/16/2021 6:59:10 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Clayton Silva	Individual	Oppose	No

Comments:

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

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: **Opposition to HB826 HD2**, Relating to Electronic Smoking Devices

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

Aloha House Committee on Consumer Protection & Commerce,

As a parent, community member and healthcare professional I am writing in **strong opposition to HB826 HD2**, which expands the purposes for which moneys in the tobacco enforcement special fund may be used to include all functions of the department of the attorney general; renames the electronic smoking device retailer registration unit the electronic smoking device retailer registration and enforcement unit; expands the scope of the unit to include enforcement of compliance of electronic smoking devices with the Federal Food, Drug, and Cosmetic Act; establishes a special fund for moneys received from enforcement actions; amends the fine amount for persons under twenty-one years of age who purchase or possess tobacco products or electronic smoking devices; and, appropriates funds.

**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 (NHPI) youth these numbers climb to 40% for high school and 30% for middle school students.

**HB826 HD2** would increase fines on youth for vaping. **Youth are the victims** of the predatory tobacco industry that targets youth with tempting candy and dessert flavors, compelling yet unregulated social media campaigns and easy online availability. **Fines have little or no impact on youth behavior, whereas regulation, taxation and education do.**

**I am very concerned about the youth penalties in the bill**, and recommend holding the tobacco industry accountable instead of punishing kids who have fallen victim to the industry's predatory marketing tactics.

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

**I strongly oppose HB826 HD2** and respectfully ask you to hold this bill in committee.

Many thanks for your consideration,

Forrest Batz, PharmD  
Kea'au, HI

**HB-826-HD-2**

Submitted on: 3/17/2021 9:15:23 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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-826-HD-2**

Submitted on: 3/17/2021 9:19:15 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Vin Kim	Individual	Oppose	No

Comments:

I oppose this bill



**HB-826-HD-2**

Submitted on: 3/17/2021 10:47:12 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Blaine K	Individual	Oppose	No

Comments:

I oppose this bill.

**HB-826-HD-2**

Submitted on: 3/17/2021 11:38:44 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teddy Kim	Individual	Oppose	No

Comments:

I oppose this bill.

**HB-826-HD-2**

Submitted on: 3/17/2021 1:05:46 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
naea oda	Individual	Oppose	No

Comments:

vaping is a better option for me than going back to smoking cigarettes

**HB-826-HD-2**

Submitted on: 3/17/2021 2:56:23 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
VALENTINO MIRANDA-KEPA	Individual	Oppose	No

Comments:

Aloha,

Please Oppose bill HB826. We do not need a Tax Increase for Vaping I feel if the State put forward a Strict Possession Law for Under Age for Tobacco or Vape products that will hinder under age use. Do not punish law abiding Adults for an under age epidemic.

Thanks

Valentino Miranda-kepa

**HB-826-HD-2**

Submitted on: 3/17/2021 2:57:38 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
ASHLEY MATTOS	Individual	Oppose	No

Comments:

I strongly oppose this bill!

**HB-826-HD-2**

Submitted on: 3/17/2021 2:58:02 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
tania faris	Individual	Oppose	No

Comments:

Aloha,

Please Oppose bill HB826. We do not need a Tax Increase for Vaping I feel if the State put forward a Strict Possession Law for Under Age for Tobacco or Vape products that will hinder under age use. Do not punish law abiding Adults for an under age epidemic.

Thanks

**HB-826-HD-2**

Submitted on: 3/17/2021 2:59:07 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Naomi Muronaka	Individual	Oppose	No

Comments:

I oppose

**HB-826-HD-2**

Submitted on: 3/17/2021 3:01:58 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Venessa Viernes	Individual	Oppose	No

Comments:

I quit smoking, vaping has made me stop. So I oppose this bill to screw up vaping ability, I no like smoke cigarettes any more



**HB-826-HD-2**

Submitted on: 3/17/2021 3:03:13 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Randi D	Individual	Oppose	No

Comments:

Aloha,

Please Oppose bill HB826. We do not need a Tax Increase for Vaping I feel if the State put forward a Strict Possession Law for Under Age for Tobacco or Vape products that will hinder under age use. Do not punish law abiding Adults for an under age epidemic.

Thanks

**HB-826-HD-2**

Submitted on: 3/17/2021 3:05:06 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jonah K Manuel	Individual	Oppose	No

Comments:

Aloha,

Please Oppose bill HB826. We do not need a Tax Increase for Vaping I feel if the State put forward a Strict Possession Law for Under Age for Tobacco or Vape products that will hinder under age use. Do not punish law abiding Adults for an under age epidemic.

Thanks

**HB-826-HD-2**

Submitted on: 3/17/2021 3:25:52 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Darren Gamayo Jr	Individual	Oppose	No

Comments:

i do not support this bill

**HB-826-HD-2**

Submitted on: 3/17/2021 4:40:22 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jake J. Watkins	Individual	Oppose	No

Comments:

Enough already!

**HB-826-HD-2**

Submitted on: 3/17/2021 5:28:21 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tj Robinson	Individual	Oppose	No

Comments:

Please don't make me go back to smelly over priced cigarettes.

**HB-826-HD-2**

Submitted on: 3/17/2021 8:48:50 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mikhaila Millikan	Individual	Oppose	No

Comments:

i oppose this bill!

**HB-826-HD-2**

Submitted on: 3/17/2021 9:07:50 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pili	Individual	Oppose	No

Comments:

Do not favor.

**HB-826-HD-2**

Submitted on: 3/18/2021 12:41:30 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bryan Mih	Individual	Oppose	No

Comments:

Dear Representatives:

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

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

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

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

Mahalo for your consideration.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician



To whom it may concern,

I am opposing the current bill (HB826 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-826-HD-2**

Submitted on: 3/18/2021 8:19:49 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Amy Maher	Individual	Oppose	No

Comments:

I STRONGLY oppose HB826 HD3.

I am very concerned about the youth penalties in the bill, and recommend holding the tobacco industry accountable instead of punishing kids who have fallen victim to their predatory marketing tactics. To truly reduce youth vaping in Hawaii, the state must regulate these products via taxation, restriction of online sales and especially ending the sale of flavors in tobacco products.

**HB-826-HD-2**

Submitted on: 3/18/2021 8:56:18 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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: March 19, 2021 at 9:30am, Room 229/Zoom

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

---

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

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

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

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

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

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

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

Thank you for the opportunity to testify.

**LATE**

**HB-826-HD-2**

Submitted on: 3/18/2021 4:39:38 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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 hb826 are purely special interest in nature and don't reflect the needs of normal citizens.

**LATE**

**HB-826-HD-2**

Submitted on: 3/18/2021 10:59:33 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jess Lovely	Individual	Oppose	No

Comments:

I think the fda is doing a good job of monitoring and registering vapor products. I don't think the state of Hawaii needs to get involved. Sounds like a waste of time, and resources.





March 18, 2020

To:

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

**LATE**

From: Scott Rasak, VOLCANO Vape Shops  
Chief Operating Officer

RE HB826– oppose.

Thank you for the opportunity to submit testimony.

VOLCANO is the largest independent retailer & wholesaler of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 16 locations statewide and employ over 80 full-time workers to support sales of our products not only here in Hawaii, but to most USA states as well as over 30 International countries. We stand in opposition to HB826 for the following:

- Most recently, the FDA has issued updated guidance on vapor products which create a pathway for them to be brought to market. Currently, all products which are being distributed nationally have been registered under the PMTA pathway and are awaiting pending approval from the FDA. HB826 would add unnecessary burden of enforcement and state level burden since there is already federal oversight into the category.
- The most Recent CDC report has shown e-cigarettes have supplanted all other traditional nicotine replacement therapies and are now the most commonly used product by consumers to quit using traditional tobacco cigarettes
  - o [http://www.journalnow.com/business/business\\_news/local/cdc-report-shows-moresmokers-try-to-quit-with-e/article\\_a33383f3-5300-5178-9f14-28b52884c45c.html](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](http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-ecigarettes.aspx?utm_source=Hootsuite&utm_medium=Dashboard&utm_campaign=SentviaHootsuite)



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

o [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/457102/Ecigarettes\\_an\\_evidence\\_update\\_A\\_report\\_commissioned\\_by\\_Public\\_Health\\_England\\_FINAL.pdf](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](mailto:scott@volcanoecigs.com)

**LATE**

**HB-826-HD-2**

Submitted on: 3/18/2021 2:15:41 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Linda D Roberts	Individual	Oppose	No

Comments:

HB 826: Would effectively make the state of Hawaii an enforcement arm of the FDA and raise penalties for purchase, use, and possession of nicotine products by anyone under the age of 21. If a Citizen is old enough to sign a contract, serve in combat and be held legally responsible for their actions at 18 years of age they are old enough to make independent decisions. The Legislature is not the Parent of the Citizenry. Legislators work for the Citizens. You have far more important things to do such as addressing our infrastructure, homelessness and controlling Hirono's behavior.

**LATE**

**HB-826-HD-2**

Submitted on: 3/18/2021 5:01:15 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jessica Chang	Individual	Oppose	No

Comments:

,

**LATE**

**HB-826-HD-2**

Submitted on: 3/18/2021 7:07:34 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sean Higa	Individual	Oppose	No

Comments:

HB826 is bad for business and bad for consumers.