



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

ON THE FOLLOWING MEASURE:

S.B. NO. 63, RELATING TO ELECTRONIC SMOKING DEVICES.

BEFORE THE:

SENATE COMMITTEES ON HEALTH AND ON
COMMERCE AND CONSUMER PROTECTION

DATE: Tuesday, February 9, 2021 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 229, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Richard W. Stacey,
Deputy Attorney General, at 586-1199)

Chairs Keohokalole and Baker and Members of the Committees:

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

The purpose of the bill is to address the health dangers caused by the use of electronic smoking devices. The bill would create new criminal offenses for retailers selling flavored tobacco products, mislabeling e-liquid products, and selling tobacco products other than through retail sales via in-person exchange. The bill also proposes to include e-liquid and electronic smoking devices in the definition of “tobacco products” for purposes of the cigarette tax and tobacco law, increase license fees for wholesalers and dealers, add an additional excise tax for sales of electronic smoking devices; and repeal the current electronic smoking device retailer registration unit and provisions relating to delivery sales.

The Department believes there may be a possible constitutional problem relating to the title of this bill, “Relating to Electronic Smoking Devices.” The Department, therefore, suggests that the Committee find another vehicle to pass the substance of this bill. Section 14 of article III of the Constitution of the State of Hawaii mandates that “[e]ach law shall embrace but one subject, which shall be expressed in its title.” There are two parts to the analysis of this Constitutional provision – that there be only one

subject, and that this subject be expressed in its title. The bill's title is "Relating to Electronic Smoking Devices," which by itself appears to embrace only one subject.

The Hawaii Supreme Court has liberally construed the term "subject" with respect to the title of a law as having a "broad and extended meaning." Schwab v. Ariyoshi, 58 Haw. 25, 33, 564 P.2d 135, 140 (1977). Therefore, it is sufficient if the title of a law "fairly indicates to the ordinary mind the general subject of the act, is comprehensive enough to reasonably cover all its provisions, and is not calculated to mislead." Schwab, 58 Haw. at 34, 564 P.2d at 141. Here, however, in addition to addressing electronic smoking devices, the bill seeks to criminalize sale of flavored tobacco products and e-liquid (section 2, page 7, line 3, through page 12, line 2); establish and fund a youth tobacco cessation program (section 11, page 29, lines 10-12), and amend penalties in section 712-1258(6), Hawaii Revised Statutes (HRS), regarding the underage purchase or possession of tobacco products and electronic smoking devices (section 12, page 30, lines 1-19). These are some examples of sections in the bill that are not limited to electronic smoking devices and that therefore may cause conflict with the single-subject and title requirement. The title "Relating to Electronic Smoking Devices" may not be "comprehensive enough to reasonably cover all its provisions." Schwab, 58 Haw. at 34, 564 P.2d at 141.

The Department notes some wording issues that should also be addressed. The bill on page 8, lines 4- 12, describes what would constitute prima facie evidence of flavored tobacco. Changes to the wording to clarify that the manufacturer, agent, or employee would be responsible for making the claim are suggested here:

(2) A statement or claim, including but not limited to text, color, or images on the tobacco product's labeling or packaging, that is used to explicitly or implicitly communicate that the tobacco product has a flavor other than tobacco, made by a manufacturer or an agent or employee of the manufacturer in the course of the person's agency or employment, and directed to consumers or the public that a tobacco product is flavored, shall be prima facie evidence that the tobacco product is a flavored tobacco product.

There is a possible due process issue in section 2. It appears that some of the wording used in section 2 is similar to that used in section 712-1258(6), HRS, which prohibits the sale of tobacco products and electronic smoking devices (ESDs) to persons under twenty-one years of age. There are areas where the wording may need to be amended to conform with the intent of this bill. For instance, section 2, page 8, lines 13-18, states:

(3) Any flavored tobacco product found in a retailer's possession that is in violation of this section shall be considered contraband, promptly seized, subject to immediate forfeiture and destruction or disposal as hazardous waste, and shall not be subject to the procedures set forth in chapter 712A.

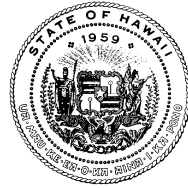
This wording, similar to that used in an older version of section 712-1258(6), HRS, may have been based on the scenario originally contemplated by section 712-1258(6), HRS – an underaged person is caught buying a pack of cigarettes illegally, and the one pack of cigarettes is contraband and may be forfeited and destroyed. Under this bill, the wording may leave open the possibility that all flavored tobacco products in the retailer's possession at the time of the violation shall be forfeited without any procedure. This raises due process concerns. The Department recommends that the forfeiture under this provision include a reference to an administrative procedure and/or a judicial determination prior to destruction of seized property, such as in section 712-1258(6), HRS, to address due process concerns.

Section 2 also addresses sentencing issues. As part of the sentencing provisions set forth on page 9, lines 3-5, the bill requires "[a]ll fines shall be paid to the department of health and deposited into the Hawaii Tobacco Prevention and Control Trust Fund established pursuant to section 328L-5." Section 37-54, HRS, however, mandates that moneys paid to the department of health be deposited into the state treasury. As such, the Department suggests that reference to the department of health on page 9, line 3, be stricken, so the moneys would be directly paid to and deposited into the Hawaii Tobacco Prevention and Control Fund. In addition, penal code section 706-643(2), HRS, provides: "(2) All fines and other final

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

The Department strongly supports the repeal of chapter 28, part XII, HRS, as set forth in section 13, page 31, lines 7-8. Once e-liquid, electronic smoking devices, and similar items are taxed and placed under the purview of the Department of Taxation, as this bill proposes, there would be a smoother process for registration and taxation of the retailers through current registration procedures.

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



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**Testimony in SUPPORT of S.B. 63
RELATING TO ELECTRONIC SMOKING DEVICES**

SENATOR JARRETT KEOHOKALOOLE, CHAIR
SENATE COMMITTEE ON HEALTH

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

Hearing Date: 2/9/2021

Room Number: Videoconference

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

4 **Department Testimony:** The DOH supports Senate Bill 63 (S.B. 63) as a comprehensive,
5 public health and social justice measure to end the youth tobacco epidemic in Hawaii. S.B. 63
6 makes it unlawful to sell, offer to sell, or possess with the intent to sell or offer to sell any
7 flavored tobacco products, including menthol; prohibits any sale other than through an in-person
8 exchange; imposes a tax on e-liquid and electronic smoking devices (ESDs); and raises the
9 licensing and permitting fee for tobacco wholesalers and retailers. S.B. 63 also includes options
10 for community service hours or tobacco education for youth who violate tobacco age restrictions.

11 In December 2018, the U.S. Surgeon General issued a rare advisory officially
12 declaring that ESD use among youth has reached epidemic levels in our country.¹ According to
13 data presented in this advisory, U.S. middle school and high school youth ESD use increased

¹ Health (ASH), A. S. for. (2018, December 17). *Surgeon General releases advisory on E-cigarette epidemic among youth* [Text]. HHS.Gov. <https://www.hhs.gov/about/news/2018/12/18/surgeon-general-releases-advisory-e-cigarette-epidemic-among-youth.html>

1 900% during 2011-2015, before declining for the first time during 2015-2017.² However,
2 between 2017 and 2019, current e-cigarette use among high school students in the U.S. more
3 than doubled (from 11.7% to 27.5%) and tripled among middle school students (from 3.3% to
4 10.5%).³ Altogether, over 5.3 million youth use e-cigarettes which is an increase of 3 million in
5 just two years.⁴ In Hawaii, high school current e-cigarette use rose from 25.5% in 2017 to 30.6%
6 in 2019.⁵ Middle school student current e-cigarette use went from 15.7% in 2017 to 17.7% in
7 2019.⁶ Frequent use, indicating nicotine addiction, doubled amongst Hawaii high school
8 students from 5.1% in 2017 to 10.4% in 2019.

9 In 2020, the COVID-19 pandemic underscored the importance of protecting lung health.
10 Studies report that smoking has a detrimental effect on the progression of COVID-19.⁷ The
11 underlying mechanisms of vaping and COVID-19 are being explored, meanwhile, researchers
12 found that young people who were tested for COVID-19 and who vaped, were five to seven
13 times more likely to be infected than those who did not use e-cigarettes.⁸ The COVID-19
14 pandemic came on during the epidemic of youth ESD use, and on the heels of the outbreak of
15 e-cigarette or vaping product use associated with lung injury (EVALI).

16 Meanwhile, federal regulation has not adequately addressed protecting youth from the
17 aggressive marketing and promotion of ESD products. The 2020 U.S. Food and Drug
18 Administration (FDA) announcement to restrict the sale of flavored e-cigarette products was not
19 a complete ban on all flavored tobacco products and left loopholes for tobacco- or menthol-
20 flavored cartridge-based ESD products. Flavored, disposable and refillable ESDs were allowed

² Health (ASH), A. S. for. (2018, December 17). *Surgeon General releases advisory on E-cigarette epidemic among youth* [Text]. HHS.Gov. <https://www.hhs.gov/about/news/2018/12/18/surgeon-general-releases-advisory-e-cigarette-epidemic-among-youth.html>

³ Wang, T. W. (2019). Tobacco Product Use and Associated Factors Among Middle and High School Students—United States, 2019. *MMWR. Surveillance Summaries*, 68. <https://doi.org/10.15585/mmwr.ss6812a1>

⁴ *Juul E-Cigarettes: Fueling A Youth Epidemic*. (2018, April 6). Campaign for Tobacco-Free Kids. <https://www.tobaccofreekids.org/what-we-do/industry-watch/e-cigarettes>

⁵ National Youth Risk Behavior Survey, 2019

⁶ National Youth Risk Behavior Survey, 2019

⁷ Clancy, L., Gallus, S., Leung, J., & Egbe, C. O. (2020). Tobacco and COVID-19: Understanding the science and policy implications. *Tobacco Induced Diseases*, 18. <https://doi.org/10.18332/tid/131035>

⁸ Gaiha, S. M., Cheng, J., & Halpern-Felsher, B. (2020). Association Between Youth Smoking, Electronic Cigarette Use, and COVID-19. *Journal of Adolescent Health*, 67(4), 519–523. <https://doi.org/10.1016/j.jadohealth.2020.07.002>

1 to remain on the market. Not surprisingly, during the months from August 2019 through May
2 2020 the disposable e-cigarette products portion of total e-cigarette sales in the U.S. increased
3 from 10.3% to 19.8%.⁹ Flavored disposable e-cigarette sales (other than tobacco or menthol)
4 rose from 17.2% to 62.1%.¹⁰ During this same time period, the proportion of mint sales among
5 prefilled cartridges decreased (47.6% to 0.3%) and menthol sales increased (10.7% to 61.8%).¹¹
6 Federal restrictions have not kept pace with the products introduced by companies that continue
7 innovating and enticing youth with flavored tobacco products.

8 Scientific studies document flavors as a major reason that youth use tobacco. According
9 to the 2013-2014 Population Assessment of Tobacco and Health (PATH) study, 81% of 12- to
10 17-year old youth who had ever used a tobacco product, initiated tobacco use with a flavored
11 product. Additionally, 80% of current users had used a flavored product in the last month.¹² In
12 2019, the large majority of youth who vaped reported using flavored ESDs, with fruit, menthol
13 or mint, candy, desserts, or other sweets being the most commonly used.^{13,14} According to the
14 same research, mint and menthol went from being among the least popular to among the most
15 popular flavors for high school students over the past four years.¹⁵ Data from another 2019 study
16 revealed that the most popular flavor among 10th and 12th grade Juul users was mint.¹⁶ These

⁹ Ali, F. R. M., Diaz, M. C., Vallone, D., Tynan, M. A., Cordova, J., Seaman, E. L., Trivers, K. F., Schillo, B. A., Talley, B., & King, B. A. (2020). E-cigarette Unit Sales, by Product and Flavor Type—United States, 2014–2020. *Morbidity and Mortality Weekly Report*, 69(37), 1313–1318. <https://doi.org/10.15585/mmwr.mm6937e2>

¹⁰ Ali, F. R. M., Diaz, M. C., Vallone, D., Tynan, M. A., Cordova, J., Seaman, E. L., Trivers, K. F., Schillo, B. A., Talley, B., & King, B. A. (2020). E-cigarette Unit Sales, by Product and Flavor Type—United States, 2014–2020. *Morbidity and Mortality Weekly Report*, 69(37), 1313–1318. <https://doi.org/10.15585/mmwr.mm6937e2>

¹¹ Ali, F. R. M., Diaz, M. C., Vallone, D., Tynan, M. A., Cordova, J., Seaman, E. L., Trivers, K. F., Schillo, B. A., Talley, B., & King, B. A. (2020). E-cigarette Unit Sales, by Product and Flavor Type—United States, 2014–2020. *Morbidity and Mortality Weekly Report*, 69(37), 1313–1318. <https://doi.org/10.15585/mmwr.mm6937e2>

¹² Ambrose, B. K., Day, H. R., Rostron, B., Conway, K. P., Borek, N., Hyland, A., & Villanti, A. C. (2015). Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. *JAMA*, 314(17), 1871–1873. <https://doi.org/10.1001/jama.2015.13802>

¹³ Campaign for Tobacco-Free Kids, Statement of Matthew L. Myers, President, “JAMA Studies Show Youth E-Cigarette Epidemic is Getting Worse and Kids Shifted to Mint/ Menthol After Other Flavors Were Restricted”, November 5, 2019, retrieved from https://www.tobaccofreekids.org/press-releases/2019_11_05_jama

¹⁴ Cullen KA, Gentzke AS, Sawdey MD, et al. e-Cigarette Use Among Youth in the United States, 2019. *JAMA*. 2019;322(21):2095–2103. doi:10.1001/jama.2019.18387

¹⁵ Cullen KA, Gentzke AS, Sawdey MD, et al. e-Cigarette Use Among Youth in the United States, 2019. *JAMA*. 2019;322(21):2095–2103. doi:10.1001/jama.2019.18387

¹⁶ Leventhal AM, Miech R, Barrington-Trimis J, Johnston LD, O’Malley PM, Patrick ME. Flavors of e-Cigarettes Used by Youths in the United States. *JAMA*. 2019;322(21):2132–2134. doi:10.1001/jama.2019.17968

1 data illustrate that trends among youth users of flavored e-cigarette products change quickly and
2 therefore must be addressed swiftly.

3 Menthol flavors are often exempted from tobacco control policies.¹⁷ This exemption
4 perpetuates social injustice as menthol flavoring has been used by the tobacco industry to appeal
5 to youth, racial minorities, and marginalized populations. The tobacco industry has targeted
6 minority groups such as the lesbian, gay, bisexual and transgender (LGBT) community, Asian
7 Americans, Pacific Islanders, and Native Hawaiians, and African Americans.^{18,19,20} Menthol use
8 is also high among those with behavioral health conditions and those who are socioeconomically
9 disadvantaged.^{21,22}

10 The DOH further supports the proposed increases in licensure and permitting fees which
11 have remained unchanged since 1995, despite high tobacco taxes and ever-increasing tobacco
12 industry expenditures in marketing and advertising. Tobacco licensing is an effective tool for
13 limiting the negative public health consequences of tobacco use by ensuring that wholesalers and
14 retailers comply with responsible sales practices.

15 By including ESDs and e-liquids in the definitions of section 245-1, Hawaii Revised
16 Statutes, within the definition of tobacco products, they become subject to the excise tax on
17 tobacco products. The imposition of an excise tax equal to 70% of the wholesale price of each
18 e-liquid and ESD is fair and equitable and consistent with the tax on other tobacco products. The

¹⁷ *The importance of strong local flavored tobacco policies.* (n.d.). Truth Initiative. Retrieved February 1, 2021, from <https://truthinitiative.org/research-resources/emerging-tobacco-products/study-highlights-importance-strong-local-flavored>

¹⁸ Washington, H. (2002). *Burning Love: Big Tobacco Takes Aim at LGBT Youths* | *AJPH* | Vol. 92 Issue 7. American Journal of Public Health. <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.92.7.1086>

¹⁹ Muggli, M. E., Pollay, R. W., Lew, R., & Joseph, A. M. (2002). Targeting of Asian Americans and Pacific Islanders by the tobacco industry: Results from the Minnesota Tobacco Document Depository. *Tobacco Control*, 11(3), 201–209. <https://doi.org/10.1136/tc.11.3.201>

²⁰ Primack, B. A., Bost, J. E., Land, S. R., & Fine, M. J. (2007). Volume of Tobacco Advertising in African American Markets: Systematic Review and Meta-Analysis. *Public Health Reports*, 122(5), 607–615.

²¹ National Survey on Drug Use and health, 2018

²² National Survey on Drug Use and health, 2018

1 relatively low cost of e-liquids and ESDs makes these products appealing to youth and young
2 adults, who tend to be particularly price sensitive.²³

3 The DOH supports the prohibition of delivery or sales of tobacco products other than
4 through face-to-face exchange at a tobacco retail location. Unregulated shipping (or importing)
5 of tobacco products, particularly, ESDs ordered online, undermines efforts to protect underage
6 smokers who often circumvent the age verification process for purchasing tobacco. Examples of
7 online state restrictions exist for e-commerce on items such as wine and liquor, plants and other
8 agricultural products, colognes and perfumes. States can regulate some aspects of their interstate
9 commerce, and can ban interstate shipments, and in the absence of federal laws, state laws are
10 usually upheld (*Hammerstein v. Superior Court* [1951]).²⁴

11 The DOH supports S.B. 63 as a strong and comprehensive measure that addresses the key
12 regulatory components that are needed to reduce access to ESDs among Hawaii's youth and
13 young adults and encourage users to quit.

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

15 **Offered Amendments:** None.

²³ Department of Health & Human Services, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General 522-29* (2012), <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf>

²⁴ <https://www.britannica.com/topic/interstate-commerce-United-States-law>

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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, Vice Chair;
and Members of the Senate Committee on Commerce and Consumer Protection

From: Isaac W. Choy, Director
Department of Taxation

Date: February 9, 2021

Time: 9:00 A.M.

Place: Via Videoconference, Hawaii State Capitol

Re: S.B. 63, Relating to Electronic Smoking Devices

The Department of Taxation (Department) offers the following comments regarding S.B. 63 for your consideration.

S.B. 63 makes several amendments to chapter 245, Hawaii Revised Statutes (HRS). These amendments will enable improved regulation of the sale of electronic smoking products. S.B. 63 is effective July 1, 2021.

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.

The Department notes that, as currently written, the bill imposes the tobacco tax on electronic smoking products twice. By including electronic smoking devices and e-liquid in the definition of "tobacco products," those products would become subject to the tobacco tax at the rate of 70% of the wholesale price under section 245-3(a)(12), HRS. The new tax under section 245-3(b) would then levy a second 70% tax on the subsequent retail sale of electronic smoking devices, for a total tax in excess of 140%. Other tobacco products remain subject to only the 70% wholesale tax. The Department suggests deleting the new tax in section 245-3(b) so that electronic smoking devices are taxed the same as other tobacco products.

Lastly, the Department requests the effective date of this measure be no earlier than January 1, 2022, to give time to update its forms, instructions, and computer system.

Thank you for the opportunity to provide comments.



HIPHI Board

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Date: February 7, 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, Vice Chair
Members of the Senate Committee on Health

Re: Strong Support for SB 63, Relating to Electronic Smoking Devices

Hrg: February 9, 2020 at 9:00 AM, Video Conference

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Institute¹ offers testimony in **Strong Support on SB 63**, which comprehensively regulates e-cigarettes by:

1. Ending the sale of flavored electronic smoking devices
2. Prohibiting mislabeling of e-liquid products containing nicotine;
3. Restricting the shipment of tobacco products to anyone other than a licensee
4. Including e-liquid and electronic smoking devices within the definition of "tobacco products" as used in the cigarette tax and tobacco tax law, thus subjecting them to a tobacco tax and requiring licensing and permitting for wholesalers and retailers;
5. Dedicating a portion of the tobacco tax revenue for health education, prevention, and cessation programs relating to risks and dangers of ESD use by youth; and
6. Offering youth tobacco education and cessation programs or community service for the possession or purchase of tobacco products as an alternative to fines.

Offered amendment:

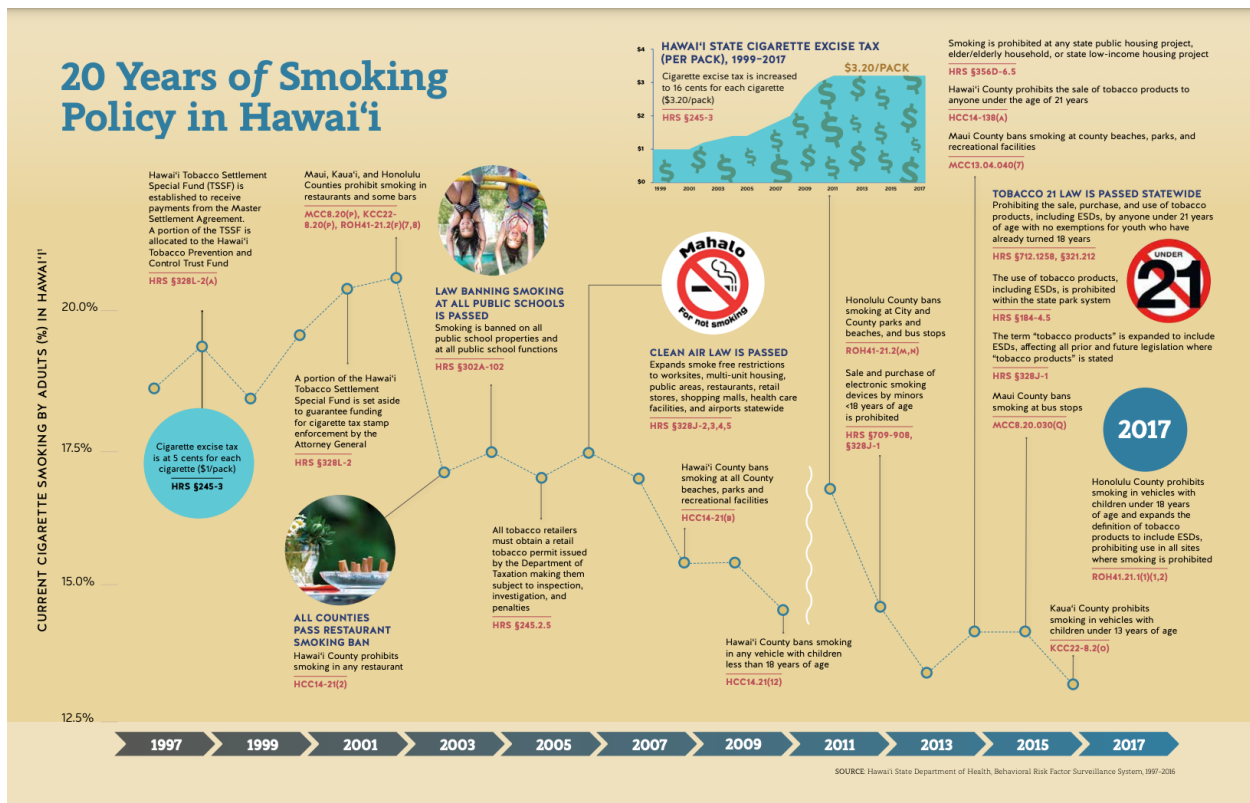
The Coalition notes that the current bill language would subject electronic smoking devices to both the Other Tobacco Product tax, as well as an excise tax of 70% of the retail price. The Coalition advocates for tax parity between electronic smoking devices and other tobacco products, and thus respectfully requests the **deletion of lines 1-8 on page 20**.

Comprehensive regulations have reduced smoking rates to record lows and can do the same for youth e-cigarette use.

Over two decades of tobacco prevention and control policy, has helped Hawai'i save \$1 billion dollars in healthcare costsⁱⁱ, lowered the adult

smoking rate to 12.3% (fifth lowest in the nation)ⁱⁱⁱ, and reduced smoking prevalence among high school students to 5.3% in 2019^{iv}. This was achieved through comprehensive smoke-free air laws, high tobacco taxes, age restrictions, and investments in tobacco prevention education and cessation.

The rise of e-cigarettes has undone decades of progress and is now the most popular tobacco product among youth. 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 use e-cigarettes^v. The state has an opportunity to reverse the youth vaping epidemic by implementing the same comprehensive policies and programs.



The link between tobacco use and COVID-19 has increased the urgency of regulations on e-cigarettes.

COVID-19 is an infectious disease that primarily attacks the lungs, making tobacco use especially concerning. In a statement by the WHO on tobacco use and COVID-19, "Tobacco is also a major risk factor for noncommunicable diseases like cardiovascular disease, cancer, respiratory disease and diabetes which put people with these conditions at higher risk for developing severe illness when affected by COVID-19. Available research suggests that smokers are at higher risk of developing severe disease and death."^{vi}

In May 2020, Stanford University published a landmark study^{vii} 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.** This finding is incredibly concerning considering the

high rates of youth e-cigarette use in Hawai'i. To put this into perspective, there are 52,529 high school students enrolled in Hawai'i public schools^{viii}. 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.

Even without the global pandemic, youth e-cigarette use is of public health concern.

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

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

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

In addition, e-cigarette manufacturers and retailers cannot legally make claims that e-cigarettes can help users quit smoking or that they are healthier than cigarettes. The deceptive health claims and aggressive marketing of these products has only increased tobacco use as people who have never smoked begin using e-cigarettes, children use e-cigarettes as a path to smoking, and smokers that use them to perpetuate their habit (dual use) instead of to completely quit. **A study has shown that for every one adult that quits smoking using e-cigarettes, 81 youth and young adults who would not have considered smoking, will become cigarette smokers, starting with e-cigarettes^{xii}.** This is not a trade-off we can accept. We need to take action and regulate electronic smoking devices for our kids.

To advance equity, Hawai'i must address the root causes of tobacco use.

For decades, the tobacco industry has profited from targeting youth of color and other low-income populations. African Americans, Native Hawaiians, and Filipinos are disproportionately affected by the harms caused by tobacco. Efforts to protect the health of our youth are even more important given the devastating impact of COVID-19.

Comprehensive regulations on the predatory industry will address the root causes of tobacco use and are critical to advancing health equity. Ending the sale of flavors in tobacco products reduces the appeal. Including the flavor menthol is especially important, as its cooling properties have been

exploited by the tobacco industry to mask the harshness of tobacco smoke and was heavily marketed to youth and vulnerable groups such as the African American community. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes. Taxation and restrictions on online sales will help to decrease the accessibility of these products. Funding prevention education and cessations most benefits populations that experience higher rates of tobacco use, helping to provide them with the resources needed to quit smoking and to help curb the high costs associated with tobacco use.

On the other hand, policies that punish the victims perpetuate inequities. Possession of tobacco products by underage persons ("PUP") laws are a known tobacco industry tactic^{xiii} that shift the blame away from the industry and onto the children who are victims of their aggressive marketing tactics. There are also 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 and 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^{xiv}.

Hawai'i voters support regulations on e-cigarettes.

In a poll^{xv} conducted by Ward Research Inc. for the Coalition in October 2020 among registered voters in Hawai'i:

- 73% support prohibiting flavored tobacco products, including e-cigarettes, and 70% support including menthol;
- 91% were in support of taxing e-cigarettes at the same rate as cigarettes or other tobacco products; and
- 95% feel that it is important for the state to dedicate part of its revenue to tobacco prevention and cessation programs.

Hawai'i has made enormous progress on tobacco control and we ask the legislature to take the necessary steps to reverse our youth vaping epidemic in order to protect our youth from a lifetime of addiction. We respectfully urge the committee to **pass SB 63 with the suggested amendment.**

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

ⁱⁱⁱ Centers for Disease Control and Prevention (CDC). Behavioral Risk Factor Surveillance System Survey Data. Atlanta, Georgia: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, 2019.

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

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

^{vi} <https://www.who.int/news/item/11-05-2020-who-statement-tobacco-use-and-covid-19> [accessed 2021 Feb 7]

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

^{viii} Hawai'i State Department of Education. "Department announces 2020-21 enrollment figures for public and charter schools." Retrieved from

<https://www.hawaiipublicschools.org/ConnectWithUs/MediaRoom/PressReleases/Pages/2020-21-enrollment.aspx>

^{ix} Youth Risk Behavior Surveillance System (YRBSS), 2017-2019. Available at: www.cdc.gov/yrbs. Accessed on 02/07/2021.

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

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

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

^{xiii} 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

^{xiv} 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 I):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.

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



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 AND CONSUMER
PROTECTION

RE: SB 63 - RELATING TO ELECTRONIC SMOKING DEVICES

TUESDAY, FEBRUARY 9, 2021

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

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

The Hawaii State Teachers Association **supports SB 63**, relating to electronic smoking devices. **This bill makes unlawful the sale of flavored products for electronic smoking devices**, mislabeling of e-liquid products containing nicotine, and sale of tobacco products other than through retail sales via in-person exchange. Establishes penalties. Includes e-liquid and electronic smoking devices in the definition of "tobacco products" for purposes of the cigarette tax and tobacco tax law. Increases the license fee for wholesalers and dealers of tobacco products and retail tobacco permit fee. Requires retailers to pay an additional excise tax on the retail price of electronic smoking devices on and after 7/1/2021. Directs a certain percentage of moneys received from the cigarette tax and tobacco tax to the Hawaii tobacco prevention and control trust fund to establish and fund a comprehensive youth tobacco cessation program. Requires a person under twenty-one years of age who unlawfully purchases or possesses tobacco products, including electronic smoking devices, to complete a tobacco education or use cessation program or perform community service for a first offense. Repeals the electronic smoking device retailer registration unit. Repeals provisions relating to delivery of sales under the cigarette tax and tobacco tax law.

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

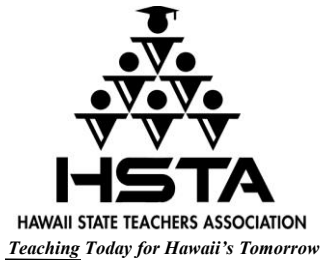
ever used tobacco say they started with a flavored product and 97% of youth who vape say they only use a flavored product.

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, this bill would help deter children from not only trying e-cigarettes but also from becoming habitual users of these products.



Corey Rosenlee
President

Osa Tui, Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

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 the increase of any fines for youth in this 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.

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.



1050 Bishop St. PMB 235 | Honolulu, HI 96813
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Executive Officers

Joe Carter, Coca-Cola Bottling of Hawaii, *Chair*
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Derek Kurisu, KTA Superstores, *Advisor*
Beau Oshiro, C&S Wholesale Grocers, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*

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

DATE: February 9, 2021
TIME: 9am
PLACE: Via Videoconference

RE: SB63 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. During the October 17, 2029 informational briefing on vaping that this Committee held jointly with the Senate Committee on Commerce Consumer Protection and Health experts discussed the fact that almost 90% of underage people who use electronic smoking devices buy them online or get them from their friends. Very few purchase them in stores where they are already subject to age restrictions. Regulating the shipping of these products is a common-sense way to keep them out of the hands of young people.

We ask that menthol be exempted from the portion of this bill seeking to ban the sale of flavored tobacco products. Many adults choose to use menthol cigarettes and we don't believe there is sufficient justification for penalizing those users, or the businesses that sell to adults who legally purchase these products.

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.

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.

SB-63

Submitted on: 2/6/2021 8:21:45 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
maria Pineda	Testifying for Hawaii Keiki	Support	No

Comments:

I support the bill to alleviate e cig use in the youth



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

February 6, 2021

Honorable Chairs Senators Roz Baker and Jarrett Keohokalole
Honorable Vice-Chair Senators Stanley Chang and Roz Baker
Members of the Committees of Commerce and Consumer Protection, and Health

RE: Strong Support of SB63, Comprehensively Regulating Electronic Smoking Devices

Dear Senators Baker, Keohokalole and Chang, and members of the Committees on Commerce and Consumer Protection, and Health,

This measure is extremely critical to the health of the children of our state and our entire state as well. Please vote in favor of SB63, which will allow our state to properly prohibit and regulate electronic smoking devices.

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.

We are grateful that this legislature has been the first in the nation to pass legislation banning the sale of tobacco and electronic smoking devices to people under 21 in Hawaii. Unfortunately, that doesn't stem the growing epidemic of young people and adults in our state who are smoking electronic smoking devices, commonly referred to as ESDs, e-cigs, or vaping, with one in three of the youth in Hawaii using such devices. This is extremely concerning since nicotine is known to be a HIGHLY addictive drug and impacts the developing brain. Pediatricians have reported the brain continues to develop and grow until the young adult is 26 years old!

Please help protect the lungs and lives of our children from these very harmful products that are spreading virally in our schools, from elementary through high school and beyond. We urge you to please vote in favor of SB63 and pass it out of committee so it can become law. The Hawaii COPD Coalition thanks you very much for your careful consideration of this most important and timely bill.

Very truly yours,

Valerie Chang

Valerie Chang
Executive Director



Hawaii Dental Association

To: Senate Committees on Health and Commerce and Consumer Affairs
Time/Date: 9 a.m., February 9, 2021
Location: State Capitol Room 229 and Via Teleconference
Re: SB 63, Relating to Electronic Smoking Devices

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 SB 63**, relating to electronic smoking devices. This bill makes unlawful the sale of flavored products for electronic smoking devices, mislabeling of e-liquid products containing nicotine, and the sale of tobacco products other than through retail sales via in-person exchange. Among other provisions, it includes e-liquid and electronic smoking devices in the definition of "tobacco products" for purposes of the cigarette tax and tobacco tax law. It directs a certain percentage of money received from the cigarette tax and tobacco tax to the Hawaii tobacco prevention and control trust fund to establish and fund a comprehensive youth tobacco cessation program.

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 SB 63.

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

Tuesday, February 9, 2021, 9:00 A.M., Conference Room 229

TESTIMONY IN SUPPORT FOR SENATE BILL 63 RELATING TO ELECTRONIC SMOKING DEVICES

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 strongly supports Senate Bill 63, which aims to end the vaping epidemic in Hawaii's youth.

Comprehensive regulatory action on tobacco products in Hawaii is necessary to reduce tobacco-related health disparities and end the youth vaping epidemic and the need for Hawaii to protect youth from tobacco is more urgent than ever. 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

This bill will end the vaping epidemic by addressing the issue in multiple fronts:

1. Restrict the sale of all flavored tobacco products, reducing tobacco's appeal to youth;
2. Include e-liquid and electronic smoking devices in the definition of "tobacco products" for purposes of the cigarette tax and tobacco tax law, bringing tax parity across all tobacco products;
3. Bring higher regulations for e-cigarette and e-liquid vendors, including closing the loophole for internet-based sales;
4. Direct a certain percentage of moneys received from the cigarette tax and tobacco tax to the Hawaii tobacco prevention and control trust fund to establish and fund a comprehensive youth tobacco cessation program.

Research has shown that **menthol flavors are particularly enticing to teens** and adults who haven't previously used tobacco, as it has cooling properties that mask the harshness of tobacco and nicotine, making menthol cigarettes easier to start and harder to quit.

Despite what e-cigarette companies want us to believe, switching to vaping (e-cigarettes) is not quitting the nicotine addiction. **E-cigarettes are still tobacco products, and FDA has not approved any e-**

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



cigarette as a quit smoking device. In fact, the FDA must crack down on the unproven health claims made by the e-cigarette industry because it's confusing people who want to quit smoking. E-cigarettes still produce a number of dangerous chemicals including acetaldehyde, acrolein, and formaldehyde. As we've seen on the news, the inhalation of harmful chemicals can cause irreversible lung damage, lung diseases—and even death.

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 strongly support passage of Senate Bill 63 to once and for all end this vaping epidemic.

A handwritten signature in black ink that reads "Pedro Haro".

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



To: The Honorable Senator Jarrett Keohokalole, Chair
The Honorable Senator Rosalyn H. Baker, Chair
Committee on Health

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

Hrg: February 9, 2021 at 9:00am, Room 229

RE: **SB63 Relating to Electronic Smoking Devices - Strong Support**

AlohaCare appreciates the opportunity to provide testimony in **strong support** of **SB63**, which is a comprehensive measure to regulate e-cigarettes by ending the sale of flavored tobacco and e-liquids, taxing e-cigarettes and closing the online purchasing loopholes. This measure will also allocate a portion of the tobacco taxes collected toward education and cessation.

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.

Flavored tobacco products, including flavored vaping products are designed and marketed to entice youth. Hawaii has been experiencing a youth vaping epidemic and everything must be done to protect our young people's health from the vaping and tobacco industry's efforts to get them addicted to life-threatening habits.

AlohaCare applauds this measure's comprehensive approach to regulating electronic smoking devices by creating policy parity on taxation and the online shipment of tobacco products to improve the health of Hawaii's keiki and protect them from becoming the next generation addicted to nicotine. Comprehensive regulation on electronic smoking devices is long overdue and would bring substantial public health benefits. 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. The public health harms caused by menthol cigarettes have disproportionately impacted Native Hawaiians and Filipinos in Hawaii.

Mahalo for this opportunity to testify in **strong support of SB63**.

SB-63

Submitted on: 2/7/2021 8:43:08 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	Testifying for We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments:

Strongly Support SB63 & HB1328

- We are in the midst of a **youth vaping epidemic**. In Hawai'i, one in three high school students and one in five middle school students report "current use" of e-cigarettes (Hawai'i YRBSS, 2019).
- Hawai'i was successful in reducing cigarette use to record lows through policy, prevention, education, and cessation programs. By implementing the same tactics, we can **reverse the trends** in youth e-cigarette use.
- Comprehensive regulations include:
 - **Ending the sale of all flavored tobacco products**, including the flavor menthol – these flavors entice youth, while the nicotine keeps them hooked for life
 - Restricting online sales to licensed retailers only. This **requires face-to-face purchases** for consumers, making it harder for youth to obtain these products via the internet.
 - Applying a **tobacco tax to e-cigarettes** – it's the only tobacco product without one. Dedicating some of this revenue to fund tobacco prevention and control programs complements and strengthens the effect of tobacco policies in reducing smoking rates.
 - Requiring **licensing and permitting** for tobacco retailers and wholesalers to help implement and enforce current laws and regulations.
- Teenagers and young adults who used e-cigarettes were **5x more likely to be diagnosed with COVID-19 than non-users**. Those who had used both e-cigarettes and conventional cigarettes (dual use) were 7x more likely to be diagnosed with the disease.
- Tobacco use is an **equity and social justice issue**. According to the CDC's 2019 Youth Risk Behavior Surveillance System (YRBSS), approximately 31 percent of Hawai'i high school students and 18 percent of Hawaii middle schoolers are current e-cigarette users. For Native Hawaiian and Pacific Island (NHPI) youth these numbers climb to 40 percent for high school and 30 percent for middle school.

- Disparities in tobacco use are due to the tobacco industry's **history of marketing menthol cigarettes to youth and vulnerable groups**, such as the African American community. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).

www.WeAreOne.cc



**Testimony to the Senate Joint Committee on Health, and Commerce and Consumer
Protection
Tuesday, February 9, 2021; 9:00 a.m.
Via Videoconference**

RE: SENATE BILL NO. 0063, 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 **COMMENTS** on Senate Bill No. 0063, RELATING TO ELECTRONIC SMOKING DEVICES.

The bill, as received by your Committee, would:

- (1) Make unlawful the sale of flavored tobacco products, mislabeling of e-liquid products containing nicotine, and sale of tobacco products other than through retail sales via in person exchange;
- (2) Include e-liquid and electronic smoking devices in the definition of "tobacco products" for purposes of the Cigarette Tax and Tobacco Tax Law;
- (3) Increase the license fee for wholesalers and dealers of tobacco products and retail tobacco permit fee;
- (4) Require retailers to pay an additional excise tax on the gross receipts from the retail sale of electronic smoking devices on or after July 1, 2021;
- (5) Direct a certain percentage of moneys received from the Cigarette Tax and Tobacco Tax to the Hawaii Tobacco Prevention and Control Trust Fund to establish and fund a comprehensive Youth Tobacco Cessation Program;
- (6) Repeal the electronic smoking device retailer registration unit; and
- (7) Repeal provisions relating to deliver of sale under the Cigarette Tax and Tobacco Tax Law.

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.

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, then the interests of the general public are served.

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

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

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

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

Testimony on Senate Bill No. 0063
Tuesday, February 9, 2021; 9:00 a.m.
Page 3

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

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



SB63 Ban Flavored E-Cigarettes

COMMITTEE ON HEALTH,

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

COMMITTEE ON HUMAN SERVICES:

- Sen. Joy San Buenaventura, Chair; Sen. Les Ihara, Vice Chair
- Tuesday, Feb. 9 2021: 9:00 am: Videoconference

HSAC Supports SB63:

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

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

- Given the historic rise in e-cigarettes by youth, banning the sale of flavored tobacco products can help to reduce the danger to children from vaping, which is a growing major public health concern.

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

Jamil Folio
The Man Cave
1993 S. Kihei Rd Suite 18
Kihei, Hawaii 96733



To our Distinguished Legislators:

My name is Jamil Folio, I am the Administrative Manager for “The Man Cave” retail business in Kihei, Hawaii. I am a property owner, father of young children, concerned citizen and a small business advocate who is proud to call Maui my home.

I am writing in **STRONG support** of comprehensive tobacco regulations, and especially banning flavored tobacco products. We sell tobacco products in our store, and understand the trepidation of other business owners/operators concerning potential lost revenue. BUT, we cannot jeopardize the health of our youth and our community by focusing on short term profit.

An alarming number of Maui County high school students, over 30%, are currently using e-cigarettes, while less than 5% of adults in Hawai'i are current users. These products are proving to be dangerous in themselves. A good portion of them will go on to use combustible tobacco products, which are the leading cause of preventable death and disease in the United States. Children are 10 times more likely to start smoking having had exposure to vaping or e-cigarettes in the past.

21,000 children under the age of 18 currently living in Hawaii will die prematurely from smoking. If you could please read the previous sentence one more time. Then consider the financial cost associated with long term cancer and end of life care. Any lost short term revenue from banning the sales of flavored tobacco products is a minor rounding error in the long term costs associated with cancer for tens of thousands of Hawaii's citizens.

We are not talking about the rights adults have to make informed discussions. We are talking about middle school children being hooked on bubble gum, cotton candy, and Pipeline POG flavored addiction. And that is what is being sold: addiction. This is a tried and true campaign of influence from tobacco companies who have been marketing to children for decades (as proven in their own internal documents multiple times).

In fact, the same documents show that tobacco companies have targeted minority groups like African Americans and Native Hawaiians even more so than other groups, which is evidenced by the fact that over 40% of Maui County Native Hawaiian high school students are using e-cigarettes.

If our solution is to arrest and fine kids for being caught with these products, then more Native Hawaiian youth are going to end up criminalized for their addiction than other youth. This is a social justice issue that can't be ignored. Don't hold kids responsible for the industry's insidious manipulation. Hold the industry accountable, as they should be.

I also ask that you be sure to include menthol in order for this to be a comprehensive ban on flavored tobacco products. Menthol masks harshness, making it easier to start and harder to quit. Mint and menthol have historically been used to target youth and minority populations for the industry's profit. In fact, 78 percent of Native Hawaiian smokers smoke menthol cigarettes. This is a social justice issue that needs to be addressed here in Hawaii.

For every potential sale that would be lost, a life might be saved. So please represent your constituents, our community, and our island ohana by doing the right thing. No child or adult needs candy flavored cancer causing products.

Thank you for your time.

Jamil Folio



February 7, 2021

**Committee
Members**

Annaleah Atkinson
808 652-7743

Regina Floyd
702 292-2372

Doug Haigh
808 635-1120

Eve Hands
808 346-7799

Jonathan Lee
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Tommy Noyes
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Valerie Woods
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Elle Vitt
808 635-5221

Ron Wiley
808 245-9527

Health & Commerce and Consumer Protection Committees
Hawaii State Senate
via e-mail

STRONG SUPPORT FOR
SB63 RELATING TO ELECTRONIC SMOKING DEVICES

Aloha Senator Baker, Senator Keohokalole, and Committee Members,

This testimony is submitted on behalf of the Friends of Kamalani and Lydgate Park committee, registering our strong support for SB63.

We collaborated with appointed and elected officials to designate portions of Lydgate Beach Park as the County of Kauai's first tobacco-free park, and we believe in advancing the health and wellness of our youth by protecting them from becoming tobacco product addicts.

Now is the time to apply regulations comparable to measures imposed on more traditional tobacco products to the electronic smoking devices ("ESDs"). Please move this bill forward now to help end the sale of flavored tobacco and e-liquids, impose a tax on ESDs, and close the online purchasing loophole. As a further measure to decrease childhood addiction this bill directs a portion of the funds from taxes to effective prevention and cessation programs.

ESDs deliver vaping compounds that in effect assure tobacco industry profits by addicting children to nicotine. The detrimental long-term public health effects of tobacco use and nicotine addiction are established science.

Please fulfill your allegiance to the people of Hawaii and advance Senate Bill 63 as written and without dilution. It is your responsibility to protect our youths' health, not to assure the tobacco industry's and tobacco retailers' profits at the expense of assured life-long health degradation and quality of life impairments.

Sincerely,

s/ Tommy A. Noyes

General Coordinator
The Friends of Kamalani and Lydgate Park



American Vaping Association | www.vaping.org

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

February 9, 2021

RE: SB 63 / HB 1328, banning flavored tobacco and vaping products, creating a tax on vaping products, banning online sales of tobacco and vaping products

Chairs Keohokalole and Baker and members of the Committees on Health and Commerce & Consumer Protection:

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 Senate Bill 63. SB 63 contains numerous policies that would negatively impact adult smokers and throughout the state.

Taxes on vaping products will only succeed in increasing cigarette use.

Just recently, the Wall Street Journal sounded a warning bell – cigarette sales have increased during the COVID-19 pandemic thanks in part to misinformation over the health risks of vaping.¹ With nearly 150,000 adults in Hawaii still using combustible cigarettes, a new tax on vaping products will not benefit public health. Instead, the end result will be more cigarette smoking, the closing of small businesses, and growth in the illicit sale of these products.

Contrary to the emotional rhetoric of activists, the importance of flavors to adult smokers has been demonstrated.

Last year, researchers from the Yale School of Public Health published a study of 17,929 people between the ages of 12 to 54 years old. The study found that: (1) adults using flavors were more than twice as likely to quit smoking successfully as those using tobacco-flavored products; and (2) young people who used flavored vaping products were not more likely to subsequently smoke than those using tobacco-flavored product.² A second study by Yale researchers concluded that banning flavors in vaping products would result in increases in cigarette smoking.³

¹ "Smoking's Long Decline Is Over." Wall Street Journal. January 28, 2021. <https://www.wsj.com/articles/during-covid-19-lockdowns-people-went-back-to-smoking-11611829803>

² Friedman AS, Xu S. "Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation." JAMA Netw Open. 2020;3(6):e203826. doi:10.1001/jamanetworkopen.2020.3826

³ John Buckell, Joachim Marti, and Jody L. Sindelar, "Should Flavors Be Banned in E-Cigarettes? Evidence on Adult Smokers and Recent Quitters from a Discrete Choice Experiment." National Bureau of Economic Research. September 2017. <http://www.nber.org/papers/w23865.pdf>.

Significant legislative and regulatory action on vaping products has occurred at the federal level. Even more is coming.

The Food & Drug Administration has regulated vaping products since August 2016. In that time, it has conducted tens 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. The agency must assess each product under a population-level health standard that considers potential impacts on users and non-users of the product, including youth. Regardless of a product's particular flavor, if an application is denied by the FDA, any manufacturer or retailer continuing to sell it will be in violation of federal law.

Internet and mail order sales of vaping products will be federally-regulated in the next 60 days.

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 on those who violate the law. Beginning at the end of March, any retailer shipping products to Hawaii will have to register with the state, collect and remit any Hawaii taxes, and ship the product using a delivery service that checks the recipient's proof of age at delivery.

This is a complicated subject and simplistic policy solutions like prohibition and new taxes will backfire.

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 new excise taxes in the middle of a pandemic are not warranted.

Again, we urge you to reject this bill.

Sincerely,



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



THE OHIO STATE UNIVERSITY

COLLEGE OF PUBLIC HEALTH

Knee-jerk vaping bans will fail public health, experts argue

Evidence supports e-cigarettes as a harm-reduction tool

Bans and other policies restricting e-cigarette sales could do more public harm than good, according to a group of public-health, tobacco-policy and ethics experts.

In a piece published online today (Dec. 12, 2019) in the journal *Science*, the authors, including three public health deans, caution that blanket policies developed in a rush to address two different concerns come with dangerous downsides – most notably the risk of taking away a powerful tool to help smokers quit.



“Illnesses and deaths, which appear to be related to vaping illicit THC oils, have caused justifiable alarm as has the rise of young people who are vaping nicotine. But in our response we must not lump together these troubling developments and fail to consider the powerful evidence supporting the availability of legal nicotine products,” said lead author [Amy Fairchild, dean of The Ohio State University College of Public Health.](#)

In *Science*, she and her co-authors write that “Restricting access and appeal among less harmful vaping products out of an abundance of caution while leaving deadly combustible products on the market does not protect public health. It threatens to derail a trend that could hasten the demise of cigarettes, poised to take a billion lives this century.”

The paper comes after the emergence this year of vaping-related lung injuries and deaths throughout the U.S. The Centers for Disease Control and Prevention has reported 2,291 cases of serious lung injury and 48 deaths as of last week. Authorities have identified vitamin E acetate, a THC-product additive, as a “chemical of concern” and said that many of the products appear to have been acquired through informal sources – not from retail establishments selling products directly from known manufacturers. THC, or Tetrahydrocannabinol, is the primary psychoactive component of marijuana.

Many policymakers and organizations including the American Medical Association have called for an across-the-board ban on vaping, and some municipalities and states have moved to ban either all vaping products or those with flavors other than tobacco flavoring, including menthol.

Fairchild said that vaping policy discussions and debates should include an examination of the immediate crisis in the context of all of the scientific evidence regarding the risks and benefits.

“There are important distinctions to be made between nicotine and THC products, between products manufactured by reputable companies and those sold on the black market, and between the potential risks and benefits to adolescents and to adults,” she said.

Drawing comparisons to initial reluctance to offer needle exchange programs that promote safety by preventing life-threatening infections for people who aren't ready to quit heroin, the authors write that evidence about harm reduction should outweigh emotional responses.

“We should be careful to remain aware of the unintended consequences of extreme measures and the important lessons that harm reduction has provided us in areas such as heroin use, HIV prevention and alcohol control,” said co-author [Cheryl G. Heaton, dean of New York University's College of Global Public Health.](#)

The authors point to research showing that not only vaping – but flavored products, in particular – can help adult smokers quit and provide a more effective and appealing option than nicotine replacement therapy.

They urge continued efforts to better understand the risks and benefits of vaping and call for regulatory measures that strike a balance between “making regulated nicotine vaping products available to smokers while adopting forceful measures to limit the risks to and use by youth as much as possible.”

Among their suggestions to combat youth use: Implementation and enforcement of laws that restrict purchases to those 21 and older and prohibitions against predatory marketing to children and teens.

They call for the U.S. Food and Drug Administration to implement a product monitoring system and for a surveillance system to detect unanticipated harm early.

Regulatory bans on the menthol front should start with cigarettes and inexpensive little cigars, not with nicotine vape products, they argue.

“Despite two FDA-derived reports that recommended a ban on menthol in combustibles, there has been policy paralysis in the face of appalling evidence,” they write, citing statistics showing that more than half of young people and more than 90 percent of African-American youth start smoking with menthol.

Fairchild and her co-authors stress that they take the illnesses and deaths due to vaping seriously but emphasize that each day more than 2,500 U.S. teens start smoking and

about 1,300 adults die due to cigarettes. Taking vaping – including flavored products – away as a smoking-cessation and harm-reduction tool now will amount to a public health failure, they argue.

“It is crucial to identify the source of serious lung injuries and closely monitor and regulate the vaping industry – including how it markets its products to young people,” said co-author [James Curran, dean of the Rollins School of Public Health at Emory University.](#)

“But the evidence so far supports continuing to allow nicotine vaping as a harm-reduction alternative to smoking, which remains the largest preventable cause of death and disability in our country.”

Other authors of the paper were [Ronald Bayer of Columbia University](#) and [David Abrams of NYU.](#)

“Restricting access and appeal among less harmful vaping products out of an abundance of caution while leaving deadly combustible products on the market...threatens to derail a trend that could hasten the demise of cigarettes, poised to take a billion lives this century.”

BUSINESS

Smoking's Long Decline Is Over

Slide in cigarette sales stopped last year amid Covid-19 lockdowns and health concerns about e-cigarettes

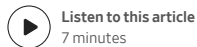


U.S. cigarette sales last year topped those of 2015, when many consumers switched back to cigarettes after trying first-generation vaping devices.

PHOTO: PAUL WEAVER/ZUMA PRESS

By [Jennifer Maloney](#)

Updated Jan. 28, 2021 10:58 am ET



The decadeslong decline in U.S. cigarette sales halted last year as people in lockdown lit up more frequently and health concerns around e-cigarettes caused some vapers to switch back to cigarettes.

Before the pandemic, U.S. cigarette unit sales had been falling at an accelerating rate, hitting 5.5% in 2019, as smokers quit or switched to **alternatives like e-cigarettes**. The pandemic put the brakes on that slide. In 2020, the U.S. cigarette industry's unit sales were flat compared to the previous year, according to data released Thursday by Marlboro maker **Altria Group Inc.**

People had more opportunities to smoke because they spent more time at home and had more money to spend on cigarettes because they spent less on gas, travel and entertainment, Altria said. They drank more liquor, too, **buoying spirits makers**.

At the same time, some e-cigarette users turned back to combustible cigarettes because of increased e-cigarette taxes, bans on flavored vaping products and confusion about the health effects of vaping, consumers and industry officials say. Altria on Thursday didn't offer a projection for cigarette sales in 2021, saying it would depend in part on the rollout of the Covid-19 vaccine and how consumers' behavior changes after they are vaccinated.



A woman smokes a cigarette while standing on Wall Street in New York City.

PHOTO: CARLO ALLEGRI/REUTERS

U.S. cigarette sales were even stronger last year than they were in 2015, when gas prices dropped sharply, allowing consumers more discretionary spending, and many people switched back to cigarettes after trying first-generation vaping devices. Those early products didn't deliver nicotine effectively enough to satisfy some addicted cigarette smokers. But e-cigarette sales took off again in 2017, spurred by the popularity of a new vaporizer called Juul.

E-cigarette sales were booming in the fall of 2019 when the U.S. Centers for Disease Control and Prevention, investigating an outbreak of a mysterious lung illness, warned consumers not to use any vaping products. Sales took a nosedive. The illness later was [linked to vitamin E oil](#) in marijuana vaping products, but the public's perception of e-cigarette safety hasn't rebounded and neither have sales.

Bisher Kunbargi, a software developer in San Antonio, gave up Marlboros for e-cigarettes around 2018 and switched back to cigarettes in late 2019.

"Trust the devil you know," said Mr. Kunbargi, who is 28. "I keep smoking, it's going to give me cancer. Whereas vaping is much more uncharted territory."

Working at home with a laptop outside on his front patio during the pandemic, he said, he is smoking more than he did before—as many 10 cigarettes a day.

"I can't take 10 breaks a day" at the office, he said. At home, "I can have a cigarette whenever I want."

Public health officials say that while e-cigarette use isn't risk-free, it poses significantly less risk than cigarette smoking, which is associated with more than 480,000 deaths in the U.S. each year. Yet according to a Euromonitor survey in early 2020, 73% of U.S. respondents said vaping products were as harmful or more harmful than cigarettes. Euromonitor reported that public perceptions of e-cigarette safety worsened in all 20 of the countries it surveyed.

"This weakness was undoubtedly a factor in the relative robustness of cigarette volumes in 2020," the research firm said.

Adults using e-cigarettes as an alternative to cigarettes shouldn't go back to smoking, said Brian King, a deputy director of the CDC's Office on Smoking and Health and a senior official involved in the agency's vaping-related illness response. Those people should consider using FDA-approved smoking cessation medications, and if they choose to use e-cigarettes, they should switch completely from cigarettes, he added.

During the lung-illness investigation, the CDC promptly shared the latest data with the public and [refined its recommendations](#) based on available scientific evidence, Dr. King said. The CDC now recommends that people avoid vaping products containing THC, the psychoactive ingredient in marijuana, particularly from informal sources like friends, family, or in-person or online dealers.

Other adult smokers said in interviews that restrictions on fruity and minty e-cigarette flavors have nudged them back to cigarettes.

Seeking to curb an uptick in underage vaping, federal legislation in 2020 raised the legal tobacco purchase age to 21 and the Food and Drug Administration [took some sweet and mint-flavored e-cigarette refill cartridges off the market](#).

Those measures appear to have worked. In a federal survey conducted between January and March of 2020, 19.6% of high-school students said they had vaped in the past 30 days, compared with 27.5% in the same period a year earlier. But vaping also declined among adults. The number of vapers 21 years or older in the U.S. fell to 9.8 million last year from 11.8 million in 2019, according to Altria's estimates.

An FDA spokeswoman said changes in tobacco consumption couldn't be attributed to a single policy, event or piece of legislation. She noted that adult consumers still had access to flavored vaping products like disposable e-cigarettes and tank systems.

“Covid-19 has created a drastic change in daily life, including increased stress and anxiety, that may contribute to a smaller-than-expected reduction in cigarette sales,” she said. She added that because cigarette smoking increases the risk of more severe illness with Covid-19, “There has never been a better time to try to quit.”

Altria, the biggest U.S. tobacco company, reported that sales rose 4.9% to \$6.3 billion in the quarter ended Dec. 31 from \$6.0 billion a year earlier. Its revenue from cigarettes and cigars was \$5.6 billion.

E-cigarette market leader Juul Labs Inc. reported \$1.9 billion in sales in the first nine months of 2019. The CDC in September of that year warned people not to vape, and Juul later that autumn voluntarily stopped selling its sweet and mint-flavored refill pods in anticipation of federal flavor restrictions. The company's revenue dropped to \$1.1 billion in the first nine months of 2020 and was an estimated \$340 million in the last quarter of the year. Altria holds a 35% stake in Juul.

Write to Jennifer Maloney at jennifer.maloney@wsj.com

Appeared in the January 29, 2021, print edition as 'American Smokers Quit Trying to Quit.'

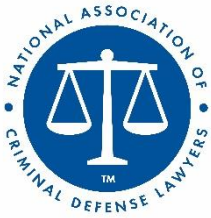
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Thursday, February 27, 2020

The Honorable Frank Pallone
Chairman, House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Re: Coalition Concerns with Blanket Prohibition on Menthol and Other Flavored Tobacco within H.R. 2339, Reversing the Youth Tobacco Epidemic Act

The undersigned civil rights and civil liberties organizations write to express concerns with a broad prohibition on menthol and other flavored tobacco products within H.R. 2339, the Reversing the Youth Tobacco Epidemic Act of 2019. While this legislation is a well-intended effort to address health issues associated with tobacco use among youth, we have concerns that a blanket prohibition on menthol and other flavored tobacco products, which will apply to adults, will (1) disproportionately impact people and communities of color; (2) trigger criminal penalties, prioritizing criminalization over public health and harm reduction; and (3) instigate unconstitutional policing and other negative interactions with local law enforcement.

I. H.R. 2339 Disproportionately Impacts People and Communities of Color

Of adults, approximately 80 percent of Blacks and 35 percent of Latinx who choose to smoke prefer menthol cigarettes.¹ Thus, any ban on menthol cigarettes will disproportionately affect people of color. While H.R. 2339 and similar legislation are often motivated by the desire to decrease and eliminate smoking among certain populations, Blacks and other people of color should not disproportionately bear the brunt of enforcement of such prohibitions, which a menthol ban would ensure.

¹ CENTERS FOR DISEASE CONTROL AND PREVENTION, SMOKING & TOBACCO USE: MENTHOL AND CIGARETTES, https://www.cdc.gov/tobacco/basic_information/tobacco_industry/menthol-cigarettes/index.html (last visited Aug. 1, 2019).

Similarly, enforcement of a ban on flavored cigars will also disproportionately impact people of color given cigar preferences. Black adults are 60% of cigarillo and non-premium cigar smokers, with these products often flavored.² Additionally, at Committee markup, H.R. 2339 was amended to exempt certain traditional, expensive cigars from a prohibition of online tobacco sales.³ There is no justification for differentiating a La Palina from a Black and Mild. Making this distinction undermines the public health arguments made for this bill and suggests that some tobacco preferences, within certain communities, will be prioritized and protected over others.

II. H.R. 2339 Increases Criminal Penalties Over Public Health

H.R. 2339 prohibits menthol and other flavored tobacco products under the Food, Drug, and Cosmetic Act (FD&C Act). This prohibition criminalizes the manufacturing, importing, distributing, or selling of menthol and other flavored tobacco products under the FD&C Act, imposing up to three years of imprisonment.⁴ Violating a menthol and flavored tobacco ban would implicate other federal criminal penalties as well. For example, the Federal Cigarette Contraband Trafficking Act would be implicated, allowing up to five years of imprisonment.⁵

With a criminal legal system that incarcerates Blacks at nearly six times the rate of white Americans and a prison population that is 67 percent Black and Latinx,⁶ any prohibition on menthol and flavored tobacco products promises continued over-criminalization and mass incarceration of people of color. A ban on menthol and flavored tobacco products could reintroduce many of the harms imposed by the failed war on drugs as lawmakers work to legalize cannabis and take a public health approach to opioids. A bill criminalizing tobacco is contrary to those efforts. Righting the wrongs of earlier failed drug policy requires consideration of the unintended consequences of well-intentioned policies, especially on the most vulnerable communities. It also requires us to remember that harm reduction, including education and counseling, are what work to reduce usage and harm in our society, not prohibition.⁷

² Catherine G. Corey MSP, et. al., *US Adult Cigar Smoking Patterns, Purchasing Behaviors, and Reasons for Use According to Cigar Type: Findings From the Population Assessment of Tobacco and Health (PATH) Study, 2013–2014*, 20 NICOTINE TOBACCO RESEARCH 1457, Sep. 15, 2017, <https://academic.oup.com/ntr/article/20/12/1457/4159211?searchresult=1>.

³ Protecting American Lungs and Reversing the Youth Tobacco Epidemic Act of 2019, H.R. 2339, 116th Cong. Sec. 108 “Exemption from premarket approval of certain tobacco products,” (2019).

⁴ 21 U.S.C. § 333 (2017).

⁵ Federal Cigarette Contraband Trafficking Act, 18 U.S.C. §§ 2341-2346 (2006).

⁶ THE SENTENCING PROJECT, CRIMINAL JUSTICE FACTS, <http://www.sentencingproject.org/criminal-justice-facts/> (last visited Feb. 21, 2020).

⁷ See, Tim Lancaster & Lindsay F. Stead, *Individual behavioral counseling for smoking cessation*, Cochrane Systematic Review – Intervention (2017) (examining the positive effect of individually-delivered counselling on attempts to quit smoking); Centers for Disease Control and Prevention, Smoking & Tobacco Use: Quitting Smoking, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/cessation/quitting/index.htm (last visited Feb. 21, 2020) (highlighting counselling and medication as primary effective methods to quit smoking).

III. H.R. 2339 Encourages Harmful Police Practices

Recent history shows us that drug prohibitions and bans increase negative interactions between law enforcement and people of color. The New York Police Department's (NYPD) stop and frisk program resulted in nearly 700,000 stops in 2011, with drugs serving as the alleged pretext for most of those stops.⁸ Ninety percent of those stops were of Black and Latinx people.⁹ We are concerned that law enforcement's attempts to enforce a menthol and flavored tobacco ban will undoubtedly lead to fines, arrests, and eventual incarceration for those who continue to use and sell menthol and flavored tobacco products. While the legislation was amended at Committee to try to minimize law enforcement practices here, it only applies in the context of federal enforcement of the FD&C Act; it does not govern local enforcement around any state and city prohibition policies that will follow.

The death of Eric Garner in 2014 generated national attention not only for the brutality he experienced at the hands of NYPD police, but for the reason that led to the encounter with law enforcement. Mr. Garner died from an illegal chokehold having been stopped by police for selling single cigarettes in violation of state law. Gwendolyn Carr, Eric Garner's mother, cautions: "When you ban a product sold mostly in Black communities, you must consider the reality of what will happen to that very same over-represented community in the criminal justice system."¹⁰ With a federal prohibition on menthol and flavored tobacco products, states will develop their own prohibition and enforcement policies that could result in harmful police practices like that witnessed with Mr. Garner.

Based on our concerns, we urge you to not impose a blanket ban on menthol and related tobacco products. A prohibition on all menthol and flavored tobacco products will not achieve a public health goal of reducing smoking among Black people, young people, or others. We hope we can work together to avoid repetitions of policies that are intended to protect youth and communities of color, but instead only further engrain systemic criminalization and racism.

⁸ NYCLU, STOP AND FRISK DATA, <https://www.nyclu.org/en/stop-and-frisk-data> (last visited Feb. 21, 2020).

⁹ Id.

¹⁰ Roz Edward, *Mothers of Trayvon Martin, Eric Garner join fight against menthol cigarettes*, CHI. DEFENDER (Oct. 18, 2019), <https://chicagodefender.com/mothers-of-trayvon-martin-eric-garner-join-fight-against-menthol-cigarettes/>.

To follow up, please be in touch with Kyra Stephenson-Valley of the National Action Network at kvalley@nationalactionnetwork.net or Kanya Bennett at the American Civil Liberties Union at kbennett@aclu.org.

Sincerely,

American Civil Liberties Union
Center for Popular Democracy
Drug Policy Alliance
Friends Committee on National Legislation
Law Enforcement Action Partnership
National Action Network
National Association of Criminal Defense Lawyers

cc: The Honorable Nancy Pelosi, Speaker, U.S. House of Representatives
The Honorable Steny Hoyer, Majority Leader, U.S. House of Representatives
The Honorable James E. Clyburn, Majority Whip, U.S. House of Representatives
The Honorable Karen Bass, Chair, Congressional Black Caucus
The Honorable Joaquin Castro, Chair, Congressional Hispanic Caucus
The Honorable Mark Pocan, Chair, Congressional Progressive Caucus
The Honorable Pramila Jayapal, Congressional Progressive Caucus



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

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

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

Re: **SB 63 - Relating to electronic smoking devices**

Hawai'i State Capitol, Room 229

February 9, 2021, 9:00 AM

Dear Chairs Keohokalole and Baker, Vice Chair Chang, and committee members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in support of SB 63, relating to electronic smoking devices. This bill would comprehensively regulate e-cigarettes as a tobacco product by ending the sale of flavored tobacco and e-liquids, taxing e-cigarettes and closing the online purchasing loophole as well as direct a portion of the funds from taxes to prevention and cessation programs.

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

Hawai'i needs to take action to tackle our growing youth vaping epidemic. We already know what works to reduce youth tobacco use, as our state was successful in reducing cigarette use to record lows through policy, prevention, education, and cessation programs. By applying the same tobacco prevention and control policies to vaping, we can reverse the trends in youth e-cigarette use.

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

That's why this bill and its comprehensive approach to youth tobacco regulations are so important. We don't need to reinvent the wheel – by implementing proven tobacco prevention and control tactics to counter e-cigarette use, we can reverse our state's youth vaping epidemic.

Mahalo for the opportunity to provide this testimony. Please pass SB 63.

Thank you,

Nicole Woo

Director, Research and Economic Policy

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

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

**Testimony before the Hawaii
Senate Committees on Health and Consumer Protection and Commerce
Regarding Regulating Electronic Cigarettes and Vapor Products
Lindsey Stroud, Policy Analyst
Taxpayers Protection Alliance
February 9, 2021**

Members of the Committee,

Thank you for your time today to discuss the issue of regulating electronic cigarettes and vapor products. My name is Lindsey Stroud and I am a Policy Analyst with the Taxpayers Protection Alliance (TPA). TPA is a non-profit, non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy.

As lawmakers attempt to address youth use of age-restricted products, many policymakers are seeking to prohibit the sale of flavored e-cigarettes, as well as restrict online shipments. Although, addressing youth use is laudable, flavor bans are not effective in reducing youth e-cigarette use. Further such policies harm adults that rely on vapor products to quit smoking and remain smoke-free.

E-Cigarettes and Tobacco Harm Reduction

The evidence of harm associated with combustible cigarettes has been understood since the 1964 U.S. Surgeon General's Report that smoking causes cancer. Research overwhelmingly shows the smoke created by the burning of tobacco, rather than the nicotine, produces the harmful chemicals found in combustible cigarettes.¹ There are an estimated 600 ingredients in each tobacco cigarette, and "when burned, [they] create more than 7,000 chemicals."² As a result of these chemicals, cigarette smoking is directly linked to cardiovascular and respiratory diseases, numerous types of cancer, and increases in other health risks among the smoking population.³

For decades, policymakers and public health officials looking to reduce smoking rates have relied on strategies such as emphasizing the possibility of death related to tobacco use and implementing tobacco-related restrictions and taxes to motivate smokers to quit using cigarettes. However, there are much more effective ways to reduce tobacco use than relying on government mandates and "quit or die" appeals.

During the past 30 years, the tobacco harm reduction (THR) approach has successfully helped millions of smokers transition to less-harmful alternatives. THRs include effective nicotine delivery systems, such as smokeless tobacco, snus, electronic cigarettes (e-cigarettes), and vaping. E-cigarettes and vaping devices have emerged as especially powerful THR tools, helping nearly three million U.S. adults quit smoking from 2007 to 2015.

Indeed, an estimated 10.8 million American adults were using electronic cigarettes and vapor products in 2016.⁴ Of the 10.8 million, only 15 percent, or 1.6 million adults, were never-smokers, indicating that e-cigarettes are overwhelmingly used by current and/or former smokers.

E-cigarettes were first introduced in the United States in 2007 by Ruyan, a Chinese manufacturer.⁵ Soon after their introduction, Ruyan and other brands began to offer the first generation of e-cigarettes, called “cigalikes.” These devices provide users with an experience that simulates smoking traditional tobacco cigarettes. Cig-alikes are typically composed of three parts: a cartridge that contains an e-liquid, with or without nicotine; an atomizer to heat the e-liquid to vapor; and a battery.

In later years, manufacturers added second-generation tank systems to e-cigarette products, followed by larger third-generation personal vaporizers, which vape users commonly call “mods.”⁶ These devices can either be closed or open systems.

Closed systems, often referred to as “pod systems,” contain a disposable cartridge that is discarded after consumption. Open systems contain a tank that users can refill with e-liquid. Both closed and open systems utilize the same three primary parts included in cigalikes—a liquid, an atomizer with a heating element, and a battery— as well as other electronic parts. Unlike cigalikes, “mods” allow users to manage flavorings and the amount of vapor produced by controlling the temperature that heats the e-liquid.

Mods also permit consumers to control nicotine levels. Current nicotine levels in e-liquids range from zero to greater than 50 milligrams per milliliter (mL).⁷ Many users have reported reducing their nicotine concentration levels after using vaping devices for a prolonged period, indicating nicotine is not the only reason people choose to vape.

Health Effects of Electronic Cigarettes and Vapor Products

Despite recent media reports, e-cigarettes are significantly less harmful than combustible cigarettes. Public health statements on the harms of e-cigarettes include:

Public Health England: In 2015, Public Health England, a leading health agency in the United Kingdom and similar to the FDA found “that using [e-cigarettes are] around 95% safer than smoking,” and that their use “could help reducing smoking related disease, death and health inequalities.”⁸ In 2018, the agency reiterated their findings, finding vaping to be “at least 95% less harmful than smoking.”⁹

The Royal College of Physicians: In 2016, the Royal College of Physicians found the use of e-cigarettes and vaping devices “unlikely to exceed 5% of the risk of harm from smoking tobacco.”¹⁰ The Royal College of Physicians (RCP) is another United Kingdom-based public health organization, and the same public group the United States relied on for its 1964 Surgeon General’s report on smoking and health.

The National Academies of Sciences, Engineering, and Medicine: In January 2018, the academy noted “using current generation e-cigarettes is less harmful than smoking.”¹¹

A 2017 study in *BMJ*'s peer-reviewed journal *Tobacco Control* examined health outcomes using “a strategy of switching cigarette smokers to e-cigarette use ... in the USA to accelerate tobacco control progress.”¹² The authors concluded that replacing e-cigarettes “for tobacco cigarettes would result in an estimated 6.6 million fewer deaths and more than 86 million fewer life-years lost.”

An October 2020 review in the *Cochrane Library Database of Systematic Reviews* analyzed 50 completed studies which had been published up until January 2020 and represented over 12,4000 participants.

The authors found that there was “moderate-certainty evidence, limited by imprecision, that quit rates were higher in people randomized to nicotine [e-cigarettes] than in those randomized to nicotine replacement therapy.” The authors found that e-cigarette use translated “to an additional four successful quitters per 100.” The authors also found higher quit rates in participants that had used e-cigarettes containing nicotine, compared to the participants that had not used nicotine.

Notably, the authors found that for “every 100 people using nicotine e-cigarettes to stop smoking, 10 might successfully stop, compared with only six of 100 people using nicotine replacement therapy or nicotine-free e-cigarettes.”

Tobacco Economics 101: Hawaii

In 2019, 12.3 percent of adults in Hawaii smoked tobacco cigarettes, amounting to 137,232 smokers in 2019.¹³ When figuring a pack-per-day, more than one billion cigarettes were smoked in 2019 by Hawaiians, or about 2.7 million per day.¹⁴

In 2019, Hawaii imposed a \$3.20 excise tax on a pack of cigarettes.¹⁵ In 2019, Hawaii collected \$185.3 million in cigarette excise taxes, when figuring for a pack-a-day habit. This amounts to \$1,168 per smoker per year.

Hawaii spent \$4.5 million on tobacco control programs in 2019, or \$32.79 per smoker per year. This is only two percent of what the state received in excise taxes in 2019 from Hawaii adult smokers, based off a pack-a-day habit. When figuring amount spent on youth in the state, Hawaii spent \$15.01 per year on each resident under 18 years of age.

Vapor Economics 101: Hawaii

Electronic cigarettes and vapor products are not only a harm reduction tool for hundreds of thousands of smokers in the Aloha State, they're also an economic boon.

According to the Vapor Technology Association, in 2018, the industry created 451 direct vaping-related jobs, including manufacturing, retail, and wholesale jobs in Hawaii, which generated \$18

million in wages alone.¹⁶ Moreover, the industry has created hundreds of secondary jobs in the Aloha State, bringing the total economic impact in 2018 to \$100,745,600. In the same year, Hawaii received more than \$9 million in state taxes attributable to the vaping industry. These figures do not include sales in convenience stores, which sell vapor products including disposables and prefilled cartridges. In 2016, average national sales of these products eclipsed \$11 million.¹⁷

Switching from combustible cigarettes to electronic cigarettes and vapor products will also reduce smoking-related health issues and save persons and states money. WalletHub estimated the “true cost of smoking” including “...cost of a cigarette pack per day, health care expenditures, income losses and other costs.”¹⁸ WalletHub estimated the true cost for smoker in Hawaii to be \$61,139 per-smoker per-year.

In 1995, 17.8 percent¹⁹ of Hawaii adults smoked combustible cigarettes, amounting to approximately 157,802 adults.²⁰ Among all adults in 1995, 15.1 percent (133,866 adults) reported smoking every day. In 2019, 12.3 percent of adults in the Aloha State were current smokers, amounting to 137,268 smokers. Further, 8.1 percent of Hawaii adults (90,396 adults) were daily smokers in 2019.

Among Hawaiian adults, current smoking decreased by 54.5 percent between 1995 and 2019. Moreover, there are an estimated 20,534 fewer smokers in 2019, compared to 1995, and 43,470 fewer daily smokers. Using the WalletHub figures, this reduction represents an estimated \$1.26 billion in yearly savings.

The substitution of e-cigarettes for combustible cigarettes could also save the state in health care costs.

It is well known that Medicaid recipients smoke at rates of twice the average of privately insured persons, according to the Centers for Disease Control and Prevention (CDC). In 2013, “smoking-related diseases cost Medicaid programs an average of \$833 million per state.”²¹

A 2015 policy analysis by State Budget Solutions examined electronic cigarettes’ effect on Medicaid spending. The author estimated Medicaid savings could have amounted to \$48 billion in 2012 if e-cigarettes had been adopted in place of combustible tobacco cigarettes by all Medicaid recipients who currently consume these products.²²

A 2017 study by R Street Institute examined the financial impact to Medicaid costs that would occur should a large number of current Medicaid recipients switch from combustible cigarettes to e-cigarettes or vaping devices. The author used a sample size of “1% of smokers [within] demographic groups permanently” switching. In this analysis, the author estimates Medicaid savings “will be approximately \$2.8 billion per 1 percent of enrollees,” over the next 25 years.²³

Hawaiian Youth Are Not Overwhelmingly Using Vapor Products Because of Flavors, Nor Using Internet to Purchase E-Cigarettes

Despite lawmakers' intentions, many Hawaiian youth are not using e-cigarettes because of flavors. According to the 2017 Hawai'i Youth Tobacco Survey (HYTS), in 2017, 39.4 percent of Hawaiian high school students reported having ever used an e-cigarette or vapor product and 20.9 percent reported having used an e-cigarette in the past 30 days.²⁴

When asked for reasons why to use e-cigarettes, 26.4 percent of high school students responded "flavors, such as mint, candy, fruit or chocolate." Conversely, 38 percent cited "other" and 12.7 percent responded that they used vapor products because "they are less harmful than other forms of tobacco, such as cigarettes."

In regards to where youth purchased their vapor products, among e-cigarette users only 7.8 percent reported purchasing an e-cigarette on the internet. Alternatively, 10.8 percent of high school students reported purchasing e-cigarettes at a "vape shop or store that sells only e-cigarettes," and whopping 60 percent reported purchasing vapor products from friends.

Flavors Are Not Main Driver of Youth E-Cigarette Use

Despite media alarmism, many American high school students are not overwhelmingly using vapor products due to flavors. Indeed, in analyses of state youth tobacco use surveys, other factors including social sources are most often cited among youth for reasons to use e-cigarettes and vapor products.

Connecticut

For example, in 2017, of Connecticut high school students that had ever used an e-cigarette, 23.9 percent reported "flavors" as a reason for use. Conversely, 41.6 percent reported using vapor products because a "friend or family member used them," and 33 percent cited "some other reason."²⁵ In 2019, among all Connecticut high school students, 5.2 percent reported using e-cigarettes because of "flavors," 18.2 percent cited "other," and 12.9 percent reported using e-cigarettes because of friends and/or family.²⁶

Maryland

According to results from the 2018 YRBS, Maryland high school students reported using flavored vapor products, but flavors weren't overwhelmingly cited by e-cigarette users as a reason for use.²⁷ When asked about the "main reason" Maryland high school users used flavors only 3.2 percent responded "flavors." Conversely, 13 percent reported because "friend/family used them," 11.7 percent reported "other," and 3.8 percent reported using e-cigarettes because they were less harmful than other tobacco products.

Montana

In 2019, among all Montana high school students, only 7 percent reported using vapor products because of flavors, compared to 13.5 percent that reported using e-cigarettes because of "friend or family member used them."²⁸ Further, 25.9 percent of Montana high school students reported using vapor products for "some other reason."

Rhode Island

In 2019, among all students, only 4.5 percent of Rhode Island high school students claimed to have used e-cigarettes because they were available in flavors, while 12.5 cited the influence of a friend and/or family member who used them and 15.9 percent reported using e-cigarettes “for some other reason.”²⁹

Vermont

In 2017, among current e-cigarette users, only 17 percent of Vermont high school students reported flavors as a reason to use e-cigarettes. Comparatively, 35 percent cited friends and/or family members and 33 percent cited “other.”³⁰

In 2019, among high school students that were current e-cigarette users, only 10 percent of Vermont youth that used e-cigarettes cited flavors as a primary reason for using e-cigarettes, while 17 percent of Vermont high school students reported using e-cigarettes because their family and/or friends used them.³¹

Virginia

Lastly, in 2017, among all Virginia high school students, only 6.2 percent reported using e-cigarettes because of flavors, while 11.3 percent used them because a friend and/or family member used them.³² In 2019, among all Virginia high school students, only 3.9 percent reported using e-cigarettes because of flavors, 12.1 used for some other reason, and 9.6 used them because of friends and/or family members.³³

Effects of Flavor Bans

Flavor bans have had little effect on reducing youth e-cigarette use and may lead to increased combustible cigarette rates, as evidenced in San Francisco, California.³⁴

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

Data from an analysis of the 2019 Youth Risk Behavior Survey show that 16 percent of San Francisco high school students had used a vapor product on at least one occasion in 2019 – a 125 percent increase from 2017 when 7.1 percent of San Francisco high school students reported using an e-cigarette.³⁵ Daily use more than doubled, from 0.7 percent of high school students in 2017, to 1.9 percent of San Francisco high school students reporting using an e-cigarette or vapor product every day in 2019.

Worse, despite nearly a decade of significant declines, youth use of combustible cigarettes seems to be on the rise in Frisco. In 2009, 35.6 percent of San Francisco high school students reported ever trying combustible cigarettes. This figure continued to decline to 16.7 percent in 2017. In 2019, the declining trend reversed and 18.6 percent of high school students reported ever trying a

combustible cigarette. Similarly, current cigarette use increased from 4.7 percent of San Francisco high school students in 2017 to 6.5 percent in 2019.

An April 2020 study in *Addictive Behavior Reports* examined the impact of San Francisco’s flavor ban on young adults by surveying a sample of San Francisco residents aged 18 to 34 years.³⁶ Although the ban did have an effect in decreasing vaping rates, the authors noted “a significant increase in cigarette smoking” among participants aged 18 to 24 years old.

Other municipal flavor bans have also had no effect on youth e-cigarette use.³⁷ For example, Santa Clara County, California, banned flavored tobacco products to age-restricted stores in 2014. Despite this, youth e-cigarette use *increased*. In the 2015-16 California Youth Tobacco Survey (CYTS), 7.5 percent of Santa Clara high school students reported current use of e-cigarettes. In the 2017-18 CYTS, this *increased* to 10.7 percent.

Youths Are Not Relying On Internet for E-Cigarette Products

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

Arkansas

In 2019, among all Arkansas high school students, only 1.1 percent of reported using the internet to get their own vapor product.³⁸ Alternatively, 7.3 percent of Arkansas high school students reported borrowing them and 5.1 percent reported that someone else bought them.

Maryland

In 2018, among all Maryland high school students, only 1.3 percent reported using the internet to get their own electronic cigarette or vapor product.³⁹ Further, 9.7 percent of Maryland high school students reported borrowing vapor products, and 4.3 percent reported that someone else bought them.

Montana

In 2019, among all Montana high school students, 0.7 percent reported using the internet to get their own electronic cigarette or vapor product.⁴⁰ Moreover, 10.6 percent of Montana high school students reported borrowing vapor products and 6.9 percent reported giving “someone else money to buy them for me.”

New Hampshire

In 2019, among all New Hampshire high school student, 0.5 percent reported using the internet to get their own electronic cigarette or vapor product.⁴¹ Further, 13.9 percent of New Hampshire high school students reported borrowing vapor products, and 5.8 percent reported that someone else bought them.

Vermont

In 2019, among Vermont high school students that reported current e-cigarette use and were under the age of 18, only 3 percent reported using the internet to get obtain vapor products. Further, 52 percent of Vermont high school students that were current e-cigarette users reported borrowing them and 26 percent reported giving “someone else money to buy them.”⁴²

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

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

Data from the National Health Interview Survey (NHIS) finds nearly a third of all American adult smokers smoke menthol cigarettes. In a 2015 NHIS survey, “of the 36.5 million American adult smokers, about 10.7 million reported that they smoked menthol cigarettes,” and white menthol smokers “far outnumbered” the black and African American menthol smokers.⁴³

Although lawmakers believe banning menthol cigarettes will deter persons from smoking those, such a ban will likely lead to black markets. A 2012 study featured in the journal *Addiction* found a quarter of menthol smokers surveyed indicated they would find a way to purchase, even illegally, menthol cigarettes should a menthol ban go into place.⁴⁴ Further, there is little evidence that smokers would actually quit under a menthol ban. A 2015 study in *Nicotine & Tobacco Research* found only 28 percent of menthol smokers would give up cigarettes if menthol cigarettes were banned.⁴⁵

Moreover, there is no evidence to suggest that menthol cigarettes lead to youth tobacco use. Analysts at the Reason Foundation examined youth tobacco rates and menthol cigarette sales.⁴⁶ The authors of the 2020 report found that states “with more menthol cigarette consumption relative to all cigarettes have *lower* rates of child smoking.” Indeed, the only “predictive relationship” is between child and adult smoking rates, finding that “states with higher rates of adult use cause higher rates of youth use.”

Lawmakers should take note that menthol sales bans will strain minority communities. Although white Americans smoke more menthol cigarettes than black or African Americans, “black smokers [are] 10-11 times more likely to smoke” menthol cigarettes than white smokers.⁴⁷

Given African Americans’ preference for menthol cigarettes, a ban on menthol cigarettes would force police to further scrutinize African Americans and likely lead to unintended consequences.

A 2015 analysis from the National Research Council examined characteristics in the illicit tobacco market.⁴⁸ The researchers found that although lower income persons were less likely to travel to purchase lower-taxed cigarettes, “having a higher share of non-white households was

associated with a lower probability of finding a local tax stamp” and “neighborhoods with higher proportions of minorities are more likely to have formal or informal networks that allow circumvention of the cigarette taxes.”

Lawmakers in New Hampshire should reexamine the case of Eric Garner, a man killed in 2014 while being arrested for selling single cigarettes in the city. In a 2019 letter to the New York City council, Garner’s mother, as well as Trayvon Martin’s mother, implored officials to “pay very close attention to the unintended consequences of a ban on menthol cigarettes and what it would mean for communities of color.”⁴⁹ Both mothers noted that a menthol ban would “create a whole new market for loosies and re-introduce another version of stop and frisk in black, financially challenged communities.”

Conclusion & Policy Recommendations:

It is disingenuous that lawmakers would purport to protect public health yet restrict access to safer products. Rather than restricting access to tobacco harm reduction products and flavored vapor products, lawmakers should encourage the use of e-cigarettes and work towards earmarking adequate funding for smoking education and prevention programs.

- To address youth use of age-restricted products, as well as adult use of deadly combustible cigarettes, Hawaii must allocate additional funding from revenue generated from existing excise taxes and settlement payments.
- Hawaii’s education and health departments must work with tobacco and vapor product retailers to ensure there are no sales of age-restricted products to minors. Any solution to address such strategies must include all actors – not only proponents of draconian prohibitionist policies.
- Lawmakers’ must face the reality of a larger illicit market in the wake of a ban on flavored tobacco and vapor products – prohibition does not automatically translate into reduced use, just different markets.

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TOBACCO & VAPING 101: HAWAII



BY: LINDSEY STROUD

Combustible cigarette use among American youth and adults have reached all-time lows, but many policymakers are concerned with the increased use of electronic cigarettes and vapor products, especially among youth and young adults.

This paper examines smoking rates among adults in the Aloha State, youth use of tobacco and vapor products, and the effectiveness of tobacco settlement payments, taxes, and vapor products on reducing combustible cigarette use.

TAXPAYERS PROTECTION ALLIANCE

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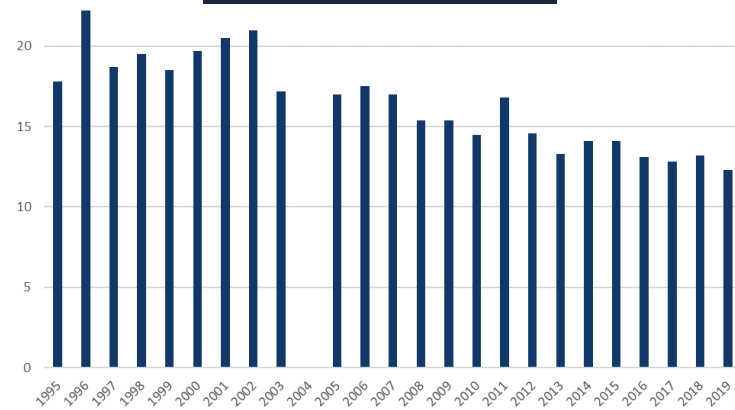
ADULT SMOKING RATES

In 1995, 17.8 percent[1] of Hawaii adults smoked combustible cigarettes, amounting to approximately 157,802 adults.[2] Among all adults, in 1995, 15.1 percent (133,866 adults) reported smoking every day.

In 2019, 12.3 percent of adults in the Aloha State were current smokers, amounting to 137,268 smokers. Further, 8.1 percent of Hawaii adults (90,396 adults) were daily smokers in 2019.

Among Hawaiian adults, current smoking decreased by 54.5 percent between 1995 and 2019. Moreover, there are an estimated 20,534 fewer smokers in 2019, compared to 1995, and 43,470 fewer daily smokers.

PERCENTAGE OF ADULTS WHO SMOKE



AMONG HAWAII ADULTS, CURRENT SMOKING DECREASED BY 54.5 PERCENT BETWEEN 1995 AND 2019.



YOUTH TOBACCO AND VAPING RATES

The most recent data on youth tobacco and vapor product use in Hawaii comes from the 2019 Youth Risk Behavior Survey.[3] In 2019, 48.3 percent of Hawaiian high school students reported ever-trying e-cigarettes, 30.6 percent reported past 30-day use, and 7.9 percent reported using vapor products daily.

Youth combustible cigarette use is at an all-time low. In 2019, only 17.8 percent of Hawaiian high school students reported ever using cigarettes, this a 74.1 percent decrease from 1995, when 68.8 percent of Hawaiian high school students reported having tried cigarettes. Further current use has declined by 83.6 percent, from 32.4 percent of Hawaiian high school students reporting having used a cigarette in the past 30 days, to only 5.3 percent in 2019.

YOUTH COMBUSTIBLE CIGARETTE USE HAS DECREASED 83.6 PERCENT SINCE 1995.

CIGARETTE TAX REVENUE

Between 2000 and 2020, Hawaii collected an estimated \$2.175 billion in tobacco taxes and licensing fees.[4] During the same 20-year time period, the Aloha State increased the cigarette excise tax rate nine times between 2002 and 2011. The excise tax on cigarettes has increased by 220 percent, from \$1.00 per pack before July 1, 2020 to \$3.20 per pack, effective July 1, 2011.

In 2020, Hawaii collected an estimated \$112 million in tobacco taxes and licensing fees, this is a 164.8 percent increase from \$42.3 million collected in 2000, but a 19.3 percent decrease from the \$138.8 million in taxes collected in 2011. Indeed, annual cigarette tax revenues has declined on average 2.6 percent since 2011.



BETWEEN 2000 AND 2020, HAWAII COLLECTED AN ESTIMATED \$2.175 BILLION IN TOBACCO TAXES.

MASTER SETTLEMENT AGREEMENT

In the mid-1990s, Hawaii sued tobacco companies to reimburse Medicaid for the costs of treating smoking-related health issues. And, in 1998 with 45 other states, Maryland reached “the largest civil litigation settlement in U.S. history” through the Master Settlement Agreement (MSA).[5]

Under the MSA, states receive annual payments - in perpetuity - from the tobacco companies, while relinquishing future claims against the participating companies. Between 1998 and 2020, Hawaii collected \$988 million in MSA payments.[6]



BETWEEN 1998 AND 2020, HAWAII RECEIVED AN ESTIMATED \$988 MILLION IN MSA PAYMENTS.

VERY LITTLE TOBACCO CONTROL FUNDING

Tobacco taxes and tobacco settlement payments are justified to help offset the costs of smoking, as well as prevent youth initiation. Like most states, Hawaii spends very little of existing tobacco moneys on tobacco control programs – including education and prevention.

Between 2000 and 2020, Maryland allocated only \$168.9 million towards tobacco control programs.[7] This is only seven percent of what Maryland collected in cigarette taxes in the same 20-year time span and only 17.6 percent of MSA payments. To put it in further perspective, in 20 years, Hawaii allocated only five percent of tobacco settlement payments and taxes on programs to prevent tobacco use.

IN 20 YEARS, HAWAII ALLOCATED ONLY SEVEN PERCENT OF TOBACCO SETTLEMENT PAYMENTS AND TAXES ON PROGRAMS TO PREVENT TOBACCO USE.

VAPOR PRODUCT EMERGENCE CORRELATES WITH LOWER YOUNG ADULT SMOKING

Electronic cigarettes and vapor products were first introduced to the U.S. in 2007 “and between 2009 and 2012, retail sales of e-cigarettes expanded to all major markets in the United States.”[8] Examining data from the Centers for Disease Control and Prevention’s Behavioral Risk Factor Surveillance Survey finds that e-cigarettes’ market emergence has been more effective than MSA payments in reducing smoking rates among young adults in Hawaii.

In 1998, among current adult smokers in Hawaii, 24 percent were 18 to 24 years old. In 2008, this had decreased by 22.1 percent, to 18.7

percent of adult smokers in Hawaii being between 18 to 24 years old. And, 10 years after e-cigarette’s market emergence in 2009, smoking rates among current smokers aged 18 to 24 years old decreased by 32 percent. Indeed, in 2009, among current smokers in Hawaii, 15.3 percent were between 18 to 24 years old. In 2019, only 10.4 percent of current smokers were 18 to 24 years old.

Further e-cigarettes’ market emergence was associated with a larger decline in average annual percent decreases among all current smokers. Between 1998 and 2008, the percentage of current smokers decreased on average 1.64 percent each year. Between 2009 and 2019, annual percentage declines average at 19 percent.

10 YEARS AFTER E-CIGARETTES’ MARKET EMERGENCE IN 2009, SMOKING RATES AMONG CURRENT SMOKERS AGED 18 TO 24 YEARS OLD DECREASED BY 32 PERCENT.

POLICY IMPLICATIONS:

- In 2019, 12.3 percent of Hawaii adults smoked combustible cigarettes, this is a 54.5 percent decrease from 1995. Further, youth combustible cigarette use has decreased by 83.6 percent, from 32.4 percent of high school students reporting current combustible cigarette use in 1995, to 5.3 percent in 2019.
- Hawaii spends very little on tobacco control programs, including prevention and education. In 20 years, the Aloha State allocated only \$168.9 million toward tobacco control programs. This is only five percent of what the state received in tobacco settlement payments and tobacco taxes in the same 20-year time period.
- E-cigarettes appear more effective than MSA payments in reducing smoking rates among young adults in Hawaii.
- 10 years after the MSA, smoking rates decreased among 18- to 24-year-olds by 22.1 percent. 10 years after e-cigarettes market emergence, smoking rates among 18 to 24 years old decreased by 32 percent.



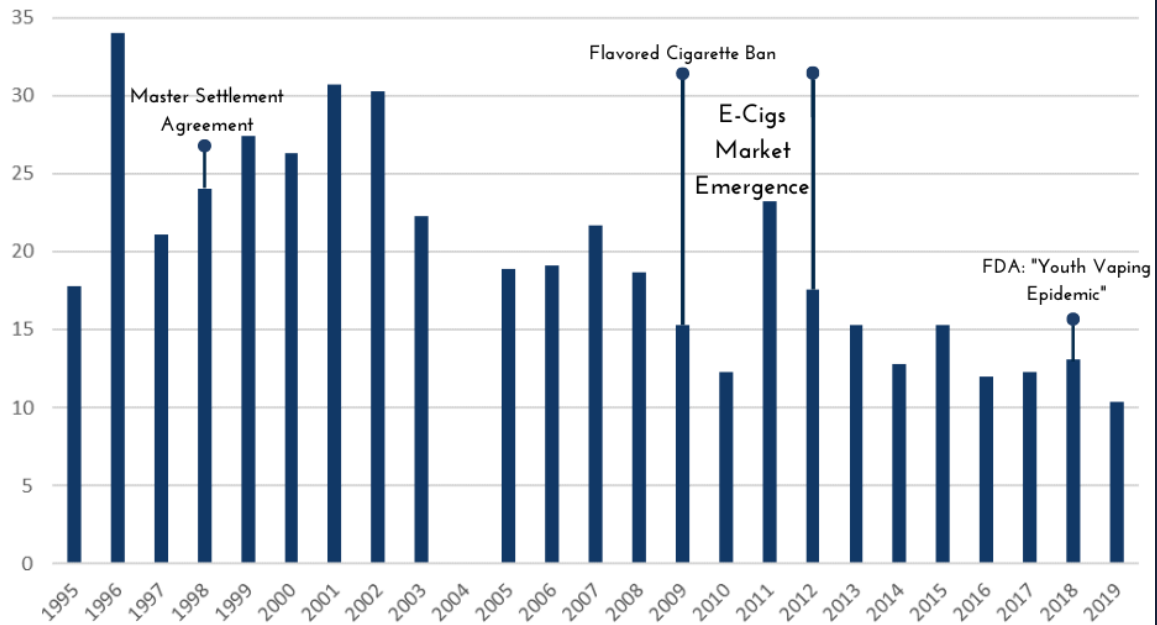


HAWAII BRFSS

CURRENT SMOKERS



Percent aged 18 to 24 years old

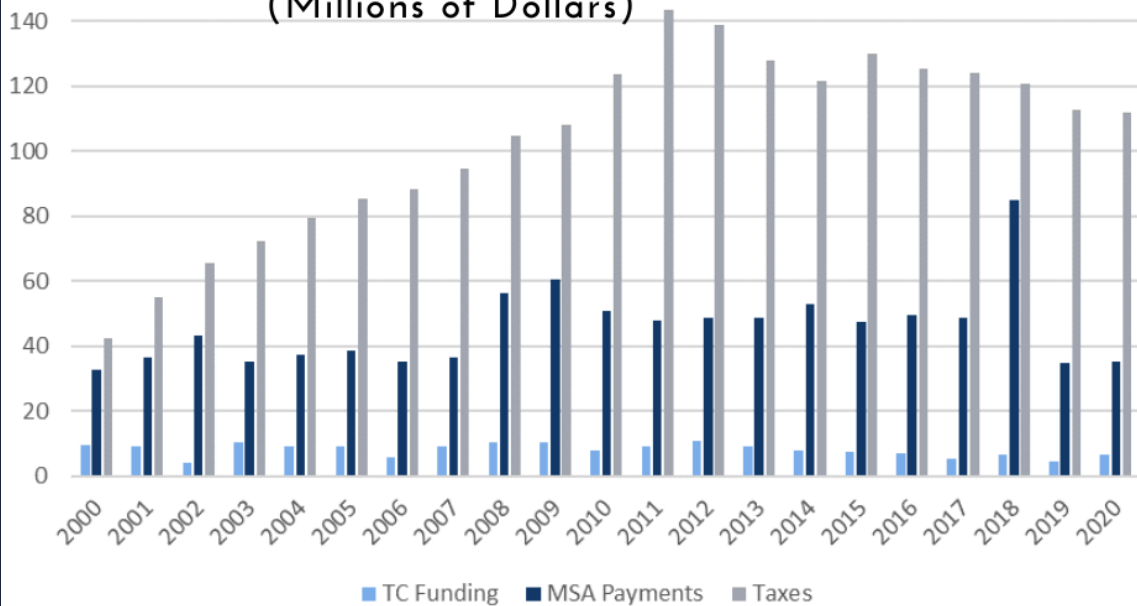


Sources: Centers for Disease Control & Prevention, Behavioral Risk Factor Surveillance Survey
For more information, contact Lindsey Stroud at lindsey@protectingtaxpayers.org



HAWAII

Master Settlement Payments,
Tobacco Taxes & Tobacco
Control Funding
(Millions of Dollars)



Sources: Campaign for Tobacco-Free Kids, Hawaii Department of Taxation
For more information, contact Lindsey Stroud at lindsey@protectingtaxpayers.org



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ABOUT

The Taxpayers Protection Alliance (TPA) is a rapid response taxpayer and consumer group dedicated to analyzing and researching the consequences of government intervention in the economy. TPA examines public policy proposals through a non-partisan focus, identifying how government waste and overreach impacts taxpayers and consumers regardless of the political party responsible. TPA holds government officials in the United States (and around the world) accountable through issue briefs, editorials, statements, coalition letters, public interest comments, and radio and television interviews. TPA recognizes the importance of reaching out to concerned citizens through traditional and new media, and utilizes blogs, videos, and social media to connect with taxpayers and government officials. While TPA regularly publishes exposés and criticisms of politicians of all political stripes, TPA also provides constructive criticism and reform proposals based on market principles and a federalist philosophy. TPA empowers taxpayers and consumers to make their opinions known to their elected and non-elected officials and embraces bold solutions to hold an ever-growing government in check.

Lindsey Stroud (lindsey@protectingtaxpayers.org) is a policy analyst at TPA. In her role, Stroud focuses on the effects of the policies and regulations on tobacco and vapor products. Prior, Stroud was a state government relations manager at The Heartland Institute, and authored *Tobacco Harm Reduction 101: A Guidebook for Policymakers*. Prior to Heartland, Stroud worked as a staffer for a few state lawmakers. In addition to her role at TPA, Stroud is the creator and manager of Tobacco Harm Reduction 101 (thr101.org) and an acting board secretary for the Smoke-Free Alternatives Trade Association. Stroud received her Bachelor's of Arts in Government from the College of William and Mary.

SB-63

Submitted on: 2/7/2021 4:22:17 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrew Ruege	Testifying for Andrew Ruege, MD	Support	No

Comments:

I support this measure.

SB-63

Submitted on: 2/8/2021 5:49:01 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

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

Comments:

We strongly oppose sb63. The bill is a shameless attack on civil liberties. What is more the bill targets the freedom to choose of **adult** smokers.



AMERICANS *for* TAX REFORM

February 9, 2021

To: Hawaii Senate Committee on Health
From Americans for Tax Reform

Dear Senator,

On behalf of Americans for Tax Reform (ATR) and our supporters across Maryland, I urge you to reject SB 63 & 1147, which seek to impose onerous taxes upon and restrict access to life-saving reduced risk tobacco alternatives such as electronic cigarettes. **If enacted, these bills would have a disastrous impact upon not only businesses, but public health throughout the State, and lead to a clear increase in tobacco-related mortality.** SB 63 also institutes a ban on all flavored conventional tobacco products, such as menthol cigarettes, which would have a disastrous impact on the Hawaii economy and state finances, lead to a boom in illicit smuggling operations, and cause significant harm to minority populations. Given the significant overlap between these two bills, this testimony will address these bills in tandem.

The smoking of traditional combustible tobacco products remains one of the leading preventable causes of death in the State of Hawaii. It is noted, however, that the negative health effects of smoking combustible tobacco come not from the nicotine, a relatively benign, yet highly addictive substance much like caffeine, but rather the chemicals produced during the combustion process – “people smoke for the nicotine but die from the tar”. For this reason, nicotine replacement therapies such as nicotine patches and gums have been used to help smokers quit for decades.

In more recent years, technology has developed to allow for the creation of more effective alternative nicotine delivery systems, colloquially known as e-cigarettes or personal vaporizers. Through delivering nicotine through water vapor, these mimic the habitual nature of smoking, however, the absence of “smoke” leads to the absence of the carcinogens created through the combustion of tobacco. **As a result, these have been overwhelmingly proven to be 95% safer than combustible cigarettes, while at least twice as effective as more traditional nicotine replacement therapies. For this reason, over 30 of the world’s leading public health organizations have endorsed nicotine vaping as safer than smoking and an effective way to help smokers quit.** This list includes Cancer Research UK; the British Medical Association; the British Lung Foundation; the New Zealand Minister of Health; the US National Academies of Sciences, Engineering, and Medicine; the American Association of Public Health Physicians; the Royal Australian College of Physicians; the French National Academy of Pharmacy; and the German Federal Institute for Risk Assessment.

It is further noted that studies have repeatedly shown that flavors, which these bill seek to ban, are critical to helping adult smokers make the switch to vaping, and that adults who used flavored e-cigarette products have been found to be more than twice as likely to quit smoking combustible cigarettes than adults using non-flavored vaping products. Multiple studies have shown that banning all flavors in e-cigarettes (except tobacco flavor) would result in a decline in the use of e-cigarettes and an increase in the smoking of deadly combustible cigarettes. This deadly shift would occur because flavors “contribute to both perceived pleasure and the effort to reduce cigarette consumption or quit smoking.” One such study found a simple ban on all flavors but tobacco in e-cigarettes would increase smoking by 8.3%. In addition, Public Health England canvassed a number of vaper surveys and found that “banning flavored liquids would deter them [vapers] from using vaping products to help them quit or reduce their smoking. It could also push current vapers towards illicit products.” Public Health England therefore concluded that, “a ban

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[on flavored liquids could have adverse effects and unintended consequences for smokers using vaping products to quit.](#)” Concerningly, one nationwide British survey from 2019 found that if a vaping flavor ban were enacted, then 25% of vapers would still try to get flavors through the black market. Nearly 10% who use flavored liquids said they would stop vaping, and 20% said that they would either smoke more tobacco or return to smoking tobacco entirely.

While flavors in vaping products are critical in helping adults quit smoking, the evidence also demonstrates that they play no role in youth uptake of vaping. A 2015 survey of nonsmoking teens aged 13-17 found interest levels in flavored e-cigarettes at 0.4 out of a possible score of 10. Additionally, fewer than a third of high school students self-report to care about flavors. Academic studies have found that teenage non-smokers’ “willingness to try plain versus flavored varieties did not differ” and a mere 5% of vapers aged 14-23 reported it was the different flavors that attracted them to e-cigarettes. It is also worth noting that, despite media reports to the contrary, data from the National Youth Tobacco Surveys demonstrates that youth dependence on nicotine in US high school students has [not increased since the](#) introduction of these products to the market.

In fact, available evidence demonstrates that banning flavored vapor products has a significantly *worse* impact upon the health of high school students. In San Francisco, a city-wide ban on flavored e-cigarettes and vapor products, as proposed in SB 63 had no effect on usage among youths. To the contrary, after nearly a decade of steady decline in youth use of combustible cigarettes, **there has been an [increase in cigarette usage](#) among youths in San Francisco since the flavor ban was enacted.** In cities that have maintained looser regulations regarding reduced harm tobacco products, youth combustible cigarette use has continued to decline.

If implemented, SB 63 would levy a 70% tax on all electronic vaping products, significantly higher than the current tax rate on cigarettes, cigars, and smokeless tobacco. To tax safer products a higher rate, thereby driving people to more deadly alternatives, goes against every principle of sound public or health policy. As the price of a product increases, it is likely that its use decreases, which has been proven to increase smoking rates as people shift back to deadly combustible cigarettes. **Minnesota is serving as a case study on this already. After the state imposed a tax on vaping products, it was determined that it prevented [32,400 additional adult smokers from quitting smoking.](#)**

We would also like to draw the committee’s attention to the fact that other aspects of SB 63 & 1147, such as the prohibition on online or remote sales, would significantly reduce access to persons in rural and remote areas of the state. **Were these restrictions enacted, these persons, often in lower socioeconomic demographics and at the highest risk of smoking related mortality, would not have access to these reduced risk products, and would have no choice but to continue smoking combustible tobacco.**

Extrapolating from a large-scale analysis by the US’s leading cancer researchers and coordinated by Georgetown University Medical Centre, **if a majority of Hawaii smokers made the switch to vaping, close to [40,000 lives would be saved.](#)** In seeking to reduce access to these life-saving products, these bills place these lives in jeopardy.

In addition to the flavor bans imposed by SB 63 on reduced risk tobacco alternatives, this bill also extends flavor prohibition to menthol cigarettes and other conventional tobacco products. Like bans on flavors in reduced risk tobacco alternatives, these would also come with significant negative consequences for the state, with no evidence whatsoever that they have any effect in

reducing smoking rates. When products such as menthol cigarettes are outlawed, evidence has shown that criminal syndicates emerge to provide these tobacco products on the black market. Contrary to popular belief that tobacco smuggling is a victimless crime consisting of someone purchasing a few extra cartons across state lines, in reality most tobacco smuggling is run by multi-million dollar organized crime syndicates. **These networks, who also engage in human trafficking & money laundering, have also been used to fund terrorist and the US State Department has explicitly called tobacco smuggling a “[threat to national security](#)”.**

It is also worth noting that paradoxically these bans may therefore increase youth smoking in Hawaii. By definition, criminals and smugglers are unlikely to obey laws and would not follow rigorous age-verification requirements mandated at reputable outlets.

Policy must be implemented based on evidence, not anecdote. The evidence overwhelmingly demonstrates that SB 63 & 1147. would be devastating to both public health and the Hawaiian economy, while leading to a boom for criminal syndicates. We call upon the Committee to accept the science and vote against SB 63 & 1147.

Sincerely,

Tim Andrews
Director of Consumer Issues
Americans for Tax Reform



February 8, 2020

To: The Honorable Rep Rosalyn Baker, Chair
The Honorable Rep Stanley Chang, Vice Chair

From: Scott Rasak, VOLCANO Vape Shops
Chief Operating Officer

RE SB63 – oppose.

Thank you for the opportunity to submit testimony.

VOLCANO is the largest independent retailer & wholesaler of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 15 locations statewide and employ over 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 SB63 for the following:

- Most recently, the FDA has issued updated guidance on vapor products which limit a flavor restriction to prefilled pods such as the Juul device which has been proven in the recent CDC Youth Tobacco Risk Survey to be the #1 brand choice for youth usage. This is a measured approach to an issue The FDA purposefully left the “open tank” market off their guidance for flavor restrictions because they want to keep the adult users and industry participants insulated from a blanket ban that would send adults back to cigarettes and put 15,000 small businesses out of business & 100,000 people out of work nationally.
- SB63 will deny current combustible tobacco smokers vital products needed to help them quit smoking. Furthermore, a flavor ban would no doubt force the closure of over 50+ businesses in Hawaii and immediate loss in employment as well as retail leases and supporting businesses. It’s the small independent vape shops which play a vital role in helping adults make a successful transition off tobacco cigarettes, not convenience stores.
- To date there is no manufacturer that sells as successful line of unflavored eliquid to legal adult users 21+. These products rely heavily on their ability to offer flavor diversity to adults to increase their success in secession rates from tobacco cigarettes.
- A flavor ban would force a black market “Do it yourself” experimental market due to the massive adult population who currently use these products in Hawaii. Currently, all products being distributed by Hawaii vape shops are third party batch tested and registered with the FDA with assigned TP numbers. The factories manufacturing the products that currently sit on the shelves are quality controlled. The black-market conditions which would arise from the passing of this bill would inflict a huge quality void in the market and expose the adult population to greater risks. The unintended consequences of this bill outweigh the hypothetical gain.
- Flavored alcohol products remain in plentiful abundance at every retail outlet even with high rates of youth usage, associated death and disease, in addition to all the addiction and abuse of those items as well. The vapor category is being held to a different standard in regards to flavors on the retail market. Its potential to be a risk reduction tool is proven to assist adults in a path off of using



the known killer of tobacco cigarettes and should be supported instead of denied the single largest public health with of our lifetime.



- Vapor products and e-liquids contain NO tobacco, sometimes contain NO nicotine, and ultimately emit NO smoke when vaporized; SB63 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.

- SB63 states in its justification that the bill and its regulations are needed to curb youth usage. However, it fails to mention the latest available CDC report that shows youth use of all tobacco products, including e-cigarettes are at the lowest levels ever. Furthermore, a study done the following year at the University of Michigan found that the majority of youth who have reported using e-cigarettes are not using e-liquids that contain nicotine - further suggesting that youth who do use e-cigarettes are doing so to replace the use of traditional tobacco.

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

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



o http://www.journalnow.com/business/business_news/local/cdc-report-shows-moresmokers-try-to-quit-with-e/article_a33383f3-5300-5178-9f14-28b52884c45c.html

- A recent study published by the New England Journal of Medicine concluded that ECigarettes are twice as effective for smoking cessation than traditional nicotine replacement therapy products which are not taxed or controlled the same way this bill proposes to tax and control E-Cigarettes. The state should be creating easier access for these products, not tighter regulations that steers vapers back towards tobacco cigarettes

o <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

- A recent study by the National Academy of Sciences, Engineering, and Medicine stated: "there is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users' exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes." The findings add to the already weighty body of evidence showing vaping to be far less hazardous than smoking.

o <http://www.washingtonexaminer.com/landmark-e-cigarette-report-explodes-myththat-vaping-is-as-toxic-as-smoking/article/2646804>

o http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-ecigarettes.aspx?utm_source=Hootsuite&utm_medium=Dashboard&utm_campaign=SentviaHootsuite

- SB63 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

- SB63 justification states that without taxing vapor products, “smokers may be tempted to purchase less expensive products such as e-liquid”. This is false. Virtually all e-cigarette starter kits and bottles of e-liquid are already higher priced in comparison to tobacco cigarettes. An average reusable electronic cigarette starter kit ranges in price from \$30 to upwards of \$300 depending on the device. Furthermore, a 15ml bottle of e-liquid (the smallest bottle size currently offered) is currently retailed at \$12.99 at all of our locations, which is nearly 33% more costly than a standard pack of cigarettes, yet it provides nearly the same amount of puffs.

- Most troubling is the fact that by subjecting vapor products to this proposed tax, the additional costs to consumers will likely result in the state seeing less tax revenue, and even worse, former smokers returning to tobacco use. The tax will result in current vapor users purchasing from online vendors who would not be subject to state taxes. Local manufacturers, wholesalers and retailers would be put at a massive competitive disadvantage and most retail customers would send their money out-of-state



effectively lowering the tax revenue already being generated by sales of vapor products here in the state. We would be unable to compete in other out-of-state and international markets with competitors who are not subjected to the same tax, which would put our local operations in severe jeopardy meaning an immediate loss of jobs and existing revenues. This bill would also effectively reduce access to a modified risk product that has been a public health win and would simply prop up and protect the proven deadly tobacco market.

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

Sincerely,

Scott Rasak
Chief Operating Officer
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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, Vice Chair
Senator Stanley Chang, Vice Chair

SB 63 – RELATING TO ELECTRONIC SMOKING DEVICES

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

Thank you for the opportunity to provide testimony in SUPPORT of SB63: RELATING TO ELECTRONIC SMOKING DEVICES with recommendations.

The American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

Smoking harms nearly every organ in the body and increases the risk for many types of cancer, heart attack, stroke, COPD, emphysema, chronic bronchitis, and other diseases.¹We must do everything in our power to keep our communities healthy and safe and support prohibiting the use of e-cigarettes wherever smoking is prohibited. People who smoke or who used to smoke are at increased risk for severe illness from COVID-19. Smoking is also a proven risk factor for cancer, chronic obstructive pulmonary disease (COPD) and heart disease, which also put people at increased risk for severe illness from COVID-19. Regardless of any association with COVID-19, the adverse health effects of smoking are well-documented and irrefutable.

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

¹ Centers for Disease Control and Prevention (CDC). Health Effects of Cigarette Smoking. Updated April 28, 2020.

include 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%.²

We recommend clarification on a few definitions in the bill:

- This includes broadening the definition of “tobacco product” on page 14 lines 10-20 through page 15 lines 1-2 to capture new and emerging products including electronic smoking devices. The definition is limited to products made of tobacco but should include products that contain nicotine but not tobacco. For example, products that claim not to contain tobacco but do contain nicotine and come in flavors. We recommend amending the definition as follows: *“Tobacco Products” 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 large 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.* Further, we do not recommend defining e-liquid separately from electronic smoking devices, and would recommend the following definition for electronic smoking device: *“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.*
- “E-liquid” should be added to the definition of “tobacco products” on page 11 line 7 to avoid potential confusion of whether or not they are included.
- The exemption of cannabis products should be clarified as it may become a loophole to avoid tobacco control laws and taxes.

ACS CAN supports tax parity for all tobacco products, including e-cigarettes, and applauds this bill for taxing e-cigarettes for the first time in Hawaii. Currently in Hawaii e-cigarettes are not included in

² 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>

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

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.³ When appropriately funded in accordance with CDC recommendations, comprehensive tobacco control programs are able to reduce tobacco use.⁴

We support ending the sale of menthol cigarettes and all other flavored tobacco products. Long before cigarette companies started adding fruit, candy, and alcohol flavorings to cigarettes, they were manipulating levels of menthol to addict new, young smokers. Menthol acts to mask the harsh taste of tobacco with a minty flavor and by reducing irritation at the back of the throat with a cooling sensation. Additionally, menthol may enhance the delivery of nicotine. Knowing that youth who experience less negative physiological effects of smoking are more likely to continue smoking regularly, the tobacco industry has spent decades manipulating its menthol brand-specific product line to appeal to youth and native Hawaiians and Pacific Islanders. The FDA's preliminary scientific investigation on menthol cigarettes concluded that that menthol cigarette smoking increases initiation and progression to smoking, increases dependency, and reduces cessation success, particularly among African American smokers.⁵

Thank you for the opportunity to comment on this matter.

³ CDC, 2014.

⁴ CDC, 2014.

⁵ FDA. Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes. <https://www.fda.gov/media/86497/download>

Aloha Senate Committee on Health and Senate Committee on Commerce and Consumer Protection,

Attached is a compilation of testimony for Tuesday, February 9, 2020; 9:00 a.m.; State Capitol, Conference Room 229 in SUPPORT of SB63: RELATING TO ELECTRONIC SMOKING DEVICES for the following individuals:

Jenny Hausler, Citizen - Pearl City, 96782

Uri Martos, Citizen - Lihue, Kauai 96766

Gerico Demesillo, UH Undergraduate in Public Health Studies

Tyler Kamisato, UH Undergraduate in Public Health Studies - Mililani, 96789

Madeline Bush, UH Nursing Student - Hilo, 96720

LokeLani Chong - Hilo, 96720

Frank V. Guillermo - Waipahu, 96797

Testimony to Senate Committee on Health &
Senate Committee on Commerce and Consumer Protection
Tuesday, February 9, 2020; 9:00 a.m.
State Capitol, Conference Room 229

Dear Chair Jarrett Keohokalole, Chair Rosalyn H. Baker, Vice Chair Stanley Chang and Joint Committee Members,

I strongly support SB63: RELATING TO ELECTRONIC SMOKING DEVICES.

Tobacco killed my husband last March from smoking. He ended up dying from COPD and had lung cancer. He suffered greatly before he passed away and died an early death.

We have 6 grandchildren that I don't want to have the same fate as their grandfather. Our keiki are a vulnerable group and must be protected. Don't make it easy for electronic smoking devices to get into the hands of our kids from accessibility online and for being cheap to buy.

Please pass SB63 to save our children for the future.

Sincerely,

Jennifer Hausler
Pearl City, 96782

Testimony to Senate Committee on Health &
Senate Committee on Commerce and Consumer Protection
Tuesday, February 9, 2020; 9:00 a.m.
State Capitol, Conference Room 229

Dear Chair Jarrett Keohokalole, Chair Rosalyn H. Baker, Vice Chair Stanley Chang and Joint Committee Members,

My name is Uri Martos, and I am writing to express my support for SB63: RELATING TO ELECTRONIC SMOKING DEVICES to help stop our keiki from using tobacco products.

I work right next to Wilcox elementary school and the Boys & Girls Club on Kauai. Everyday I am seeing more and more of Kauai's kids using e-cigarettes/vapes and it worries me terribly. These flavored tobacco products are targeting our children and hooking them on dangerous nicotine often for life. I'm afraid that Hawaii already has a high incidence of lung cancer and being a breast cancer survivor, I know firsthand the pain of dealing with this disease. I don't ever want our keiki to have to go through the hardship of having cancer or any other tobacco related illness. By simply eliminating these flavored tobacco products we will be able to save hundreds of our youth in Hawaii from becoming lifelong tobacco addicts.

I urge you to support SB63. Thank you for the consideration of my testimony.

Mahalo,
Uri Martos
Lihue, Kauai 96766

Testimony to Senate Committee on Health &
Senate Committee on Commerce and Consumer Protection
Tuesday, February 9, 2020; 9:00 a.m.
State Capitol, Conference Room 229

Dear Chair Jarrett Keohokalole, Chair Rosalyn H. Baker, Vice Chair Stanley Chang and Joint Committee Members,

As part of the generation that was close to getting rid of underage smoking and was later on exposed to the production of e-cigarettes, I support bill SB63: RELATING TO ELECTRONIC SMOKING DEVICES. As a former vape user, I can confirm that the initial reasoning of consuming product was because everyone in my immediate surrounding was doing it and the flavor was strawberry. I was skeptical at first, but my peers assured me that it was the dosage that had 0 mg of nicotine in it. I was 17 at the time, and I thought it tasted and smelled good. Prior to the legal age of buying vape products being 21, it was 18. And when I had turned 18, my peers were vapers. We discussed how vaping is safer than smoking, and since they sell the 0 mg nicotine we could just buy than and not be addicted. That was when I was given my own e-cigarette, they were small pen looking devices at the time, and any vape product I bought were mainly just flavors, I purchased fruity flavors for me and dessert flavors for my friend.

I hid this part of my life from my family, and keeping it hidden was the most stressful part. It was one of the key reasons why I stopped, I didn't want to hide things from my family, but my dad found out and he told me to just not do it in front of my mom and my siblings. When it came to thinking about my siblings and how they follow me were also the key reasons for me to stop. That is when I got rid of the pen; I broke it and gave it to my friend since they were still into vaping. Another reason I stopped was because of the looks, I notice people looking at me as I vaped, and I didn't like how I was being looked at, being judged.

As the age to purchase tobacco products raised to the age of 21, I had been given another vape product. Around this time, the e-cigarettes went from pen-looking, to big boxes that people called mods. The technology for vaping advanced fairly rapidly and these boxes promised larger intake which means bigger clouds. I was given a tiny version of these mods, and I was tempted to try it. I held onto this mod for almost a year, and then I threw it away, the feelings of guilt came back.

I can also confirm that the use of vape products turned into a gateway for drugs and alcohol. My former peers that kept through the path of vaping, are now out there going to raves and hitting up various of drugs. I see stories on socials of my old high school associates taking acid, doing cocaine, and taking various forms of marijuana products (edibles, smoking, etc.) before or after raves and huge social events. When it came to their day to day activities, it can be seen on their socials that they still use vape products to get them throughout the day. This concerns me because in my studies in personal research and in public health, there are no known long term effects for these products and given that a huge chunk of my generation and younger are consuming this product, I fear it may result in new forms of diseases and complications.

Gerico Demesillo
University of Hawaii at Manoa
Undergraduate in Public Health Studies

Testimony to Senate Committee on Health &
Senate Committee on Commerce and Consumer Protection
Tuesday, February 9, 2020; 9:00 a.m.
State Capitol, Conference Room 229

Dear Chair Jarrett Keohokalole, Chair Rosalyn H. Baker, Vice Chair Stanley Chang and Joint Committee Members,

Thank you for the opportunity to submit testimony in STRONG SUPPORT of SB63: RELATING TO ELECTRONIC SMOKING DEVICES. It's important to note the lack of health education geared towards informing our youth about the relative dangers and health harms of using these tobacco products. This bill would allocate a portion of the funds collected from excise taxes on tobacco products to health education and prevention programs, which would be highly beneficial for educating youth. There is a need for school health programs to prevent tobacco use and addiction. Schools are ideal settings in which to provide such programs to all children and adolescents. School-based tobacco prevention education programs that focus on skills training approaches have proven successful in the past by reducing the onset of smoking, according to numerous independent studies. Due to the considerable number of students that begin using tobacco products before the age of 15, it is imperative that school-based programs continue throughout high school.

The use of flavored tobacco products among the youth is now the most commonly used form of nicotine in the U.S. These products have the greatest appeal to the younger generation who are in fact, novice smokers. Tobacco companies are producing and marketing deadly, addictive products that look and taste just like the sweets kids can purchase at a candy shop. The use of these flavoring agents help ease youth into smoking since without it, the tobacco flavor alone could be a deterring factor. I personally see too many of our keiki using these tobacco products with their friends outside of school. Many of them are under the impression that smoking e-cigarettes instead of actual cigarettes is better for their health. They also are unaware that these e-cigarettes contain a high amount of nicotine, which could be detrimental to their health in the future. Hawaii needs to do more if we are to stop this growing epidemic from spreading to younger and younger generations. This bill is an imperative next step in tobacco control if SB63 were to be enacted into law. I highly encourage the committee to consider passing SB63 for the future of our keiki. Thank you again for the opportunity to testify.

Sincerely,
Tyler Kamisato
Mililani, 96789

Testimony to Senate Committee on Health &
Senate Committee on Commerce and Consumer Protection
Tuesday, February 9, 2020; 9:00 a.m.
State Capitol, Conference Room 229

Dear Chair Jarrett Keohokalole, Chair Rosalyn H. Baker, Vice Chair Stanley Chang and Joint Committee Members,

My name is Madeline Bush and I **support** SB63: RELATING TO ELECTRONIC SMOKING DEVICES.

Vaping is an extremely prevalent issue that our country and the world have been facing for over a decade. E-cigarettes were originally created for the purpose of helping people who smoked tobacco cigarettes quit and reduce their exposure to tobacco. However, the companies that created these e-cigarette devices knew if they helped people quit, they would also begin losing money. Their strategy consisted of promoting a form of smoking that was “healthy”, little did people know the contents within these products had equally if not more nicotine than regular cigarettes. In a study that was performed over the course of six years (2012-2018), “The lifetime prevalence of cigarette smokers slightly decreased from 60.9% in 2012 to 56.9% in 2018, whereas the proportion of vaping users substantially increased from 32.9% in 2013 to 52.0% in 2018” (Cerrai et al., 2020). People wanted to quit smoking and many began smoking e-cigarettes when all along they were simply part of a larger plan and were just beginning a new journey of addiction.

The trend to vape quickly became popular among adolescents, high schoolers, and even middle schoolers. According to a study performed in 2019, “About 63.9% of students (16.8 million) reported noticing youth use of e-cigarettes in or around the school, with bathroom or locker room as the most common location” (Dai, 2021). The study goes on to explain that the brand JUUL has significantly spiked in popularity among adolescents due to its shape and size. It is a small pod that resembles a USB drive. They are very easy to hide, therefore many kids bring them to school without hesitation. The company JUUL has shown to specifically cater to this younger population and have made it easier and easier for them to vape in secret. Although there is not enough hard data to validate the long-term effects of vaping, we are seeing an upsurge in hospitalized cases (2,758 cases in US) of vaping associated lung injury (VALI). There have been sixty-four deaths from vaping associated lung injury (VALI) in the United States alone. These products are being promoted as a “healthy alternative” to smoking when in reality it is killing people and ruining lives. This problem is tremendously widespread not only in our world and nation, but a rising problem within our community here in Hawaii County.

In order to protect the teenagers and young adults within our community regulations and bans on these products absolutely need to be put into action. The companies that sell these products have no interest in what their products are doing to the bodies of their customers. On the

island of Hawaii, we are seeing an increase in tobacco and vaping products as well as an increase in respiratory disorders and lung cancer. That is not a coincidence.

Sincerely,

Madeline Bush
Hilo, 96720

Testimony to Senate Committee on Health &
Senate Committee on Commerce and Consumer Protection
Tuesday, February 9, 2020; 9:00 a.m.
State Capitol, Conference Room 229

Dear Chair Jarrett Keohokalole, Chair Rosalyn H. Baker, Vice Chair Stanley Chang and Joint Committee Members,

I support SB63: RELATING TO ELECTRONIC SMOKING DEVICES.

My father-in-law was severely affected from Tobacco use. He developed stage 4 oral cancer and almost lost his life. Luckily, he survived but there are many people who are not as lucky.

Tobacco use does not just affect the person who is using it, but their whole family. I do not want to see my friends and family using tobacco products. Young adults, teenagers, and kids are easily fooled by these new and fruity flavors. They think that it cannot be bad for you if it tastes like fruits or candy. I see many underage teenagers selling E-cigarettes that have exotic flavors and using those products on social media. E-cigarettes and tobacco products need to have more strict regulations, so they do not fall into our youth's hands.

Please pass SB63 to save many children and adult lives.

Sincerely,

LokeLani Chong
Hilo, 96720

Testimony to Senate Committee on Health &
Senate Committee on Commerce and Consumer Protection
Tuesday, February 9, 2020; 9:00 a.m.
State Capitol, Conference Room 229

Dear Chair Jarrett Keohokalole, Chair Rosalyn H. Baker, Vice Chair Stanley Chang and Joint Committee Members,

My name is Frank V. Guillermo and I am in my last semester of my bachelor's program at University of Hawaii at Hilo School of Nursing. I am writing this letter to strongly support SB63: RELATING TO ELECTRONIC SMOKING DEVICES.

My 11th grade brother once told me, "I always see students vaping everywhere like in school bus, hallway, and even in class. It looks so cool and smells so good. I want to try it!" As a future healthcare provider, I am obligated to educate my brother about the harmful effects of vaping and discourage him from vaping. My brother's statement and the increasing rate of high-school e-cigarette/vape users in Hawaii shows a lack of regulations, health education, and prevention programs of e-cigarettes.

I deeply care about the health of Hawaii people and I urge you to pass SB63. Thank you for this opportunity to testify.

Sincerely,

Frank V. Guillermo
Waipahu, 96797



Date: Feb. 8, 2021

To: The Honorable Chairs Jarrett Keohokalole of the Committee on Health and Senator Rosalyn Baker of the Committee on Commerce and Consumer Protection and their Committee Members

Re: Support: SB63, Relating to Electronic Smoking Devices

Hearing: Monday, February 9, 2021 at 9am

Dear Members of the Committees on Health and Consumer Protection and Commerce,

The Campaign for Tobacco-Free Kids (CTFK) is pleased to submit this written testimony in **STRONG SUPPORT of SB63** to prohibit the sale or distribution of all flavored tobacco e-cigarette products, including mint/menthol and mentholated e-cigarette products, in the State of Hawai'i. We also support the taxation of these devices, as youth are extremely sensitive to price and would be less inclined to buy them if they were more expensive.¹ It is imperative that a holistic approach be adopted to combat the health crisis of youth e-cigarette use- removing enticing flavors, taxing them like other tobacco products, and better regulation/oversight of retailers are three critical steps forward in giving our keiki an addiction free future. While not addressed in this bill, we would also like to see menthol cigarettes included in any comprehensive solution to this issue.

The Campaign for Tobacco-Free Kids' goal is to protect children and save lives from the number one cause of preventable death: tobacco use. The need for us to act quickly has never been more urgent, as new tobacco products have come to market in sweet candy flavors aimed at attracting our youth. Hawai'i has one of the highest rates of middle school students who vape in the US and nearly one in three of our high schoolers have used an e-cigarette in the last 30 days. Of those youth who use e-cigarettes, more than 80% of them use flavored products. It would be easy to place this health crisis on the backburner, given the pressing nature of fighting COVID-19 in our state but a recent study by Stanford showed that youth that vape are 5x more likely to be diagnosed with COVID-19 than those that don't.² Combating youth vaping IS a crucial part in beating this pandemic and should be included in our public health response.

¹ "Raising Cigarette Taxes Reduces Smoking, Especially Among Youth" Ann Boonn, Campaign for Tobacco-Free Kids, June 28, 2019. <https://www.tobaccofreekids.org/assets/factsheets/0146.pdf>

²<https://med.stanford.edu/news/all-news/2020/08/vaping-linked-to-covid-19-risk-in-teens-and-young-adults.html>



Prohibiting the sale of flavored tobacco products, including menthol cigarettes, in all tobacco retailers is a critical step that will help protect children living in Hawai'i from the unrelenting efforts of the tobacco industry to hook kids to a deadly addiction. Flavored tobacco products are designed to alter the taste and reduce the harshness of tobacco products so they are more appealing and easy for beginners, who are almost always kids. These products are pervasive and are marketed and sold in a variety of kid-friendly flavors. With colorful packaging and sweet flavors, these products are often hard to distinguish from the candy displays near which they are frequently placed in stores. **Nationally**, eight out of ten of current youth tobacco users have used a flavored tobacco product in the past month.³

Flavored Tobacco Products Are Popular Among Youth These sweet products have fueled the popularity of e-cigarettes and cigars among youth. A government study found that *81 percent of kids who have ever used tobacco products started with a flavored product*. Across all tobacco products, the data is clear: flavored tobacco products are overwhelmingly used by youth to start, and preference for flavors declines with age.

Recently released data from the 2019 National Youth Tobacco Survey shows that the youth e-cigarette epidemic continues to grow--27.5% of high school students are current e-cigarette users, a 135% increase from just two years ago.⁴ Just like with cigarettes, menthol e-cigarettes are popular among youth. 57.3% of high school e-cigarette users use menthol or mint flavored e-cigarettes, making these the second most popular flavors, just behind fruit-flavored products.⁵ Another national survey found that 97% of current youth e-cigarette users have used a flavored e-cigarette in the past month.⁶ Moreover, youth cite flavors as a major reason for their current use of non-cigarette tobacco products, with 70.3% say they use e-cigarettes "because they come in flavors I like."⁷

The Surgeon General has concluded that, "The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe."⁸ The manufacturer of JUUL, the most popular e-cigarette, claims that each JUUL pod contains as much nicotine as a pack of twenty cigarettes. Youth use of e-cigarettes also increases the risk for trying more dangerous combustible products. A 2018 report

³ Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.

⁴ FDA, "Trump Administration Combating Epidemic of Youth E-Cigarette Use with Plan to Clear Market of Unauthorized, Non-Tobacco-Flavored E-Cigarette Products," September 11, 2019, https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non-utm_source=CTPEblast&utm_medium=email&utm_term=stratout&utm_content=pressrelease&utm_campaign=ctp-vaping.

⁵ Cullen, KA, et al., "e-Cigarette Use Among Youth in the United States, 2019" *JAMA*, published online November 5, 2019.

⁶ FDA, "Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance," March 13, 2019, <https://www.fda.gov/downloads/TobaccoProducts/Labeling/RulesRegulationsGuidance/UCM633281.pdf>.

⁷ FDA, "Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance," March 13, 2019, <https://www.fda.gov/downloads/TobaccoProducts/Labeling/RulesRegulationsGuidance/UCM633281.pdf>.

⁸ HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*.

from



the National Academies of Science, Engineering & Medicine found that “There is substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults.”⁹ It is critical for any policy restricting sales of flavored tobacco products to include e-cigarettes.

The industry wants to blame the users, to avoid further restrictions on the sale of their product. A national tactic used by the industry is to encourage the penalization of youth who have become addicted to these products. Youth are penalized through penalties and criminalization. These policies do not work. They allow the industry to ensure addicted youth are not seen as addicts, but instead as the one with control. These young people are now addicted for life. Instead of penalties, youth should receive effective education and be able to access cessation programs. We commend this bill for including educational programming that will support, not harm, our youth. Increasingly, kids WANT to quit but have not had access to the resources they need to do so or are afraid to come forward with their addiction. We need to give them every chance of kicking their habit by opening as many doors as possible for cessation support.

The scientific evidence leaves no doubt flavored tobacco products increase the number of people, particularly kids, who try the product, become addicted and many die a premature death. Prohibiting the sale of all flavored tobacco, including menthol cigarettes and mentholated flavors in general is an important step toward protecting our keiki from the tobacco industry’s aggressive efforts to hook children to a deadly, addictive product.

This issue is about common sense and protecting our vulnerable populations. By adopting this policy, Hawai’i would become one of a growing number of states that are putting the health of their youth first.

Thank you for considering a comprehensive policy. It will help to keep our children and others safe.

Sincerely,

⁹National Academies of Sciences, Engineering, and Medicine (NASEM), *Public Health Consequences of E-Cigarettes*, 2018, <http://nationalacademies.org/hmd/Reports/2018/public-health-consequences-of-e-cigarettes.aspx>.

Liza Ryan Gill,
Campaign Manager
Campaign for Tobacco-Free Kids
lizaryangill@gmail.com



SB-63

Submitted on: 2/5/2021 6:26:02 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

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

Comments:

I strongly oppose taking our rights to choose our flavors away.

SB-63

Submitted on: 2/5/2021 6:40:55 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Stevens	Individual	Oppose	No

Comments:

Please respect my right to like the flavors I want to like.

SB-63

Submitted on: 2/5/2021 7:06:33 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Monika Lopez	Individual	Oppose	No

Comments:

This will help me quit - quit voting for legislators that support this bill that is.

SB-63

Submitted on: 2/6/2021 5:37:08 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Theresa Ng	Individual	Support	No

Comments:

To: Chair Sen. Jarrett Keohokalole, Chair Sen. Rosalyn Baker, and members of the Health Committee and Commerce and Consumer Protection Committee

My name is Theresa, and I am a junior at UH Manoa. I strongly support the passage of SB63. Coming from a Hawaii high school, I am very aware of the impact e-cigarettes can have when you start from an early age. Many of my former friends started vaping when we were freshmen in high school. They became so consumed with it that they are still using e-cigarettes while working odd jobs to support their unhealthy habits. They started vaping using sweet artificial flavors. Having once tried e-cigarettes, I can attest that flavors play an important role in getting addicted to e-cigarettes. Flavors like watermelon and strawberry mask the harsh chemicals and tobacco, and it just feels like you're inhaling sweet air. Banning all flavors is necessary to prevent teenagers from starting the habit in the first place.

When my former friends first started vaping, they could access these products via vape shops that do not check for ids. These shops probably did this because they knew they would turn away lots of customers if they did check for ids. Though I have heard vape shops have been following the law now, many online stores have no legitimate age verification system. For many of these sites, you just have to press the "I am over 21" button. However, by banning online sales, underage e-cig users can no longer access these harmful products.

I understand that many people believe that there needs to be consequences to our actions (especially when practically everybody knows the harmful effects of smoking/vaping). But there is abundant work of research available that proves Big Tobacco companies specifically target youth. Everyone, regardless of age, is susceptible to aggressive marketing. Rather than pinning the blame on youth, we should be punishing Big Tobacco companies. They are very aware of the law and the effects of their products, yet still sneakily target youth. They have the most to gain from people getting addicted to tobacco at a young age. Speaking from experience, I only vaped in high school because I saw everybody else doing it and did not want to feel left out.

All in all, SB63 is comprehensive and covers all the facets that encourage youth to become addicted to e-cigarettes. This bill is the best bet to reverse the disturbing trend

of increased tobacco use in our state. Therefore, I strongly urge you to bring this bill to the floor and vote in favor of SB63.

Thank you,
Theresa Ng

Date: February 6, 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: **Strong Support for SB63**, Relating to Electronic Smoking Devices

Hrg: February 9, 2021 at 9:00 AM in Conference Room 229

Aloha Senate Committees on Health and Commerce and Consumer Protection,

As a parent, community member and healthcare professional I am writing in **strong support of SB63**, which makes unlawful the sale of flavored products for electronic smoking devices, mislabeling of e-liquid products containing nicotine, and sale of tobacco products other than through retail sales via in-person exchange; establishes penalties; includes e-liquid and electronic smoking devices in the definition of "tobacco products" for purposes of the cigarette tax and tobacco tax law; increases the license fee for wholesalers and dealers of tobacco products and retail tobacco permit fee; requires retailers to pay an additional excise tax on the retail price of electronic smoking devices; directs a certain percentage of moneys received from the cigarette tax and tobacco tax to the Hawai'i tobacco prevention and control trust fund to establish and fund a comprehensive youth tobacco cessation program; requires a person under twenty-one years of age who unlawfully purchases or possesses tobacco products, including electronic smoking devices, to complete a tobacco education or use cessation program or perform community service for a first offense; repeals the electronic smoking device retailer registration unit; repeals provisions relating to delivery of sales under the cigarette tax and tobacco tax law.

Hawai'i is in the midst of a youth vaping epidemic. One in three high school students and one in five middle school students report "current use" of e-cigarettes.

With ultra-potent nicotine salt e-liquids available in a multitude of sweet flavors, e-cigs are highly attractive to, and pose a huge risk of addiction and life-long impaired brain development for, our youth.

Teens and young adults who use e-cigarettes are 5x more likely to be diagnosed with COVID-19 than non-users. Those who use both e-cigarettes and conventional cigarettes (dual use) are 7x more likely to be diagnosed with COVID-19.

Tobacco product use is an equity and social justice issue. 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.

Disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and vulnerable groups, such as the African American community. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes.

Hawai'i has been a national leader in reducing cigarette use to record lows through **policy, prevention, education, and cessation** programs. By implementing these same approaches we can reverse the trends in youth e-cigarette use.

SB63 provides a comprehensive slate of e-cigarette regulation, including:

- (1) Ends the sale of *all* flavored tobacco products, including the flavor menthol – these flavors entice youth, while the nicotine hinders critical brain development and keeps them hooked for life.
- (2) Restricts online sales to licensed retailers only. This requires face-to-face purchases for consumers, making it harder for youth to obtain these products via the internet.
- (3) Taxes e-cigarettes on par with conventional cigarettes– e-cigs are the only type of tobacco product without a tax. Dedicating some of this revenue to fund tobacco prevention and control programs complements and strengthens the effect of tobacco policies in reducing smoking rates.
- (4) Requires licensing and permitting for tobacco retailers and wholesalers to help implement and enforce current laws and regulations.

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

I **strongly support SB63** and respectfully ask you to pass this bill out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Kea'au, HI

SB-63

Submitted on: 2/6/2021 7:19:54 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Eaton	Individual	Support	No

Comments:

Aloha, my name is Carolyn Eaton and I strongly support SB 63.

SB-63

Submitted on: 2/6/2021 8:22:36 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Collins	Individual	Support	No

Comments:

Please help end the youth vaping epidemic by supporting the passage of this bill.

Mahalo

SB-63

Submitted on: 2/6/2021 9:38:27 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James E Raymond	Individual	Support	No

Comments:

Please protect us from commercial predators.

SB-63

Submitted on: 2/6/2021 10:52:13 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Keawe	Individual	Support	No

Comments:

Legislators please support SB63. Our children's lives depend upon it.

Mahalo!

SB-63

Submitted on: 2/6/2021 11:47:31 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

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

Comments:

Dear Senators:

As a pediatrician and medical director of the Kapi'olani Smokefree Families Program, I strongly support this bill, which ends the sale of flavored tobacco and e-liquids, appropriately taxes e-cigarettes on par with other tobacco products, and closes the online purchasing loophole.

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. 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.

We have the chance to improve the health of many, especially our keiki and young people, by passing common sense measures like these.

Mahalo for your consideration and support of this important measure.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

SB-63

Submitted on: 2/7/2021 7:27:46 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn J. Gagen	Individual	Support	No

Comments:

Hawaii desperately needs legislation to curb the use of e-cigarettes and other flavored tobacco products that are targeting our youth. After years of successfully achieving one of the lowest tobacco use rates in the country among our youth, we are now experiencing record high tobacco and e-cigarette use among our youth. This legislation is sorely needed to reverse this trend.

SB-63

Submitted on: 2/7/2021 8:12:01 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Blair	Individual	Support	No

Comments:

Electronic smoking devises are harmful to ones health. They should be banned.

SB-63

Submitted on: 2/7/2021 9:10:01 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

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

Comments:

Vaping is not the same as tobacco cigarettes. Taxing them like one will not help the overall cause. There are many studies that provide evidence that vaping is a lot safer than smoking cigarettes. These added taxes will also increase the burden on people who choose to switch to a healthier alternative. It will also hurt or even close a lot of small businesses, especially during these times. Please oppose this bill.

SB-63

Submitted on: 2/7/2021 10:25:03 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kenichi Yabusaki	Individual	Support	No

Comments:

Aloha Chair and Senator Keohakolole and Committee Members:

I fully support the contents of SB63 as it can help the "Health" of Hawaii, especially the most vulnerable, our Keiki. Any initiatives that help our youth who are the future adults to make healthy choices is a public health issue. I urge you to pass SB63. Thank you for your service.

Sincerely,

Kenichi K. Yabusaki, Ph.D.

SB-63

Submitted on: 2/7/2021 10:58:26 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Ann K Poire	Individual	Support	No

Comments:

I support the ban of all flavored tobacco products and the regulation of e-cigarette sales as stated in SB63. I am not a smoker, but my mother has been smoking for over 50 years. She tried e-cigarettes in order to stop smoking, but the product just made her agitated. She thought it was a waste of time and money. And she thought the flavored products were silly. I agree. They seem to be marketed to younger smokers - who else would want strawberry-flavored tobacco? Please pass SB 63 to regulate the sale of e-cigarettes. I strongly believe that they are a harmful product that is marketed to be sold to younger smokers.

SB-63

Submitted on: 2/7/2021 11:24:06 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Kingdon	Individual	Support	No

Comments:

As public health made incredible gains in smoking cessation, leading to markedly reduced morbidity and mortality from related diseases and injuries in the United States, affected corporations made insidious but frankly ingenious changes in their marketing.

Companies that profit from nicotine addiction shifted their tobacco marketing overseas, where now related rates of illness, injury, disability and death are soaring. Simultaneously, these companies and their spin-offs evaded regulations by shifting U.S. focus to electronic cigarettes, vaping, and similar products. Honestly, public health authorities and local, state, and federal governments were either unaware or initially unresponsive, and were instantly behind the curve again.

It is imperative that Hawai'i be aggressive in closing regulatory loopholes, preventing others that may crop up, and promoting the health and safety of our residents and visitors.

Thank you for your consideration.

--David Kingdon, MPH, Paramedic

SB-63

Submitted on: 2/7/2021 12:19:53 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Colleen Inouye	Individual	Support	No

Comments:

Chair Baker, Chair Keohokalole, and members of the Committees on Commerce and Consumer Protection and Health,

I am testifying in support of SB63. Having many adolescent patients in my practice I see the widespread practice of vaping. Unfortunately, some young women say they vape every hour. We need to reverse this trend by ending the sale of flavored products, decreasing online sales, and applying a tobacco tax. Vaping does increase the differences we find in health disparities amongst our more vulnerable communities.

Thank you for this opportunity to testify. I urge you to support SB63.

Colleen F Inouye MD MS-PopH MMM FACOG

SB-63

Submitted on: 2/7/2021 12:48:42 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

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

Comments:

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February 7, 2021

Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

Aloha Chair Baker, Vice Chair Chang, and Members of the Committee,

I am a student trainee from the Leadership and Education in Neurodevelopmental and related disabilities program. I am proud to support SB63, which addresses Hawaii's youth vaping epidemic by making it unlawful to sell, offer to sell, or possess with the intent to sell or offer to sell any flavored tobacco products, including menthol; prohibiting any sale other than through an in-person exchange; imposing a tax on e-liquid and ESDs; and requiring an increased licensing and permitting fee for tobacco wholesalers and retailers. SB63 also allocates a portion of tax revenues to the Hawaii tobacco prevention and control trust fund and repeals provisions related to delivery sales under the cigarette tax and tobacco tax law. SB63 also allows counties to adopt stricter provisions related to access to tobacco or ESD. Lastly, SB63 amends Chapter 712 to include options for community service hours or tobacco education in penalties for youth who violate tobacco sale age restrictions.

In Hawaii, the current use of e-cigarette among our high school keiki rose from 25.5% in 2017 to 30.6% in 2019. Among our keiki in middle school, current e-cigarette use increased from 15.7% in 2017 to 17.7% in 2019. The harms associated with this rapid rise are also becoming evident. More students are reporting frequent use of e-cigarettes, indicating possible addiction. Additionally, youth who use e-cigarettes have resulted in casualties from product use associated lung injury that resulted in 2,711 confirmed hospitalizations and 60 deaths nationwide.

Recent studies found this epidemic is driven by flavored products, especially mint. In 2019, the majority of youth e-cigarette users reported the use of flavors with fruit, menthol or mint, candy, desserts, or other sweets being the most commonly used. There is clear evidence that menthol facilitates initiation and addiction, which makes it harder to quit using tobacco. The 2017 Hawaii Youth Tobacco Survey (YTS) found 54% of high school youth who smoke usually smoke menthol cigarettes.

It is well documented there are negative effects for the developing brain from nicotine exposure. Nicotine impacts the parts of the adolescent brain responsible for memory, learning and attention. It can also worsen anxiety, irritability, and impulsivity.

Furthermore, COVID-19 is an infectious disease that primarily attacks the lungs. Smoking impairs lung function making it harder for the body to fight off this disease and others. Studies are finding that smoking has a detrimental affect on the progression of COVID-19. In Hawaii, Native Hawaiian and Pacific Islanders are among the hardest hit by COVID-19 and also reported to have the highest rates of tobacco use. In 2018, Native Hawaiian and Pacific Island middle and high school students had the highest ever-use of tobacco products among any other ethnicity in the nation as well as the state. There are similar patterns for combustible cigarette use. Smoking among high school Native Hawaiian (9.1%), Pacific Islander (15.6%) are similar (state 8.1%) as

is smoking among Native Hawaiian (22.3%) and Pacific Islander (19.8%) adults (state 13.4%). This double risk highlights the importance of addressing tobacco use, especially during this COVID-19 pandemic.

The growing market for flavored tobacco products is impacting the nation's overall progress in reducing youth tobacco use. Flavors have become the leading factor for youth use of tobacco products. Our state government needs to take action because the Federal Government lacks the ability to create protections that can address the urgency of this public health crisis in a timely manner.

I support SB63 as a comprehensive, public health measure to address the youth vaping epidemic in Hawaii.

Mahalo,
Olivia Uchima

I am submitting written testimony in support of SB63 for Comprehensive Tobacco Regulations. As a long-time pediatrician on Kauai, I have been very discouraged by the rise in the use of vaping products among intermediate and high school students. Others of my patients complain that they are unable to use the rest rooms in school due to the widespread vaping done in the bathrooms. This is particularly disheartening after all of the extensive and successful efforts of the past 20 plus years to cut down on teen smoking.

It is well-established that youth are attracted by tasty flavors and clever colorful packaging of e-cigarette products. This is a deliberate strategy by tobacco companies to mislead teens as to the “risk-free” nature of these products. Local tobacco manufacturers have resorted to flavors such as Hawaiian Sweet Rolls, Halawa Guava, and Hawaiian POG, among others. Over 80% of young people who use vaping products begin with flavored liquids. In addition, another fact well-known to the public health community is that lower income smokers, especially Hawaiians and Pacific Islanders, start with and continue smoking menthol cigarettes. Cigarette companies are well-aware of this phenomenon and target these groups specifically with menthol advertising. In effect, flavored and menthol tobacco products are starter drugs, as nicotine is one of the most addicting substances.

It cannot be stressed enough that vaping products contain much higher nicotine concentrations than cigarettes, yet another strategy to hook vulnerable teens and maintain the nicotine dependence. E-cigarettes are marketed as a “tobacco cessation” product, but in fact are even more highly addictive and toxic than cigarettes and are manufactured to assure more and more need for the addicting nicotine in the vaping liquid. Smokers who believe they have “quit smoking” are only exchanging one poison delivery system for another.

In summary, there are no redeeming reasons for allowing flavored and menthol tobacco products, and many to make them illegal. It is time to protect our keiki from deadly substances and stand up to the tobacco industry. I implore you to vote for SB63.

Linda Weiner, MD
Pediatrics, Kauai

SB-63

Submitted on: 2/7/2021 3:03:51 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Abe	Individual	Oppose	No

Comments:

I'm Alex and I strongly oppose this bill!

SB-63

Submitted on: 2/7/2021 3:16:39 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Holly t	Individual	Support	No

Comments:

Aloha my name is Holly Taguma and I am a student from Kauai High School and I am in support of SB63. Right now with COVID-19 we should be working together and trying to end the youth vaping epidemic. Studies show that teens and young adults who used e-cigarettes are five times more likely to contract COVID-19. We must keep our peers safe. I know a few people who have coughed or had breathing problems relating to vaping. With this we must work extra hard to keep them safe because COVID-19 is a respiratory illness. Thank you for reading my testimony and I hope you consider my thoughts. Mahalo!

SB-63

Submitted on: 2/7/2021 3:40:13 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Larson	Individual	Oppose	No

Comments: Don't ban flavors for adults. Mahalo.

SB-63

Submitted on: 2/7/2021 4:00:19 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ke Nguyen	Individual	Oppose	No

Comments:

Why you want to rip people off again? I work hard for my money and the people supporting this bill don't respect that.

SB-63

Submitted on: 2/7/2021 4:12:39 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rafael Montero	Individual	Oppose	No

Comments:

Strongly Oppose.

SB-63

Submitted on: 2/7/2021 4:22:55 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

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

Comments:

This flavor ban is too extreme.

Adults should be exempt from it.

Count me a very strongly opposed.

February 7, 2021

Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

Committee on Health

Senator Jarrett Keohokalole, Chair

Senator Rosalyn H. Baker, Vice Chair

State Capitol

415 South Beretania Street

Honolulu, HI 96813

Aloha Members of the Committee on Health and Committee on Commerce and Consumer Protection,

I am a pediatric dental resident and community member of your district, and I'm proud to support SB63. As a person working with children to promote oral health, much of what I discuss reflects working toward good overall health. While working at my community clinic, I came across an adolescent who had been quiet for most of the exam. His initial answers to my questions about oral hygiene and the etiology of caries could almost be categorized as defensive. Yet over the course of our discussion, he opened up to me as I talked to him about his treatment plan. He asked what smoking did to his teeth and gums. After explaining its possible detrimental effects--discolored teeth, delayed healing of his gums, and risk for periodontal disease, I mentioned the increased risk for cancer and other host of health conditions. Hearing these words, he told me he was smoking but now wanted to quit. He asked to not let his mother know. After our discussion, I reflected on the encounter. I was grateful that he was able to trust me and seek help. However, I thought about how adolescents could come across these products without knowing their implications. I thought about those who hid this substance use from their parents and other members of their support group, making it so much harder to break this cycle of addiction.

Currently, over 5 million youth use electronic cigarettes-- an increase of 3 million in only two years. In Hawai'i, the numbers are drastically higher. One in three high schoolers and one in five middle schoolers report using e-cigarettes. Electronic cigarettes attract youth by its attractive flavors and take adolescents down a dangerous path of addiction and health effects. Multiple longitudinal studies have also demonstrated never-smoking adolescents who use electronic cigarettes are more likely to smoke tobacco. Studies have shown acute effects arise in the pulmonary, cardiovascular, and immune systems from electronic cigarette usage. In terms of oral health alone, studies so far have shown the following: poor oral health, increased issues with the soft tissues of the mouth and increased incidence of cracked or broken teeth.

Additionally, menthol tobacco products are exempted from flavor prohibitions-- something that I urge for change. Menthol flavoring helps reduce the harsh cigarette smoke with its cooling

effects in the oral cavity and has been shown to increase nicotine dependence and decrease adult cessation. Menthol tobacco products have become the most popular flavors for high school students over the past four years. Even more troublesome is research showing menthol cigarettes are being used significantly more by middle school students than high school students.

Time is of the essence when it comes to protecting some of our most vulnerable populations. Children are not simply “tiny adults.” Their bodies and brains are developing, and exposure to these harmful products at a young age is detrimental in ways we are only starting to understand. We can end the youth vaping epidemic with comprehensive regulations - the same ones all other tobacco products are subject to. This includes ending the sale of flavored tobacco, taxing them as tobacco products, and restricting online sales. From the discussion with my patient, I hope I made a difference in his life. With this testimony, I hope to encourage you to make an impact on many more lives.

Mahalo,
Grace Kim, DDS

SB-63

Submitted on: 2/7/2021 6:19:44 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

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

Comments:

Aloha and thank you for listening,

As a contributing leader of Hawaii's society, I strongly ask the legislature to reconsider this bill until more research is done on how such a measure would impact Hawaii's economy and small business owners. Due to COVID-19, there already has been such a huge blow to the small business community, and imposing additional taxes will only exacerbate the situation.

Legislators should pass regulations rather than adopt complete bans to achieve regulatory goals. Furthermore, they should make sure that current regulations are enforced. This is currently not the case for most states.

There is some debate over the societal health benefits of vaping, but generally, it is believed beneficial for society every time a smoker becomes a vaper. Public Health England, an agency of the English Ministry for Health, recommends smokers switch to vaping, and the American Cancer Society concludes that, based on current available information, vaping is less harmful than smoking. In other words, vapor products could be a key tool in the fight against tobacco-related morbidity and mortality.

Again, due to the current economic state of Hawaii, this is not the time to completely ban a product that currently supports hundreds of employees, families, businesses, and communities. Please re-consider this bill.

Mahalo for your time and consideration,

a concerned citizen.

SB-63

Submitted on: 2/7/2021 6:58:33 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
mary santa maria	Individual	Support	No

Comments:

I strongly support this bill. All electronic tobacco smoking devices should be taxed like cigarettes, all flavored e-cigarettes and pods should be illegal, and a portion of the taxes collected should be used to prevent use of all tobacco products. Passing this bill will aid in protecting our youth from use of tobacco products at an ealier age when they are most vulnerable to injury and addictions.

Sincerley,

Mary Santa Maria

SB-63

Submitted on: 2/7/2021 8:00:32 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erick Chen	Individual	Support	No

Comments:

I support this bill because I believe the e-cigs and vape products are too easy to obtain for the underage population. They are too young to use them. They use them to look cool or fit in when its intended purpose is to help smokers quit their addiction. Vaping is much healthier than cigarettes, but it still affects the body negatively, which is why children and teens should not be doing them.

Date: February 7, 2021

To: Chairs Senator Jarrett Keohokalole, and Senator Rosalyn H. Baker
Members of the Health Committee and Commerce and Consumer Protection
Committee

Re: Strong Support for SB 63, Relating to the Youth Vaping Epidemic

I believe that e-cigarettes need to be regulated the same as other tobacco products since they are just as detrimental to a person's health, and in some cases, they are even more addicting. Furthermore, flavors in all tobacco products should be banned since they are purposefully designed to lure kids to increase their profit.

Although my family has stayed away from smoking, this is a problem that I see constantly appearing in my school. A few years ago, the Student Class President along with many of their friends were caught using vaping products on a field trip. In the end, the Student Class President was given another term and they continued using e-cigarettes. When this happens with a student seen as a "problem" kid by teachers, the results are very different. Because of this, I believe that youth penalties will disproportionately impact certain students and we should instead focus on education and helping these students with their addiction. I honestly believe that it is not their fault for being addicted; they need treatment, not punishment. It is the tobacco companies that need to be held responsible for targeting youth and causing my generation to become hooked on their products.

E-cigarettes have become a problem across the entire student body at my school and most other schools. I still witness the effects of the school culture since some of my friends have recently been offered these products by other students. Thankfully, they declined, but I never want to hear that people who are close to me are being influenced to do something that will put them at risk.

Last year, I was elected as the new Class President and I wanted to set a change in my school's culture. Will you help us end the sale of all flavored tobacco products and regulate e-cigarettes the same as other tobacco products to protect my friends and all students in Hawaii and support SB 63?

A handwritten signature in cursive script that reads "Noah Chang". The signature is written in black ink and is positioned above the printed name.

Noah Chang
Aina Haina, Oahu

Senator Jarrett Keohokalole - Chair , Senator Rosalyn Baker - Chair and members of the Health Committee and Commerce and Consumer Protection Committee,

My name is Mayra Mendoza and I'm a Senior at Konawaena High School on the Big Island. I **strongly support SB 63** and the ban of flavored tobacco in our state because it is affecting so many individuals and they have no idea what it's doing to them.

I'm concerned about the people who use flavored tobacco to be cool, because it is really not and they are doing it because they know people who do it. Also, some people want to use it to stop smoking cigarettes but it might be even worse, and it is not helping them at all. Even people who don't vape are being affected because of second hand smoke and that is what hurts me the most because they are just random people who shouldn't suffer the consequences that other people are causing. I wouldn't want any of my little siblings or my family to be around those environments and that is why I am advocating for this bill.

Additionally, I feel like if e-cigarettes and other tobacco products were to have a tax on it, people would think twice before buying the products that are so harmful to them.

I see vaping constantly and it is getting way out of hand. Bathrooms at my school are getting closed down, and people who are at the wrong place at the wrong time are getting punished for things they didn't even do. Youth users shouldn't be punished for being addicted to tobacco, they should receive the help they need. They should receive education on how bad tobacco is and they should be given the support they need to quit. Punishment is not the way to go because they are all kids who didn't know what they were getting themselves into and the nicotine in tobacco had the powerful effect of getting them addicted to the substance.

So overall, I would like for this comprehensive bill to get passed because it is really important and it would really be an attempt to improve the health of those who use tobacco. Please **support SB 63** and help everyone in our society and cause better habits in our lives.

Chair Jarrett Keohokalole, Chair Rosalyn Baker, and members of the Health Committee and Commerce and Consumer Protection Committee:

I support SB 63 because I believe e-cigarettes are even more dangerous than other tobacco products because they are so attractive to teenagers and have been made to be easily hidden from adults. If anything, e-cigarettes should be regulated more than other tobacco products.

The high nicotine levels found in e-cigarettes is detrimental to brain development, heart and lung health, and our future. The flavors of e-cigarettes are what attracts youth to try them. If the flavors are banned then the vape would not taste as good and, hopefully, younger people will be less attracted to vaping.

The vape companies have made it easy for people in my community to order e-cigarettes without actually being 18 years old. Because of this, the spreading of e-cigarettes has turned into a national epidemic.

Please support SB 63 and regulate e-cigarettes like other tobacco products.

Valerie Wong
Honolulu

To the Senate Health Committee and Commerce and Consumer Protection Committee,

I am writing in support of SB 63 because many of my friends think e-cigarettes are not that harmful to our bodies compared to traditional cigarettes. While the health impacts of traditional cigarettes are well known, many are unaware of the health risks associated with e-cigarettes, they could be even more harmful to our body.

Flavors, menthol in particular, makes e-cigarettes easier to start using and makes it seem as if they are safe. Also the industry has made e-cigarettes cool looking, easy to hide and easy for those under age to buy.

At UH Manoa where I'm studying I see many students using e-cigarettes, despite the campus being tobacco-free. Most are under 21 and yet have no problem buying them. I don't want to see my friends and classmates addicted to tobacco products. Please support SB 63.

Thank you for your time.

Alexander Ham

Dear Sen. Keohokalole, Sen. Baker, and Senators of the Health Committee and Commerce and Consumer Protection Committee,

My name is Kayla Okahara-Olsen and I am a high school junior on Hilo. I am writing because I strongly support passing SB63. Besides being in high school, I am also the youngest child of 3. Many of my family, friends, and peers revolve their lives around e-cigarettes. Whether it be walking into a classroom full of clouds or into my own house filled with the fake fruity and sweet smells from e-cigarettes. Growing up, many people continue to try and pressure me. When I said no to "hit it", a lot of people started calling me scared and unpopular. Sometimes the peer pressure got to me and I wanted to try using e-cigs, but I stopped myself because I see my family and friends actually being the ones hurt. I can easily tell that they are addicted to the nicotine from e-cigs and they can't make themselves stop.

Since e-cigarettes have nicotine, which is derived from tobacco, I believe that e-cigarettes should be regulated the same as other tobacco products. Not only that, e-cigarettes also contain many dangerous chemicals and carcinogens. Recent research shows, youth using e-cigarettes has increased to 1 in 3 high school students within the last 30 days. "Sour patch" and "gummi bear" are popular e-cig liquid flavors but I also know a lot of students who had menthol juice, which reduces the irritation and harshness when using e-cigs, making it all more addictive. Expanding the ban of e-cigarette flavors to include the ban of menthol for both e-cigarettes and tobacco products, will lead to a large decrease in vaping within my community and other youth.

However, I don't think it is right that teens have to be penalized for using e-cigs. Why are people my age paying the price when it is vape companies who created the trend and made everyone who doesn't use e-cigs seem not cool? My friends need help, but if you can make our corner store not sell the e-cig products, my friends (and family) won't always have to be fighting their urge to vape everyday. Stopping the cause (e-cigarette and tobacco companies that target people my age) is how to fix the effects, which is the huge amount of youth who are vaping. Please help us by supporting SB63, thank you!

Kayla Okahara-Olsen
February 7, 2021

Hilo, HI

February 7, 2021

To Chair Jarrett Keohokalole, Chair Rosalyn Baker, and members of the Health Committee and Commerce and Consumer Protection Committee:

I'd like to start by thanking you for your time. I am Shaneille Ramos, and I am writing from Keaau on the Big Island, in support of SB 63. In my school, when we ask to use the bathroom, we have some teachers who ask "*why didn't you go during lunch or recess.*" But, we did go into the bathroom on our 30-minute lunch break. However, before even getting to a stall we had to leave. What was the reason? There are so many students in the bathrooms vaping and smoking that it is uncomfortable even being in there for a minute. The security and admin are doing their best to try and fix the situation, though sometimes, their best solution is to just close the restroom.

A way to solve this is to completely ban flavors that everyone uses, and I always smell in the bathroom. Flavors have the ability to reduce the harshness, and bitterness of the chemicals when used. It also hides the nicotine in the products which allows the users to be more addicted towards the e-cigarette products. As youth and young customers become addicted to e-cigarettes, they will more than likely make the switch to regular cigarettes, which big tobacco companies need to replace the older (and dead) customers. Though secondhand e-cigarette smoke doesn't affect me right now, it does affect my peers who are special and are using the same bathrooms as me. Now more than ever with the coronavirus and possibly a new strand of it, we have to act on e-cigarette use. E-cigs correlate to lung disease, mental issues, and our overall health. The key factor in regulating e-cigarettes at this time (with e-cigs being more popular around all age groups and being stuck at home with it most of the time) is access. By banning all flavors of e-cig juice, access to the poisonous nicotine is greatly reduced (because students my age won't like the flavor of the chemicals anymore and stop vaping before they get addicted). Also, e-cig products should be taxed like other tobacco products because they both contain nicotine. With the extra cost, the students at my school won't be able to afford their bad habits.

Overall, I strongly believe that both a ban on all flavors and a taxation similar to all other tobacco products will deter the students who vape at my school. I strongly support SB 63 (and encourage you to do so as well)! Especially in these times, we cannot risk more harm to anyone's lungs.

Thank you,
Shaneille Ramos
Keaau, HI 96749

Aislynn Unga
February 7, 2021

Dear Chair Keohokalole, Chair Baker, and members of the Health Committee and Commerce and Consumer Protection Committee:

My name is Aislynn and I'm from Kailua. I am in strong support of SB 63. I am keenly aware of how easily accessible e-cigarettes are to me and my peers. I know people that always keep some sort of e-cigarette product on them at all times, and they're constantly using it. They become dependent on it in a way that they're aware of, but don't mind. For them, they believe that they use it because they enjoy it, that it's a choice they make. I believe they may be unaware of the unhealthy dependence and borderline addiction they have with e-cigarette products.

I believe that the current lax regulations on e-cigarettes when compared to other tobacco products is one of its biggest selling points. Those who are trying to get tobacco products without hassle, especially youth, will be more drawn to accessible products like e-cigarettes. The menthol flavoring is a huge selling point of tobacco products. I've seen people use it and it makes using e-cigarettes more palatable for beginners. With the ban on menthol flavors, we're taking away that idea that tobacco is something 'light' or even 'easy to digest.' Tobacco is a seriously addictive drug that no one should be using. When it comes to online e-cigarette purchases, it is pretty prominent. Many people at school buy their e-cigarette products (flavor pods, devices, etc.) online, along with buying for others as well. Some students even sell their e-cig products online. For many, it not only offers a fast route to e-cigarettes, but a way to profit off the sales of it as well.

But I also believe that youth should not be punished for the fault of big corporations. It has been proven that big tobacco companies target youth as one of the biggest consumers of their products. This can be seen through their advertisement of over 16,000 different flavors of vape. 30.6% of high schoolers and 17.7% of middle schoolers use e-cigarettes JUST in Hawai'i. These companies are profiting off of these sales, while many youth are left with possible addiction and other health-related issues. Big tobacco companies need to take accountability for the repercussions of their sneaky marketing targeted towards youth.

By adding stricter regulations on e-cigarettes, we may disinterest those who used or want to use e-cigarettes but now no longer can easily access those products. I hope that you'll help the youth in Hawaii by passing SB 63! We cannot delay this!

Jaelyn Natividad
February 7, 2021

Aloha,

My name is Jaelyn Natividad and I strongly support SB 63; I hope you will too! I am from the Kalihi area, where many of the teenagers openly smoke here. I believe we need to regulate e-cigarettes and other tobacco products because maintaining and controlling these products will decrease the amount of targets on our youth. Big tobacco companies manufacture e-cigarettes and are marketing towards the youth in Hawaii. E-cigarettes have impacted those around me because they all say it's good and helps them relieve their stress. But I don't think so, I believe they are addicted to the nicotine from e-cigarettes. Rather than trying other methods to relieve stress, like taking a nap, getting fresh air, or going for a walk, they always go back to their e-cigarettes.

To address this It is important to also ban all flavors of e-cigs, including menthol. All flavors need to be banned because the fruity and sweet ones appeal to young children especially, while methanol flavors drive the sales of cigarettes and e-cigarettes for older teens and adults (because it cuts the harsh taste of the tobacco/nicotine and chemicals). Online purchases need to be stopped because online sites don't bother to ask and verify any information about age. You just press the "I am over 21" button. This is an easy access and easy target for our youth.

We need to encourage these youth addicted/using e-cigarettes to turn a new leaf and have them share their stories with others who may be struggling with the same problems. Rather than punishing them, we should give resources to recover and outlets to help others. It takes a village to help any community who is struggling with addiction.

In short, please support SB 63. My Kalihi community especially needs legislation to help push the people here to quit their dangerous habits and change for the better. Our health, community safety, and community relationships will all benefit from more effective regulation on e-cigarettes (and tobacco products in general). Thank you for your time!

February 7, 2021

To: Senator Keohokalole, Senator Baker, and Members of the Health Committee and Commerce and Consumer Protection Committee.

My name is Emily Brown and I am a strong supporter of SB63. I believe this bill should be passed to protect peoples' health. My grandparents deaths were directly linked back to smoking. Even though my grandfather had lung cancer, he still continued to smoke. Many of my relatives use tobacco products despite watching our grandparents die because of it. My little cousins are affected because they are witnessing our family smoke regularly and might grow up doing the same. I want my family to understand that smoking affects them not only individually, but future generations to come.

I believe we need to regulate e-cigarettes the same as tobacco because they contain nicotine and other addictive chemicals. E-cigarettes have more appeal than regular cigarettes through flavors, thus drawing in youth and more. Menthol uses a minty flavor to mask the taste of nicotine, just like all the flavors do. This makes it easier for youth and adults to continue to use these products because they taste better. Also, there are numerous amounts of health risks. Teens who use e-cigarette products are likely to become smokers when they are older, leading to numerous health issues. There are many kids today who are dying and contracting severe health conditions due to e-cigarette and tobacco product use. Menthol can cause seizures, coma, death, skin and eye irritation. It is important for menthol to be included in the ban because menthol doesn't only make nicotine taste better but it is toxic for our bodies too.

My community has been affected by e-cigarettes because many youth use them. I can confidently say that the majority of teens in high school have vaped or tried vaping because I witness it. I am surprised that youth have easy access to e-cigarettes that there are some high schoolers selling products online. The level of access is unbelievable because it is easy for teens to get their hands on products, which can lead to more youth vaping. It is truly a pandemic that is spreading fast.

I believe that youth penalties should not be included in the bill because going to juvenile detention and/or being labeled as a "delinquent" can be life changing. There are other ways to help improve smoking cessation among youth. Some solutions might be using or creating education programs, rehabilitation programs, and a safe way to get kids back on the healthy track.

I strongly believe this bill can help many people in Hawai'i. Please support **SB 63** so that we can to lower smoking among youth, reduce health issues, and overall have healthier communities.

Thank you,
Emily Brown
Kaneohe, HI

February 7, 2021

Dear Chair Keohokalole, Chair Baker, members of the Health Committee and Commerce and Consumer Protection Committee,

My name is Zoey Duan and I would like to express my support for SB63. I believe e-cigarettes need to be regulated the same as other tobacco products because they are a prevalent problem that has disproportionately affected underaged youths. There is a lack of administrative control and regulation which has allowed countless illegal sales where underaged individuals are purchasing these products. Additionally, e-cigarettes and other tobacco products contain chemicals such as nicotine, as well as flavors that are purposely used to hook young people to use these tobacco and other similar drugs. Menthol is a type of flavor that has been marketed by tobacco industries to target youths, Native Hawaiians, and other minority groups into using their harmful products.

I strongly believe that we need effective methods to help steer youths away from drug abuse, however a youth penalty is not one of those methods. It will only cause negative tensions and stigmatizations between the State and youth which might cause people to be reluctant in complying with regulations.

When I was younger, I lost my grandfather to lung cancer due to his tobacco use. At this time, the dangers of tobacco and nicotine were unbeknownst to me, but as I got older I learned more about its detrimental impacts on the human body and mind. As I continued to educate myself on the topic, I realized that the deadly effects of tobacco did not end with my grandfather. Rather, it has been slowly eating away at millions of people in the U.S. each year. In fact, some of my own friends and acquaintances have fallen prey to the death trap that is tobacco. I try my best to convince them to reconsider their choices, saddened because I knew what the path with tobacco will eventually lead to if nothing is done to stop or prevent it. I know it is extremely difficult to get them and other youth to stop using tobacco products when there is a lack of government regulation. As a result, it makes it easy for many to obtain and abuse these products.

Therefore, I believe it is essential for the lives of my friends and the lives of countless youths in Hawai'i to impose strict regulation and strict enforcement to curb the use of e-cigarettes, menthol, and other addictive tobacco products. In order for change to happen, I ask for your support in passing SB 63! Thank you very much for your time.

Zoey Duan
Liliha, HI

February 7, 2021
Carissa Angelize Esta

To Chair Jarrett Keohokalole, Chair Rosalyn Baker, members of the Health Committee and Commerce and Consumer Protection Committee:

My name is Carissa Angelize Esta and I am a strong supporter of SB63. The usage of e-cigarettes is not safe because they are just as addictive and bad for our bodies like other tobacco products. The availability of flavors make it tempting, especially for youth, to try which could lead to addiction due to nicotine.

I know many young e-cigarette users are probably purchasing more to satisfy their addiction. They can easily obtain e-cigarette products by purchasing it online or from people they know. Personally, I think e-cigarettes should not be sold online at all because even if an age restriction were placed, young people will still find a way to obtain them. This is why regulation must be stricter to prevent young people from using e-cigarette products.

I have family members who started smoking cigarettes at a young age and continue to today. I would have conversations with them and they asked how I would behave in the future. I told them that I will never drink alcohol or do drugs when I get older, however they do not believe that is realistic because they also thought the same way when they were my age. I made a vow to never do drugs or alcohol, and have never tried them. However, I do admit I was tempted to try an e-cigarette because I was curious. I easily overcame this temptation, but there are many youth my age who fail to do the same and give in to their curiosity.

I strongly support this bill and believe that youth should be punished if they are using these products. However, I do not think they should face penalties. I think the only form of punishment they should get is from their own family. I hope young people use less drugs, but having a penalty for it may cause more harm than good.

I hope you support **SB 63** because it can help reduce the amount of young e-cigarette users and improve health. I believe that with your support, we can make this a reality!

Thank you!
Carissa Angelize Esta
Waipahu, HI

Chair Keohokalole, Chair Baker, and members of the Health Committee and Commerce and Consumer Protection Committee,

I strongly support SB 63. The sale of flavored tobacco should be banned in Hawai'i. My name is Kourtney Kwok and I am a recent graduate from Punahou School. I was always aware of the problem around tobacco, but it wasn't until two years ago that I first realized how troublesome the issue was becoming. When I learned that more than half of my younger cousin's class vaped, I knew this was a serious issue. She was only in middle school and yet kids her age were using drugs. Now, with COVID-19 putting smokers at a higher risk of contracting the virus, this issue is becoming evermore pertinent. I hope to end the youth vaping epidemic because I want to protect the health of kids like my younger siblings and cousins.

Tobacco, whether it's in the form of a cigarette or vaping liquid has significant effects on a child's brain development and overall health. There are hundreds of different carcinogenic and dangerous chemicals found in tobacco products, such as arsenic, formaldehyde, and cadmium. Formaldehyde is used to preserve dead bodies – this shouldn't be what Hawai'i's youth is putting inside themselves. Young kids end up using these products mainly because of the various flavors offered, and in fact, 97% of youth who do vape are using flavored e-cigarettes. There are over 15,500 unique flavors; for kids unaware of the harmful effects, this is what can hook them into using this dangerous product. Big Tobacco companies use this to their advantage by marketing flavors in ways that are familiar to children. They use packaging and designs similar to name brand candies, cereals, or local flavors to appeal to a younger audience. For example, there are products named "Hawaiian POG" or "Halawa Guava". These tricky marketing strategies mask the harmful effects of the drug.

By banning the sale of flavored tobacco, it would prevent kids from getting hooked into using these products. The law may state you need to be 21 and over to purchase these items, but those who are underage still manage to get a hold of them. In 2019, one in three of Hawai'i high school students and one in five middle school students reported a "current use" of e-cigarettes. Ending the sale of these addicting and enticing flavors would stop kids from continuing or joining. Education does play a role in prevention, but so does stopping the source as well. Without cool flavors to choose from, many youth would be discouraged from starting in the first place. This is why completely stopping the sale of flavored tobacco is important.

Understandably, there is a portion of adults that use flavored e-cigarettes to quit smoking. Banning flavored products would hinge on the variety of resources they have to help them quit, but it won't prevent them from quitting. There are still nicotine gum, patches, and lozenges, and even prescription medications available. Moreover, the risk on youth greatly outweighs the inconvenience on adults. A 2017 study by Dartmouth-Hitchcock Norris Cotton Cancer Center found that for every adult that uses e-cigarettes to help them quit smoking, 81 youth that vape will become a smoker. Is this a risk that Hawai'i wants to be taking?

Whichever side of the argument you fall on, at the very least this action should be taken. Yes, this decision will affect businesses and adults who choose to use tobacco, but it will also save the lives of children in our community. Placing this bill into law will prevent kids from ever

getting the opportunity to try using tobacco and protects them from a lifetime of nicotine addiction. Even more so, with the risk of COVID-19, it would prevent our keiki from becoming susceptible to this disease. While it is inevitable for there to be economic repercussions, I believe it is a necessary sacrifice we should all be making. When it comes to the health of those around us, especially of those in the next generation, it is an issue we should take seriously. By enforcing this bill, we can be one step closer to ending this epidemic.

Sincerely,

Kourtney Kwok

Patricia Foronda
7 February, 2021

End the Youth Vaping Epidemic! Support SB 63

My name is Patricia Foronda, and I am a current sophomore attending Damien Memorial School. I have always been surrounded by the complications that tobacco causes, ranging from experiences regarding my classmates to my close friends and family members. It was only recently that I realized how distressing the problem was, and how many of my acquaintances suffered under its unnoticeable consequences.

Tobacco, especially in vaping products, causes irreversible effects on an adolescent's brain development and overall bodily functions. Containing flavors such as Cotton Candy, Gummy Bear, and Lemon Lime Drop, it is no doubt that vaping corporations are targeting our nation's youth, regardless of having knowledge of the dangerous repercussions tobacco inflicts.

Restricting the sale of vape flavors that appeal to children is imperative in preventing them from a lifetime of addiction and organ failure. Additionally, despite companies gaining noticeably less profit from the cut of these products, it is a prime sacrifice that we need to be making. As a teenager who has seen how harmful vaping can be, I believe that through the enforcement of this bill, our society may be one step closer to terminating this epidemic. I implore you to support **SB 63** to protect youth and your loved ones from an irreparable tobacco addiction.

Dear Chair Keohokalole, Chair Baker and committee members of Health and Commerce and Consumer Protection,

I support SB63 because I believe e-cigarettes are just as dangerous as other tobacco products, if not, worse. The flavors make them more appealing to underage users and I have heard many people say they can easily just order them online with no problem. Doing a quick google search for “juice 30mg” will pull up loads of websites where the age verification is just a pop-up up saying “you must be 21 years or older to continue”. I even know of people who are of age but hook up underage kids with e-cigarettes, which is disgusting.

My friend who uses e-cigarettes now has terrible stamina and we can no longer go surfing together because she gets tired so easily. My friend’s friend got in a car crash when he was “redripping” his vape device while driving on the freeway. My friend’s friend who is younger than us even let his little brother (who is only in middle school) use his e-cigarette and he is now addicted as well.

Please help protect our keiki by supporting [SB63](#)! There are too many people affected to not take action. Thank you for your time.

Sincerely,
Lauren Kam
Pearl City
February 7, 2021

February 7, 2021

I am writing in support of SB63. I believe that we need to regulate e-cigarette use the same way as tobacco products because it'll have lasting effects for young bodies that are still developing, such as middle school and high school students. Although, I've heard that it's being used to help cope with the pandemic, it still will leave lasting health issues in the future, especially for people who need their physical bodies at their best for careers like athletics. It could affect their dreams and aspirations while only getting temporary relief.

Menthol flavors are one of the many reasons I believe that e-cigarettes are very appealing to kids. Hearing that they can follow this trend, they might use it because they want to look "cool" and blow smoke that smells like cotton candy, green apple, strawberries, and more. If there were no flavors and e-cigarettes only tasted like tobacco, then I think kids wouldn't want to vape or use e-cigarettes as much because it's distasteful.

I know many kids that use e-cigarettes. Personally, I've learned to not associate myself with people who have unhealthy habits, for the sake of myself and to keep me away from temptation. Also, e-cigarette products are very accessible because I know that in Kalihi, there are most likely "plugs" or people who are able to sell vape/e-cigarette products. Due to this, I believe there should be stricter regulations on purchasing and selling of tobacco products like e-cigarettes.

I believe there should not be youth penalties because in the end as many have heard the saying, "curiosity killed the cat". I believe that oftentimes people get into those e-cigarette habits because they want temporary relief when they are experiencing struggles. As a solution, if we provide more open resources for students and kids, then maybe it could result in lower e-cigarette use, in addition to banning flavors and having stricter regulations.

I hope you can help this bill pass so that we can keep people from the harms of e-cigarettes and tobacco products. Please help by supporting SB63!

Sincerely,

Elizabeth Lacambra
Kalihi

My name is Hayden Mandaquit and I am a supporter of **SB63** because flavored products hook many kids and young adults, who don't know what they're getting themselves into, to a lifelong addiction. I say "lifelong" because that want or need will only grow and quitting can feel impossible because the thought or need to smoke/vape will never really go away. It will always be there and the only way to help the many lives who are tormented because they want to quit but somehow can't is by banning e-cigarettes and menthol flavors.

One of my neighbors got into drugs and smoking which led him down many bad paths that he deeply regrets. He used to steal from his family, and even to the point where they had to lock their doors at night because they thought he might do something that could hurt them. This then placed him in jail and made it extremely hard for him to find a job afterwards. He struggles trying to turn his life around but that will always be a part of him.

Also, one of my middle school friends almost got addicted which is scary because she is totally against smoking. This shows how intimidating and tempting these products can be to not just me or my friends, but anyone.

There are days where I see kids, who are probably in their first year of middle school, walk up and down my street with a flavored e-cigarette product passing it to each other. I also see regular people on the side of the street smoking a cigarette with several packs next to him, which then goes to say how easy it can be for someone to get their hands on a e-cigarette.

Hawaii has the highest rate of middle and high school users in the U.S. which is shocking how these young adults who are not 21 yet still get their hands on flavored menthol and e-cigarettes. Hawaii is not the highest rate of young adults in only a few states, but the highest in the entire country. It is unbelievable and devastating knowing many kids are jeopardizing their health and life to an extremely addictive product and many think it has no impact on their health.

This bill should be supported so we can decrease the number of people addicted to e-cigarette products. **Please help make Hawaii a healthier state by providing your support for SB63!**

Thank you,
Hayden Mandaquit
Waipahu, HI

February 7, 2021

February 7, 2021

I am writing in strong support of SB 63. E-cigarettes and tobacco products are marketed in a way that makes them desirable to youth. Before they are able to make informed decisions, they are targeted as consumers by the industry.

The flavors change the way people perceive vaping. They make the act of vaping more enjoyable. If it tasted of tobacco, less people would be inclined to vape. I've lost count of the amount of peers I've seen vape. Many of them are vaping in school and even during class. More and more of my peers are smoking and vaping. Friends of mine who have sworn they'd never vape, have done it. They vape because it's easy to get your hands on, but they more than likely never would have if it cost more and was more difficult to get and knew the health risks.

So many young people are vaping without any actual knowledge of what it is doing to their bodies. They do it because of targeted marketing, peer pressure and fear of not being accepted. Once they try it they are hooked by the high levels of nicotine in these products.

Please support SB 63 and help keep youth from starting to vape and helping those that are addicted.

Arie Queja
Kapolei

To: Chair Jarrett Keohokalole - Health Committee
Members of the Health Committee
Chair Rosalyn H. Baker - Commerce and Consumer Protection Committee
Members of the Commerce and Consumer Protection Committee

Re: Support for SB 63

From: Haley Herrera

It took years to figure out cigarettes kill. E-cigarettes are new and affecting young people at alarming rates. We may not have the data yet to tie e-cigarettes to cancer but what we do know is bad enough, we need to end the Youth Vaping Epidemic now!

The Tobacco Industry has long used flavors to appeal to its audience and e-cigarettes are no different. My papa died from cigarettes which makes this very personal for me and I don't want to see any more of my peers get tricked into using tobacco products like he did.

Almost everyone I know vapes, in part because of how cheap and easy they are to get. SB 63 would increase the cost by taxing e-cigarettes like other tobacco products as well as close the online option which makes it so easy for my peers to buy. Along with eliminating flavors these are steps needed to address this epidemic.

My name is Ciara Mae and I support SB 63 because I believe that we need to regulate e-cigarettes the same as other tobacco products. They are all harmful towards our body and also towards other people. Smoking and vaping not only affects you but the people around you due to second-hand smoke.

It is important that menthol flavors be included in the ban for both e-cigarettes and other tobacco products because this is a reason why some people start to use tobacco and get addicted. Many people will think menthol will not be harmful because it tastes like candy or it smells good.

There are many stories as to why people around me vape or smoke. For example, starting from intermediate and even to now, many of my peers vape because it is like a "trend" or to be "cool". The tobacco industry targets us with messages to create this. Another example is that many of my peers vape because they wanted to try it out and follow the bandwagon, they see influencers on social media and want to be like them and now they got addicted from the high nicotine levels. They are dependent on it and they are feeling more stressed because the nicotine gets to them and they can't stop.

There should be more attention on the amount of people smoking and vaping, not only does it affect their health but a simple "habit" could lead to something far worse in the future. It may seem like it has no effect now but it slowly attacks your body, therefore these companies shouldn't be targeting children or anyone at all because it is not beneficial in any way, shape, or form.

The easy access to e-cigarettes has impacted my community by giving children, teenagers, and young adults an easy opportunity to buy it. There are some people who aren't aware and educated on the effects of vaping. I believe that youth penalties should not be included. Instead of punishing youth that have been targeted and are now addicted, we should help them, educate them and focus on the real problem which is the companies selling these products.

Ciara Mae Francisco
Waipahu

Chair Keohokalole, Chair Baker, and members of the Health Committee and Commerce and Consumer Protection Committee,

I support SB 63 because we need to regulate e-cigarettes like all other tobacco products because they all cause harm to the body.

My dad caught cancer from chewing tobacco and had to go through multiple operations in his mouth to help with it. Thankfully he is now cancer free.

My mom smoked American Spirit cigarettes most of her life, and like many people thought their claims of being natural, additive free and organic meant it was healthier and safer. When my dad got sick it was a wake up call to quit. She tried vaping with menthol flavors to quit but that didn't work and thankfully she was able to quit on her own.

It is important to me that flavors, including menthol, are banned in all tobacco products. Menthol makes it easier to start and harder to quit. By ending the sale of flavored products we can prevent kids from falling victim to the tobacco industry the way my dad and mom did and keep them from ever starting down the path to addiction and possibly cancer.

We need to end this and punish the companies that target kids and not the youth that fall victim to them.

Please support SB 63.

Ocean Lancaster
Wahiawa

In support of **SB63**:

Flavors of e-cigarettes make it desirable for younger children and teens to try. This can start a nicotine addiction. My friend's younger sister and her friends in elementary school have already started vaping. How did they get access to it? Through one of their peers' older siblings who is also under 18. There needs to be a restriction on who can buy. It is so terrible that people underage can easily buy these dangerous products, just by going online.

E-cigarettes contain dangerous chemicals that can unknowingly harm users. This is also a new form of smoking that has not been thoroughly studied enough and may have long-term negative effects. But we do know some short-term effects already. Practically everyone now is smoking and many have gotten what is called “popcorn lungs”. We don’t need anymore people with obliterated bronchioles.

Therefore I strongly urge you, Chair Keohokalole, Chair Baker, and members of the Health Committee, to support SB63. Thank you for your time.

Sincerely,

Sara Cheng

Honolulu, HI 96821

To: Chair Jarrett Keohokalole - Health Committee
Members of the Health Committee
Chair Rosalyn H. Baker - Commerce and Consumer Protection Committee
Members of the Commerce and Consumer Protection Committee

Re: Support for SB 63

My name is Kristin Lau and I am a university student. I strongly support SB 63. I believe we should regulate e-cigarettes the same as other tobacco products because *both* products are highly damaging to the health of the youth and adults in Hawai'i.

I believe banning the use of menthol flavors will quickly eliminate the use of e-cigarettes and other tobacco products because many of the youth look to menthol flavors to continue their addiction to vaping. I have heard some people say that they use menthol flavored e-cigarettes to quit smoking conventional cigarettes, but research has shown that menthol flavors do not actually help you cease using cigarettes. In fact, the rate one successfully quits smoking is actually slower than if you didn't use menthol flavored tobacco products at all. Taking those flavors away from those who smoke cigarettes whether e-cigarettes or other products, will potentially help all communities of Hawai'i to improve their health physically and mentally.

As a student interested in Public Health and protecting the future of Hawaii's youth, supporting SB 63 is extremely important! This is one small step that we must take to ensure Hawaii is no longer targeted by Big Tobacco as the "Menthol State."

Thank you for your time and consideration, and again I ask you to please support SB 63!

Kristin Lau
Manoa, Hawaii

February 7, 2021

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

I am in very strong support of SB 63 because e-cigarettes have impacted my peers at schools. I know so many people that use them when they should not have access to them. They vape in the bathroom which is disrupting their education and many are also being expelled for long periods of time which is a disciplinary act but also terrible because they are missing weeks and even months of education.

E-cigarettes are impacting the youth and the nicotine products inside of them are extremely addictive more than regular cigarettes. Many teens try to stop but they are addicts and it is hard to get help especially when they're parents don't know. Therefore I believe there needs to be a ban on flavors, so youth don't even get addicted (because with no flavors, the e-cigarettes are not as appealing). I also believe that menthol flavors should be included in the ban for both e-cigarettes and other tobacco products because it is also a harmful chemical being added to these products and it is also resulting in addiction (as it takes away the harsh flavor of tobacco and other chemicals).

Like I mentioned earlier, the consequences that youth face (because they are being targeted by Big Tobacco companies) is the disruption of important school education. Putting penalties will only further disrupt youth's education to a greater extent. They are missing weeks and months of education and that is concerning in the long run; they should not be forced to pay hundreds of dollars on top of that. They might not be able to graduate and decide to drop-out and end up believing that they have failed in life.

Therefore, I ask that you also strongly support SB 63, not only for the youth's health, but also their future.

Thank you,
Miriam Martinez

Captain Cook, Hawaii

I am writing in support of SB 63.

E-cigarettes are really popular among the people in my age group and it's easily accessible to people my age. It needs to be more restricted and less accessible, so those people who are underage won't be able to get their hands on e-cigarettes products.

Even when I was in middle school a lot of my friends started using e-cigarettes for fun at parties or during times they would hang out with their friends. Now, most of them are addicted to it with low grades and no life goals. Some of them are even high school dropouts with a low-paying job that they can barely survive on.

Flavors is what makes many people want to try e-cigarettes. It's a smart marketing trick used by big tobacco companies that negatively affects their audience. Menthol flavors can be more addictive to those who partake of e-cigarette products .

I think e-cigarettes need to be regulated like other tobacco products and we need to end the sale of all menthol tobacco products. Please support SB 63

Toetu'ua Leota
Ewa Beach

To: Chair Jarrett Keohokalole - Health Committee
Members of the Health Committee
Chair Rosalyn H. Baker - Commerce and Consumer Protection Committee
Members of the Commerce and Consumer Protection Committee

Re: Support for SB 63

Date: February 7, 2021

From: Stephanie Hicks

We need to regulate e-cigarettes the same as other tobacco products because we already know that they cause serious health issues. Unlike regular tobacco, we do not know the long-term effects of e-cigarette usage, since it has only been around for a fraction of the time tobacco has. Also, It is important that menthol flavors be included in the ban for both e-cigarettes and tobacco products because the flavors are oftentimes what attracts the younger generations and gets them to start vaping. Many children report starting by using menthol products and switch to harsher products, like cigars and cigarettes, afterward. Additionally, menthol flavors increase lung cell damage, even without nicotine, at any age.

Growing up, my mom, dad, and both grandparents were smokers. My earliest childhood memories involve my parents and/or grandparents smoking cigarettes or cigars. Now, my grandparents both have COPD, and have recently been diagnosed with lung cancer. This came as a shock to me and my family, as my grandparents are only in their early seventies. Because of this, I have become more conscious about what goes on around me. As I walk through the halls of my school, I see countless people who vape, or even smoke. I've had friends who have been hospitalized for collapsed lungs. Perfectly healthy athletes with one thing in common: they vaped. It is really sad to think about how my grandparents may never get to see me graduate college, or get married, and now I wonder if my high school friends will either.

The easy access to e-cigarette purchases online has impacted my community greatly. Every time I go to school, I see someone vaping, or buying an e-liquid or an e-cigarette device off of someone. Eventually, once the user is addicted, they no longer have to buy it from their classmates; they can go online and buy it. I believe that this is an unhealthy cycle. Someone buys a device/liquid off of someone else, the buyer becomes addicted, goes online to buy more devices/liquids, and sells them to other people, often younger. This cycle is unfair, and will not stop until e-cigarettes are less accessible.

I believe that there should be no youth penalties included in the bill. Addiction is a disease, and it is never the victim's fault. Plus, many big tobacco/e-cigarette companies have admitted that they

target children with their advertisements. In fact, as more money was spent on advertising, more children began to vape and smoke. Because of this, I do not believe there should be any penalties involved, since they were ultimately targeted by corporations to begin with. If punishments are involved, I believe that children will be less likely to come forward and get the support they need.

Chair Keohokalole, Chair Baker, and members of the Health Committee and Commerce and Consumer Protection Committee,

I support SB 63 because my uncle was addicted to cigarettes for most of his life, and not surprisingly he had lung cancer and passed away a few months after the diagnosis.

I feel e-cigarettes are as harmful to health as other tobacco products, and can cause death. Youth and children are not aware of this and think they are not the same. The tobacco industry uses flavors like menthol because it makes initiating the use of e-cigarettes and other tobacco products easier among the young age group making it easier to get addicted and harder to quit. Because of this I believe menthol should be included in any flavor ban.

Another concern is that online purchase makes it easy for anyone to buy e-cigarette including kids. During the stay home order, Amazon boxes are all over my neighbors' doors. It should not be that easy for kids to buy as many e-cigarettes as they want.

More tobacco usage means more chronic illness, which also means a heavier health care burden. We don't want to see cancer and other diseases impacting younger generations. Please support SB 63.

Keanna Lau
Honolulu

To: Chair Jarrett Keohokalole - Health Committee
Members of the Health Committee
Chair Rosalyn H. Baker - Commerce and Consumer Protection Committee
Members of the Commerce and Consumer Protection Committee

Re: Support for SB 63

Date: February 7, 2021

My name is Madison Makishima and I support SB 63

We need to regulate e-cigarettes the same as other tobacco products because they are ultimately harmful to the body's immune system and long term e-cigarettes use will cause similar effects to smoking.

My friends who smoke e-cigarettes don't know how truly bad vaping is for their health or that even second hand smoke from vaping can harm others. They have been misled by the industry and made to believe they are safe, as e-cigarettes have been marketed as safer than regular cigarettes.

Young kids and teens can easily access e-cigarettes online but don't penalize the ones that are addicted, it's not their fault, the penalties should be on the companies that make these dangerous products and market them to kids.

This issue is important to me because I have a grandma who currently suffers from long term effects of smoking cigarettes and I've seen what happened to her in the process of trying to recover. I don't want to see my friends go through the same thing.

Please support SB 63 and regulate e-cigarettes.

Chair Keohokalole, Chair Baker, and members of the Health Committee and Commerce and Consumer Protection Committee,

I want the Youth Vaping Epidemic to end and Support SB 63.

I believe that tobacco products should be regulated like other tobacco products. E-cigarettes can be found in the hands of children as young as middle schoolers. E-cigarettes may seem healthier solutions for adults seeking to quit smoking but are harmful in the hands of keiki. Nicotine and tobacco are highly addictive chemicals that should not be in a child's developing body.

E-cigarettes are the only tobacco product without a tobacco tax creating an incentive to buy e-cigarettes. In addition to the many flavors that e-cigarettes come in, it is aimed towards children. Menthol and other flavors are the things that hook kids the most onto vaping. It is highly unlikely that an adult would buy very sweet flavors like "Cotton Candy." Such incentives of e-cigarettes are targeted to a younger audience that does not know any better.

Although it is the children who get hooked, youth penalties should not be included in a comprehensive bill. It is not the fault of the children that e-cigarettes are easily accessible and addictive. It is the fault of the tobacco industry who targets impressionable children to buy their products. The tobacco industry should be penalized and not the children.

I have my own experience of how tobacco has affected my family. My grandfather started drinking and smoking at a young age. He had a tobacco addiction well into his adult life, unknowing of the many life-threatening effects it has. In 1999, My grandfather had a stroke that left him almost paralyzed. He was just 58 years old. He was given 6 months to live, but surpassed it and lived for 14 more years. In those 14 years, he lost the ability to walk, talk, eat, and live life. He was also diagnosed with chronic obstructive pulmonary disease (COPD), which is known to be caused by smoking. As I grew up, I never created a connection with him. He was going in and out of hospitals. He was either sitting in a wheelchair or laying in his bed. He had to be fed but towards the last years of his life, he was fed through a feeding tube. I knew he wasn't going to get any better. He passed away on April 30, 2014, at the age of 72, in the then St. Francis Hospice in Ewa Beach. I was 9 years old. Now at 16 years old, I regret not appreciating him when he was alive. No child should see their grandparent struggling to live. Every child has the right to love their grandparent. Children should not be a victim of tobacco in any shape or form. This is why I want to help end this problem.

Tobacco and E-cigarettes wreak havoc on this generation and especially on the children. They do not know how it will affect them in the future. Children should not be seen as a statistic or a valued customer. Please help put a stop to this by supporting SB63..

Nichole Bondocoy

Ewa Beach

February 7, 2021

Chair Keohokalole, Chair Baker, and members of the Committee on Health and Committee on Commerce and Consumer Protection,

My name is Aubrey Ahana and I am a strong supporter of SB 63. E-cigarettes are clearly killing people whether it be from an exploding battery or people getting diagnosed with diseases that could kill them. I'm highly against the increase of drugs and alcohol because it is truly destroying lives, not just for those that are using the substances, but for those who know people at risk of dying due to these substances.

Tobacco companies make different flavors so more people would buy their products. Even though menthol flavors don't seem like much, they still have the exact same amount of nicotine that every other flavor has. Just because it tastes different, it doesn't mean the nicotine or chemical in general is less.

Many people I know who use e-cigarettes get it from family members or mainly from people they know. At my last school, kids got e-cigarette products from upperclassmen. I know this because a couple friends of mine got their e-cigarette products from upperclassmen, or shared their vapes with each other. Others would buy vapes from other sources too. We must have stricter regulations so youth will have a harder time accessing these products.

I do not think youth should be penalized. Youth have no idea what they're getting themselves into and not every single kid knows what they're doing. People have high expectations for kids and teens thinking that they're adults and that they have their entire life planned out. However, teens aren't as aware as adults are because they are still developing. Adults know practically most things because they've done something in their past that caused them to learn from their mistakes. Teens haven't made or realized the mistakes they've made and are still learning. This is why youth should not be penalized. Adults have probably done something similar to what teens are doing now, and were given no consequences. What needs to be done is to educate people so they are more aware and hopefully in the future teens will probably realize they made some mistakes and will try to prevent the same things from transpiring for younger generations.

Please support SB 63!

Thank you,
Aubrey Ahana

Wailuku

February 7, 2021

To: Chair Keohokalole, Chair Baker, and members of the Health Committee and Commerce and Consumer Protection Committee,

My name is Jun Sung Pyo and I support SB 63. The reason why e-cigarettes need to be regulated is because there are many people that vape, especially in schools. People can get really sick and can even die from it. For example, teens and young adults who used e-cigarettes were five times more likely to be diagnosed with COVID-19 than people who didn't use them. Also, I think SB 63 should include menthol flavoring because it is available in products like Juul, and can attract more people to use vaping products.

In school, I had a friend who is a year older than me, was shy and never vaped. When we entered high school, we both got other friends. I was very surprised that he started to vape with his new group of friends because I never expected that.

Since people can get these products easily, I think it really impacts a lot of people going to school. I would estimate that about 60% of people at my school do vape. We need to put stricter regulations on these products so that we can help keep people healthier from the negative health effects.

I hope you support SB 63!

Sincerely,

Jun Sung Pyo
Hilo, HI

February 7, 2021

To: Chair Keohokalole, Chair Baker, and members of the Health Committee and Commerce and Consumer Protection Committee,

Aloha! My name is Lawrah Ashley Cabaya and I support SB 63. I believe that we need to regulate e-cigarettes the same as other tobacco products because e-cigarettes are just as bad as other tobacco products on the market. It is extremely crucial to eliminate e-cigarettes from the market because it is a heavily exploited product that is unhealthy and can cause a series of bad effects on the user. I think menthol flavors should be included in the ban for both e-cigarettes and other tobacco products because menthol flavors are the driving force to get consumers into buying these harmful products. Menthol flavors act as a blanket to mask the harmful chemicals consumers intake. Also, menthol flavors persuade users to purchase more tobacco products due to the "good taste" that these products provide. As a result, they intake more chemicals into their body, which can negatively affect them overall.

An electronic cigarette is an electronic device that stimulates tobacco smoking. E-cigarettes are exploited to many youth and unfortunately, many fall victim to using these tobacco products. One victim I would like to talk about is my boyfriend. Before meeting my boyfriend, he said he used e-cigarettes heavily during his middle school years. He'd vape during lunch, went to the bathroom to vape during class, and asked others if he could "take a hit". Due to vaping, he developed bronchitis and his body could no longer endure activities he used to do. He then fell into a bad state of mind. Due to the events he had experienced because of vaping, he took the brave decision to quit. After quitting, he felt much healthier and became much happier. Hearing my boyfriend's story made me pity those who use e-cigarettes and feel sorrow for those who had experienced the same situation he had. Middle school is the prime years of when your body experiences puberty and the body is still developing. The intake of harmful chemicals from tobacco products at a young age could cause serious side effects to the user and disrupt the body's growth and development. After learning about how so many youth are easily exploited to tobacco products and put themselves in vulnerable positions, it has inspired me to help the cause of banning menthol flavors and other tobacco products off of the market. I think it is extremely important to prevent youth falling victim to using tobacco products and developing concerning health problems rather than to spend money on alleviating the health problems that could have been prevented if the right steps were taken earlier.

Easy access to purchasing e-cigarettes online has impacted my community in an extremely negative way. I see many youths (5th, 8th, 10th graders and more) vaping. No one, especially at a young age, deserves to be using tobacco products with acknowledgment of serious health conditions developing if you do use tobacco products. The use of tobacco products does not only hurt the user, but the environment around them too. People who use tobacco products around others are causing other individuals to inhale toxic chemicals. Also, when people do not dispose of their products correctly, it causes chemicals to be dispersed into soil or being burnt in waste lands. The availability of e-cigarettes caused an increase in users and waste, both very harmful for the community.

I think youth penalties should not be included in the bill because youth are individuals who are still learning and growing. Many individuals who use tobacco products are aware of the effects it has but might not truly understand how bad they can be. It would be unfair for youth to receive penalties especially when they are young human beings who are still learning

Please help make Hawai'i healthier by supporting SB 63!

Mahalo,
Lawrah Ashley Cabaya
Waipahu, HI

February 7, 2021

To: Chair Keohokalole, Chair Baker, and members of the Committee on Health and Committee on Commerce and Consumer Protection,

I am Ethan Kimura and I am a high school student. I am writing to support SB 63. At school, I hear many students talking about smoking e-cigarettes. I used to just stay away from these people and took no action. However, I think that was a wrong thing to do, and action needs to be taken! This carelessness has blinded many people to the oncoming plague of addiction and depression caused by the handling of e-cigarettes. This along with the innocence of young children will negatively affect youth in Hawaii!

E-cigarette companies are producing flavors like blue-razz cotton candy, fruity pebbles, and more that are taking advantage of overly trustfull children and committing a horrendous crime to humanity. This strategy has worked disgustingly well as 80 percent of tobacco smoking youth first started out by using a flavored product. We must stop selling flavored tobacco products so youth are less inclined to try tobacco products and keep them from getting addicted.

Luckily, we have a solution, creating a bill that would restrict the use of flavored cigarettes which would otherwise ensnare the children of Hawaii to a very depressing and painful life. It is our duty to not just Hawaii but to the future generation to pass this bill and save lives.

Please support SB 63!

Sincerely,

Ethan Kimura
Hawai`i Kai

SB-63

Submitted on: 2/7/2021 9:13:23 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lauren Simpson-Gomez	Individual	Support	No

Comments:

I, Lauren Simpson-Gomez, support SB63. I think that making it unlawful to sell flavored products for electronic smoking devices would greatly benefit the health and safety of the youth in Hawai'i. Products containing nicotine, tobacco, or other related chemicals are harmful to anyone at any age. Our youth in Hawai'i is in danger right now. There are unregulated outlets that give easier access to users online, eliminating the in-person process completely. Making it easier to access and purchase these products with no age verification. The industry targets the youth and people under the legal age of consumption. Having unregulated outlets open and easily accessible in the state of Hawai'i is irresponsible and thoughtless. The sale of flavored products for electronic smoking devices, products containing nicotine, and other should be restricted to in-person sales only.

SB-63

Submitted on: 2/7/2021 11:09:13 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erica Yamauchi	Individual	Support	No

Comments:

Thank you for consideration of this measure. We are in a youth vaping crisis and as a mother of two children, I am deeply troubled by Hawaii's staggering vaping numbers re: middle and high school students. And during the current pandemic, teenagers and young adults who used e-cigarettes were 5x more likely to be diagnosed with COVID-19 than non-users. We have to put an end to youth vaping in our state, and this bill makes the right reforms to change course.

Erica Yamauchi, Kaimuki/Wilhelmina Rise

Date: February 8, 2021

To: Chair Jarrett Keohokalole - Health Committee
Members of the Health Committee
Chair Rosalyn H. Baker - Commerce and Consumer Protection Committee
Members of the Commerce and Consumer Protection Committee

Re: Support for SB 63

My name is Rojelle Bohol and I am a university student. I am writing in support of SB 63.

I see many people in my community smoke and use e-cigarette products. I am very concerned because I noticed more younger people are using these products. Some of my friends who did not smoke in high school do today because of the increasing popularity of e-cigarettes and flavors. Also, I have a younger brother who is in high school and I am afraid he will start smoking or begin to use e-cigarettes since many people his age are beginning to or already use them. Everyone should be concerned because e-cigarettes contain harmful chemicals that lead to negative health outcomes. This topic is especially important today because studies show that teens and young adults who used e-cigarettes were five times more likely to be diagnosed with COVID-19 than non-users. Despite the adverse effects, people continue to use these products for various reasons. There needs to be something done!

Smoking and e-cigarette use can negatively affect health, whether it is from direct use or secondhand smoke. Tobacco and e-cigarette products are used both by adults and youths. Tobacco companies try to get more people to use their products through marketing and providing flavors. Flavors make young people especially curious about their products because they might seem more appealing. As a result, youths might want to start smoking due to the availability of these flavors. However appealing they may seem, e-cigarette products still contain nicotine, which is addictive! We should be focusing our efforts on preventing smoking and e-cigarette use, especially among youths, so fewer are addicted and/or stop using it in the future.

We can prevent this by ending the sale of all flavored tobacco products, including menthol, so they are unappealing and attract less youth. Also, we need to have stricter regulations on the sale of tobacco and e-cigarette products and apply a tobacco tax on e-cigarettes so underaged people will have a more difficult time obtaining these products. Revenue from the tax can be used in prevention strategies and help people recover from addiction.

This issue is a concern for all people regardless of age. Many are being affected by these products and it's time to stop it. To prevent tobacco and e-cigarette related disparities from affecting people in Hawai'i, we need to do something now! I strongly support SB 63 because I want my community and all communities in Hawai'i to become healthier. The implementation of this bill will bring us a step closer to doing that. Please support SB 63 for this to become a reality!

Mahalo,
Rojelle Bohol
Kaimuki, HI

SB-63

Submitted on: 2/8/2021 7:06:13 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Roxann Rowe	Individual	Support	No

Comments:

As a health care provider, a Native Hawaiian, and a mother of young adults, I support SB63 which would make it more difficult for teenagers to have access to e-cigarettes.

- We in the midst of a **youth vaping epidemic**. In Hawai'i, one in three high school students and one in five middle school students report "current use" of e-cigarettes (Hawai'i YRBSS, 2019).
- Hawai'i was successful in reducing cigarette use to record lows through policy, prevention, education, and cessation programs. By implementing the same tactics, we can **reverse the trends** in youth e-cigarette use.
- Comprehensive regulations include:
 - **Ending the sale of all flavored tobacco products**, including the flavor menthol – these flavors entice youth, while the nicotine keeps them hooked for life
 - Restricting online sales to licensed retailers only. This **requires face-to-face purchases** for consumers, making it harder for youth to obtain these products via the internet.
 - Applying a **tobacco tax to e-cigarettes** – it's the only tobacco product without one. Dedicating some of this revenue to fund tobacco prevention and control programs complements and strengthens the effect of tobacco policies in reducing smoking rates.
 - Requiring **licensing and permitting** for tobacco retailers and wholesalers to help implement and enforce current laws and regulations.
- Teenagers and young adults who used e-cigarettes were **5x more likely to be diagnosed with COVID-19 than non-users**. Those who had used both e-cigarettes and conventional cigarettes (dual use) were 7x more likely to be diagnosed with the disease.
- Tobacco use is an **equity and social justice issue**. According to the CDC's 2019 Youth Risk Behavior Surveillance System (YRBSS), approximately 31 percent of Hawai'i high school students and 18 percent of Hawaii middle schoolers are current e-cigarette users. For Native Hawaiian and Pacific Island (NHPI) youth these numbers climb to 40 percent for high school and 30 percent for middle school.
- Disparities in tobacco use are due to the tobacco industry's **history of marketing menthol cigarettes to youth and vulnerable groups**, such as the

African American community. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).

Sincerely,

Roxann Rowe, APRN

SB-63

Submitted on: 2/8/2021 8:13:31 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Koga	Individual	Support	No

Comments:

I strongly support SB 63 that proposes comprehensive regulations to address the youth vaping epidemic in Hawaii. As an educator, mother and grandparent I am deeply concerned about the significant number of our youth that are using these harmful tobacco products. Recent Hawaii data indicates that one in three high school students are regular users of e-cigarettes and one in two are experimenting with vaping.

We need urgent action to address this public health crisis and protect Hawaii youth from the harms of e-cigarette use and addiction. This bill includes two important regulations to reverse the dangerous trend of the youth vaping epidemic. Please consider ending the sale of all flavored tobacco products and restricting online sales to prevent youth from obtaining vaping products on the internet.

During the COVID-19 pandemic, it is especially important to deter youth vaping and encourage e-cigarettes cessation. Smoking and vaping are linked to greater risks for susceptibility and severe illness from COVID-19. A Stanford University study stated that teens and young adults who used e-cigarettes were five times more likely to be diagnosed with COVID-19 than non-users.

Please protect Hawaii's keiki and their future. Thank you for the opportunity to submit this testimony.

SB-63

Submitted on: 2/8/2021 8:45:37 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Helen Barrow	Individual	Support	No

Comments:

My name is Helen Barrow and I support the passage of SB 63 for these reasons below:

Teenagers and young adults who used e-cigarettes were 5x more likely to be diagnosed with COVID-19 than non-users. Those who had used both e-cigarettes and conventional cigarettes (dual use) were 7x more likely to be diagnosed with the disease.

Ending the sale of all flavored tobacco products, **including the flavor menthol** – these flavors entice youth, while the nicotine keeps them hooked for life

Restricting online sales to licensed retailers only. This requires **face-to-face** purchases for consumers, making it harder for youth to obtain these products via the internet.

Applying a tobacco tax to e-cigarettes – it's the only tobacco product without one!!
Dedicating some of this revenue to fund tobacco prevention and control programs complements and strengthens the effect of tobacco policies in reducing smoking rates.

Requiring licensing and permitting for tobacco retailers and wholesalers to help implement and enforce current laws and regulations.

Mahalo for your time and service !!



**American
Heart
Association.**

LATE

Testimony for SB 63, “Relating to Electronic Smoking Devices”

The American Heart Association (AHA) of Hawaii supports the intent of SB 63 but recommends amendments to the bill that could prevent the title to allow for inclusion of all tobacco products to be included in the proposed tobacco flavor ban. We suggest adding the flavor ban section of SB 63 to a bill with a broader title to address the potential risk of having the language struck down by a legal challenge based on the narrow title of this bill.

Chairman of the Board

Glen Kaneshige

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Michael Rembis, FACHE

Andrew S. Rosen

Timothy Slottow

Jennifer Walker

By focusing only on electronic smoking devices and not extending the flavor ban, including menthol products, to traditional cigarette and other tobacco products the bill would invite the industry to market to youths, and youths to transition to menthol-flavored cigarettes and other flavored tobacco products.

The evidence supporting a comprehensive tobacco flavor ban is clear. As we discuss below, flavored tobacco products are highly attractive to youth and have led to increased initiation and use among children and adolescents. The number of flavored products on the market has also increased substantially with the tobacco industry marketing thousands of fruit, candy, and mint flavored products that appeal to children. Allowing these products to remain on the market puts a new generation at risk of a dangerous addiction. In addition, 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.

While we understand that some adult tobacco users report using flavored products to transition or switch from combustible cigarettes, there is little evidence supporting their use as a cessation tool. 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 don’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 (as regulated by the government), 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.

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

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 e-cigarette use. The American Heart 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.

That's why we encourage legislators to make protecting children its top priority when considering legislative options for flavored tobacco. A government study found that 81 percent of kids who have ever used tobacco products started with a flavored product, including 81 percent who have tried e-cigarettes and 65 percent who have ever tried cigars.

AHA feels that a blanket flavoring ban is needed because a wide array of flavors appeal to youth and young adults, which increases the risk of initiation and continued tobacco use. In particular, studies show that menthol cigarettes increase initiation, especially among youth. Menthol is found in most cigarettes, even those not marketed specifically as menthol cigarettes. Menthol's cooling and analgesic properties reduce the harshness of cigarette smoke and irritation from nicotine. Evidence indicates that menthol enhances the addictiveness of cigarettes, both by increasing the likelihood of nicotine addiction in youth who experiment with smoking and by making cessation among adult smokers more difficult.

Menthol cigarettes are used at disproportionately higher rates by racial and ethnic minority smokers, including Native Hawaiians and Filipinos, and Asian Americans. Also, approximately 71 percent of all young LGBT smokers use menthol cigarettes. At least half of all teen smokers use menthol tobacco products. Use of menthol products is also prevalent among non-minority youth and those making less than \$10,000 per year.

A convincing body of evidence has shown that tobacco-related health disparities are exacerbated by targeted marketing in minority areas and the consumption of menthol tobacco products. Internal tobacco industry documents show that tobacco companies have a long history of using flavors, including menthol, to reduce the harshness of their products to make them more appealing to new users, almost all of whom are under age 18. The FDA's Tobacco Products Scientific Advisory Committee noted that "Menthol cannot be considered merely a flavoring additive to tobacco. Its pharmacological actions reduce the harshness of smoke and the irritation from nicotine." The Committee concluded:

- Menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking; and
- Young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.

The number of flavored tobacco products on the market increased

substantially after flavored cigarettes were banned. After the 2009 federal ban on flavored cigarettes (excluding menthol cigarettes) took effect, the tobacco industry started producing different types of flavored tobacco products that were not subject to the prohibition. This led to the rise in the number of youths using flavored cigars, and especially in Hawaii, e-cigarettes. Both the tobacco industry and youth adjusted to the cigarette flavor ban by moving to other tobacco products where flavors were still allowed. If the Hawaii State Legislature were to pass a flavoring ban but limit it to certain types of products or flavorings, we are likely to see the same thing happen again.

The American Heart Association also recommends amendments to the section of the bill establishing fines for underage tobacco users.

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 with 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 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.

We applaud the allocation of additional funding to the Hawaii Tobacco Prevention and Control Special Fund. Without adequate funding of smoking prevention and

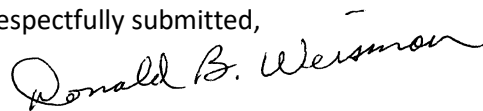
cessation programs, Hawaii taxpayers, non-smokers and smokers alike, will continue to have to pay the enormous medical costs related to smoking while the tobacco industry reels in hideous profits.

According to the U.S. Centers For Disease Control (CDC), The tobacco industry spends billions of dollars each year on cigarette and smokeless tobacco advertising and promotions. \$9.06 billion was spent on advertising and promotion of cigarettes and smokeless tobacco combined—about \$25 million every day, and more than \$1 million every hour.

Hawaii received \$160.3 million (estimated) in revenue from tobacco settlement payments and taxes in fiscal year 2019. Of this, the state allocated \$4.5 million in state funds to tobacco prevention in fiscal year 2019, 32.9% of the Centers for Disease Control and Prevention’s annual spending target (none of the allocated prevention funding came from tobacco taxes).

The American Heart Association of Hawaii urges you to support SB 63 with our suggested amendments.

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 name.

Donald B. Weisman

Testimony of
Jonathan Ching
Government Relations Manager

LATE

Before:
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

February 9, 2021
9:00 a.m.
Via Videoconference

Re: SB 63, Relating to Electronic Smoking Devices

Chair Keohokalole, Chair Baker, and committee members, thank you for this opportunity to provide testimony on SB 63, which comprehensively regulates e-cigarettes as a tobacco product by ending the sale of flavored tobacco and e-liquids, taxing e-cigarettes and closing the online purchasing loophole, as well as direct a portion of the funds from taxes to prevention and cessation programs.

Kaiser Permanente Hawai‘i STRONGLY SUPPORTS SB 63.

Kaiser Permanente Hawai‘i is Hawai‘i’s largest integrated health system that provides care and coverage for approximately 260,000 members. Each day, more than 4,400 dedicated employees and more than 600 Hawai‘i Permanente Medical Group physicians and providers come to work at Kaiser Permanente Hawai‘i to care for our members at our 20 medical facilities, including Moanalua Medical Center, providing high-quality care for our members and delivering on our commitment to improve the health of the 1.4 million people living in the communities we serve.

Youth in Hawai‘i also experience tobacco-related harm at alarming rates. Approximately 400 youth in Hawai‘i under the age of 18 become new daily smokers each year,ⁱ and, unless smoking rates decline, an estimated 21,000 Hawai‘i youth under 18 who are alive today will die prematurely from smoking-related disease.ⁱⁱ In 2017, approximately 42% of high school students and 27% of middle school students in Hawai‘i reported having used electronic tobacco products at least once.ⁱⁱⁱ In the same year, more than a quarter (25.5%) of high school students and 15.7% of middle school students in Hawai‘i reported current use of electronic tobacco products.^{iv} In 2017, approximately one in five (22.1%) of high school students in Hawai‘i reported ever smoking cigarettes and 8.1%

reported current cigarette use.^v A 2015 survey also found that an estimated 41,000 high school students in Hawai‘i smoked their first cigarette before the age of 13.^{vi}

The COVID-19 pandemic makes these reforms even more critical. An emerging body of evidence suggests that smokers may be more vulnerable to COVID-19 complications.

To ensure the future health of our communities, we must help young people avoid becoming hooked on these addictive products. Flavored tobacco plays a key role in convincing young people to try these products. As such, **Kaiser Permanente Hawai‘i supports ending the sale of all flavored tobacco products, including flavored e-cigarettes, as we view flavored tobacco as a threat to public health.**

Further, flavored tobacco is extremely prevalent in vaping products, which continues to be on the rise with teens. There are many risks of vaping for teens and young adults, including: inhaling nicotine harms brain development and can lead to addiction and the use of more harmful tobacco products; vaping has some known short-term health effects and unknown long-term effects; and flavoring and other ingredients may be toxic. Moreover, vaping still has negative second-hand smoke effects.

We are particularly concerned about the availability and appeal of flavored tobacco products to youth and we believe SB 63 is a significant step in restricting access to these dangerous products and is a positive step to preventing another generation of young people from living with a lifetime of addiction.

We ask the committees to PASS SB 63. Mahalo for the opportunity to testify on this important measure.

ⁱ Campaign for Tobacco-Free Kids. “The Toll of Tobacco in Hawaii.” Updated Nov. 15, 2018: <https://www.tobaccofreekids.org/problem/toll-us/Hawaii>. Accessed November 18, 2018.

ⁱⁱ Campaign for Tobacco-Free Kids. “The Toll of Tobacco in Hawaii.” Updated Nov. 15, 2018: <https://www.tobaccofreekids.org/problem/toll-us/Hawaii>. Accessed November 18, 2018.

ⁱⁱⁱ Hawaii Health Data Warehouse, State of Hawaii, Hawaii School Health Survey: Youth Risk Behavior Survey Module, 2017.

^{iv} Hawaii Health Data Warehouse, State of Hawaii, Hawaii School Health Survey: Youth Risk Behavior Survey Module, 2017.

^v Hawaii Health Data Warehouse, State of Hawaii, Hawaii School Health Survey: Youth Risk Behavior Survey Module, 2017.

^{vi} Hawaii Health Data Warehouse, State of Hawaii, Hawaii School Health Survey: Youth Risk Behavior Survey Module, 2015.



Testimony to the Senate Committees on Health and Commerce and Consumer Protection in
SUPPORT of SB 63: RELATING TO ELECTRONIC SMOKING DEVICES

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

Hearing date: February 9, 2021; Room number: 229

My name is Vija Sehgal MD, MPH, PhD, Chief Quality Officer and Director Pediatric Services for Waianae Coast Comprehensive Health Center. I write in **STRONG SUPPORT of SB 63** which will comprehensively regulate e-cigarettes as a tobacco product by ending the sale of flavored tobacco and e-liquids, taxing e-cigarettes and closing the online purchasing loophole as well as direct a portion of the funds from taxes to prevention and cessation programs.

We are in the midst of a **youth vaping epidemic**. A 2019 Youth Risk Behavior Survey reported one in three Hawaii high school students and one in five middle school students currently using e-cigarettes. These proportions are sadly even higher for Native Hawaiian and Pacific Island youth. It has been noted that adolescents and young adults who used e-cigarettes were five times more likely to be diagnosed with COVID-19 than non-users.

Hawaii has been remarkably successful in reducing cigarette use through policy, prevention, education, and cessation programs. It is time to implement similar strategies in order to reverse the unfortunate trends in adolescent e-cigarette use.

Comprehensive regulations would include:

- Ending the sale of all flavored tobacco products, which entice youth and subsequently result in their potentially life long nicotine addiction.
- Restricting online sales to licensed retailers only, requiring face-to-face purchases, making it more difficult for youth to obtain these products through the internet.
- Applying a tobacco tax to e-cigarettes and dedicating some of their revenue to fund tobacco prevention and cessation programs.
- Requiring licensing and permitting for tobacco retailers to help implement and enforce current laws and regulations.

The current COVID-19 pandemic has been devastating to the health of many in Hawaii, as well as to our economy. Adolescents and young adults who used e-cigarettes were five times more likely to be diagnosed with COVID-19 than non-users. SB 63 would not only bring much needed revenue back into our State, it would, more importantly, improve the health of our youth.

Thank you for the opportunity to testify.

LATE

Testimony Before the Hawaii State Senate Committee on Health regarding SB 63

Prepared for: Committee on Health,
Hawaii State Senate

Prepared by: The Consumer Freedom Project at Reason Foundation

Date: February 9, 2021



Chair Keohokalole, members of the committee, thank you for allowing me the opportunity to submit testimony on Senate Bill 63.

My name is Guy Bentley, and I'm the director of consumer freedom at the Reason Foundation, a 501(c)3 nonprofit think tank. The consumer freedom project analyzes and promotes policy solutions that improve public health while avoiding unintended consequences and protecting consumer choice.

While the intentions behind SB 63 are to be applauded, there's reason to believe prohibition of flavored e-cigarette products would harm public health and fail to achieve its purpose.

E-cigarettes are a dramatically safer form of nicotine consumption than combustible cigarettes.¹ Nicotine is one of the principal addictive agents in cigarettes but is not the cause of smoking-related disease, which stems from combustion and inhaling the resulting smoke. Since e-cigarettes do not involve combustion, they are substantially safer.

Research published in the New England Journal of Medicine shows e-cigarettes to be almost twice as effective as nicotine replacement therapies at helping smokers quit.² The Cochrane Review, considered the gold standard of international evidence-based medicine, finds e-cigarettes increase the number of people who stop smoking compared to nicotine replacement therapies.³

¹ Royal College of Physicians. "Promote e-cigarettes widely as substitute for smoking says new RCP report." 28 April 2016.

<https://www.rcplondon.ac.uk/news/promote-e-cigarettes-widely-substitute-smoking-says-new-rcp-report>

² 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>

³ Hartmann-Boyce J, McRobbie H, Lindson N, Bullen C, Begh R, Theodoulou A, Notley C, Rigotti NA, Turner T, Butler AR, Fanshawe TR, Hajek P. "Electronic cigarettes for smoking cessation." Cochrane Database of Systematic Reviews 2020, Issue 10.

<https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD010216.pub4/full>

Furthermore, all e-cigarettes are currently under review by the Food and Drug Administration (FDA). If any e-cigarette product is deemed to be net harmful to public health, including youth, it will be denied permission of sale and removed from the market. If not, they will be authorized for sale because they are deemed to be appropriate for the protection of public health.

Fortunately, youth vaping has fallen substantially. According to the 2020 National Youth Tobacco Survey (NYTS), youth vaping fell nearly 28 percent in 2020.⁴ The survey was conducted before the closure of schools and the imposition of lockdowns in response to the coronavirus pandemic. The smoking youth smoking rate in Hawaii is also at an historic low.⁵

Furthermore, data released by the Centers for Disease Control and Prevention (CDC) shows flavors are not even the leading reason why youth start vaping. According to the CDC, the primary reason youth initiate vaping is “curiosity,” followed by “friend or family member used them,” with “they are available in flavors, such as mint, candy, fruit, or chocolate” coming a very distant third.⁶ Just as the availability of flavored marijuana, or alcohol, fails to predict drug use or drinking, the same is true for e-cigarettes. But e-cigarette flavors are important to those adult smokers trying to transition away from cigarettes.

According to another 2020 study by researchers at Yale School of Public Health, the use of e-cigarette flavors is positively associated with smoking cessation outcomes for adults but not associated with increased youth smoking.⁷ The vast majority of adults who use e-cigarettes to quit smoking use flavors other than tobacco.

Along with a ban on vape flavors, SB 63 would also include e-cigarettes in the definition of “tobacco products” for the purposes of the cigarette tax. The difference in risks strongly suggests from a public health perspective that e-cigarettes be taxed at a substantially lower rate than combustible cigarettes. This incentivizes smokers who cannot or will not quit through other means to switch to a less dangerous form of nicotine consumption.

⁴ Food and Drug Administration. “Youth Tobacco Use: Results from the National Youth Tobacco Survey.” <https://www.fda.gov/tobacco-products/youth-and-tobacco/youth-tobacco-use-results-national-youth-tobacco-survey>

⁵ Centers for Disease Control and Prevention. “High School Youth Risk Behavior Survey: 2019.” <https://nccd.cdc.gov/youthonline/app/Results.aspx?LID=HI>

⁶ Wang TW, Gentzke AS, Creamer MR, et al. Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019. *MMWR Surveill Summ* 2019;68(No. SS-12):1–22. https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm#T6_down

⁷ Abigail S. Friedman, PhD; SiQing Xu, BS. “Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation.” *JAMA*. June 5, 2020. <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2766787>

Half to three-quarters of American smokers are from low-income communities, so any price increase will necessarily present a more significant barrier to poorer smokers looking to switch to vaping than smokers with higher incomes. According to a working paper published in the National Bureau of Economic Research, the price elasticity for e-cigarettes is -1.3 , so for every 10 percent increase in the price of e-cigarettes, sales fall by 13 percent.⁸ By contrast, cigarettes are highly inelastic, ranging from -0.3 and -0.7 , so for every 10 percent increase in the price of cigarettes sales decline between three and seven percent.

Vapers who use the products to replace traditional cigarettes are highly sensitive to price changes. The negative effects of high e-cigarette taxes have been observed in Minnesota, which imposes a tax of 95 percent on the wholesale price. According to an analysis published in the Journal of Risk and Uncertainty, the tax resulted in 32,400 additional adult smokers who would have quit smoking in Minnesota in the absence of the tax.⁹

Independent e-cigarette businesses such as vape shops are also highly sensitive to large tax increases, often operating on wafer-thin margins. In July 2016, the Pennsylvania General Assembly passed a 40 percent wholesale tax on vapor products. By November of the next year, 130 small vape shops closed.

If public health promotion is the priority for taxes on tobacco and nicotine products, it would be necessary to maintain as broad a differential as possible between risk-reducing products like e-cigarettes and combustible cigarettes.

E-cigarette taxes are often considered a necessary tool to reduce youth vaping but as of yet, there's little evidence to suggest they achieve significant results. There is strong reason to believe youth e-cigarette use can be reduced with alternative public health strategies that will not deter adult smokers from switching to a safer nicotine product.

Thank you again for the opportunity to comment on SB 63, and please do not hesitate to reach out if we can provide additional information or insights on this subject.

Guy Bentley, director of consumer freedom
guy.bentley@reason.org

⁸ Cotti, Chad D and Courtemanche, Charles J and Maclean, Johanna Catherine and Nesson, Erik T and Pesko, Michael F and Tefft, Nathan. "The Effects of E-Cigarette Taxes on E-Cigarette Prices and Tobacco Product Sales: Evidence from Retail Panel Data." National Bureau of Economic Research. August 2020. <https://www.nber.org/papers/w26724>

⁹ Saffer H, Dench D, Grossman M, Dave D. E-Cigarettes and Adult Smoking: Evidence from Minnesota. J Risk Uncertain. 2020. <https://pubmed.ncbi.nlm.nih.gov/32943812/>

LATE

SB-63

Submitted on: 2/8/2021 10:33:14 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Beglar	Testifying for Vapor Bar inc.	Oppose	No

Comments:

Please do the right thing and save jobs in our state, we have been getting hit hard with Covid and this will finish all vape shops and thousands of employees. Don't let big tobacco win the fight. Thank for taking the time and reading my testimony.

SB-63

Submitted on: 2/8/2021 9:04:11 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Valerie Crabbe	Individual	Support	No

Comments:

I am in support of SB63.

LATE

SB-63

Submitted on: 2/8/2021 9:19:54 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jostin A Iriarte	Individual	Oppose	No

Comments:

I oppose Senate Bill SB63, I find it unfair to businesses who already has been compliant and following all state & federal protocols. the issues i see is that so many bills & regulations are being put forward yet enforcement on all these rules aren't being done. Many vapes shops who are in compliant isnt the ones to fault for underage vaping there needs to be more enforcement & stringent laws to fine those illegally in possession of vaping products, why tackle the industry itself rather truly enforcing the rules, the rules on possession of vape products & illegal sale of products should be at the very lease causing fear, yet its a slap on the wrist.

LATE

To whom it may concern,

I am opposing the current bill (SB63) that will destroy the vaping industry here in Hawaii and put hundreds of people out of employment. 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 have strict guidelines vape shops must follow, or heavy fine will be applied or even jail time. Yet we are somehow made the enemy of public health. Meanwhile alcohol / flavored alcohol can be advertised online/TV Commercials/Super Bowl and sold in super markets.

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 a jobs.

Vinh Tran,

Resident of Honolulu, Hawaii.

LATE

SB-63

Submitted on: 2/8/2021 10:09:12 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

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

Comments:

Hello,

I would like to oppse this Bill. Small businesses are already struggling to make ends meet and employees will be losing there jobs making them go on Unemployeement. Passing this bill will put people in more risk and danger. They will be looking for products in the Black Market which is far more harmful then getting it from an Authorized Business. This is create more harm to the people.

LATE

SB-63

Submitted on: 2/8/2021 10:13:21 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nadiene Wu	Individual	Support	No

Comments:

Committee on Commerce and consumer Protection

Senator Donovan M. Dela Cruz

Representative Val Okimoto

Aloha Senator Dela Cruz, Representative Okimoto, and Members of the committee

I am in support of SB63, relating to electronic smoking devices, to regulate e-cigarettes as a tobacco product by ending the sale of flavored tobacco and e-liquids, taxing e-cigarettes, halting online purchasing to minors, and directing a portion of the funds from taxes to much needed prevention and cessation programs.

With Hawaii in the midst of a youth vaping epidemic, 1:3 high school students and 1:5 middle school students reported use of e-cigarettes in 2019. As lawmakers, it is imperative to reverse this trend of nicotine addiction by ending the sale of all flavored tobacco products as these flavors are directed to be attractive to our youth. Retailers should be restricted to face-to-face purchases as online sales make it easier for minors to buy these products illegally. Taxes on e-cigarettes should also be taxed to aid in funding tobacco prevention and control programs to help reduce smoking rates as well as licensing and permitting for these tobacco retailers and wholesalers.

According to the American Cancer Society, it is vital to note that aerosol from an e-cigarette can contain nicotine and other harmful substances that are addictive and can cause lung disease, heart disease, cancer, and now a higher risk associated with COVID-19. I urge you to protect Hawaii's youth and future generation from these consequences of using these harmful, unregulated, and addictive products with your support of SB63 and other related use of tobacco products.

Respectfully,

Dr. Nadiene Wu

LATE

SB-63

Submitted on: 2/8/2021 11:22:11 AM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

Support

LATE

SB-63

Submitted on: 2/8/2021 7:38:41 PM
Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lani Hernandez	Individual	Oppose	No

Comments:

Keep the flavors.

LATE

SB-63

Submitted on: 2/8/2021 7:54:22 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

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

Comments:

It's high time to end the bigotry epidemic at the state capital by saying no to the haters behind this bill.

February 8, 2021

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

LATE

Aloha, Chair Baker, Vice Chair Chang and Members of the Committee,

I am a resident of the Big Island and I am respectfully writing to express my support of SB63 Relating to Electronic Smoking Devices.

As a mother of two, and as a Pediatric Occupational Therapist, I feel that regulatory action in regards to electronic smoking devices is needed to address the youth vaping epidemic in Hawaii. Advertising for electronic smoking devices targets adolescents, utilizing social media, attractive packaging and by offering a variety of attractive flavors. Many individuals do not realize that a number of electronic smoking devices (or e-cigarettes) contain higher concentrations of nicotine than combustible cigarettes. Furthermore, nicotine exposure in adolescents has been linked with cognitive deficits and impairment in memory and executive function. There are studies supporting the link between vaping as an adolescent and smoking cigarettes in adulthood.

I fully support SB63 in proposing that electronic smoking devices be subject to the same regulations as cigarettes, including removing flavored products, establishing a tobacco tax on e-cigarettes, requiring retail licensure, and restricting online sales.

Mahalo for your time and attention to this matter. I am respectfully requesting that SB63 be passed through the committee.

Sincerely,

Angela Savage

LATE

SB-63

Submitted on: 2/8/2021 10:00:20 PM

Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Chun	Individual	Support	No

Comments:

Offering support on this measure to regulate these products and protect public health in our state. Mahalo.

LATE

SB-63

Submitted on: 2/9/2021 8:43:37 AM
Testimony for HTH on 2/9/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sara Lee S	Individual	Support	No

Comments:

I support Bill SB63. This bill will provide additional support and resources to Hawaii's Youth by having certain percentage of moneys received from the cigarette tax and tobacco tax to the Hawaii's Tobacco Prevention / Comprehensive Youth Tobacco Cessation Program. The youth of Hawaii deserves the right to be informed and educated about how harmful tobacco products can for their bodies. It will also give youth under the age of 21 the opportunity to complete a tobacco education or use cessation program etc. If this bill is approved, I believe it will benefit the youth of Hawaii. Thank you!