

STAND. COM. REP. NO.

1088

Honolulu, Hawaii

MAR 03 2023

RE: S.B. No. 975
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committees on Ways and Means and Judiciary, to which was referred S.B. No. 975, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose and intent of this measure is to regulate electronic smoking devices and e-liquids in the same manner as traditional tobacco products.

More specifically, the measure:

- (1) Establishes the criminal offense of unlawful shipment of tobacco products;
- (2) Amends the definition of "tobacco products," as used in the State's cigarette tax and tobacco tax law, to include electronic smoking devices and e-liquids, thereby:
 - (A) Subjecting electronic smoking devices and e-liquids to the excise tax on tobacco products;
 - (B) Requiring retailers of electronic smoking devices or e-liquids to obtain a retail tobacco permit to sell, possess, keep, acquire, distribute, or transport these items;



- (C) Prohibiting persons from engaging in the business of a wholesaler or dealer of electronic smoking devices or e-liquids without first obtaining a license from the Department of Taxation; and
 - (D) Applying other requirements of the cigarette tax and tobacco tax law to electronic smoking devices and e-liquids;
- (3) Increases the license fee for persons engaged as wholesalers or dealers of cigarettes and tobacco products;
 - (4) Increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products; and
 - (5) Repeals various statutory provisions relating to electronic smoking devices, to avoid conflict with taxation and regulation under the cigarette tax and tobacco tax law.

Your Committees received written comments in support of this measure from the Department of the Attorney General; Department of Health; Coalition for a Tobacco-Free Hawaii Youth Council; Hawaii COPD Coalition; Keiki Injury Prevention Coalition; We Are One, Inc.; Hawaii Public Health Institute; Hawaii Primary Care Association; American Heart Association; Student Health Advisory Council of the University of Hawaii at Manoa; Parents for Public Schools of Hawaii; Hawaii Dental Association; Hawaii Community Foundation; Campaign for Tobacco-Free Kids; and numerous individuals.

Your Committees received written comments in opposition to this measure from the Hawaii Smokers Alliance, Aloha Petroleum, Minit Stop, Par Hawaii, National Taxpayers Union, and Americans for Tax Reform.



Your Committees received written comments on this measure from the Department of Taxation, Tax Foundation, Reason Foundation, and Tax Foundation of Hawaii.

Your Committees recognize the dramatic increase in the use of electronic smoking devices, or "vaping," by Hawaii's youth, and the lack of a state tobacco tax on electronic smoking devices and e-liquids. Your Committees find that the State has a substantial interest in reducing the number of individuals of all ages who use tobacco products, and a particular interest in protecting adolescents from the harms of tobacco dependence, including associated illnesses and premature death. Your Committees believe that this measure's classification of electronic smoking devices and e-liquids as tobacco products will provide parity in the pricing and regulation of these products and ultimately encourage youth to make healthier choices by providing financial disincentives for purchasing these products.

Your Committees have amended this measure by:

- (1) Deleting the section of the measure that repealed section 328J-11.5, Hawaii Revised Statutes, which provides that state law preempts and voids all local ordinances or regulations that govern the sale of cigarettes, tobacco products, and electronic smoking devices and conflict with Chapter 328J, Hawaii Revised Statutes, to address concerns that the repeal of this section would result in fragmented regulation of cigarette, tobacco product, and electronic smoking device sales across the State; and
- (2) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

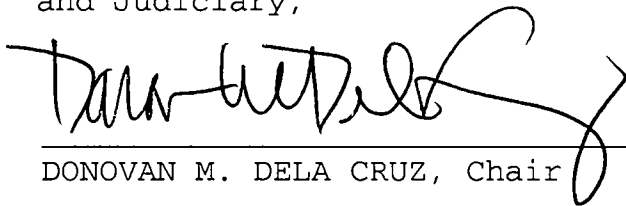
As affirmed by the records of votes of the members of your Committees on Ways and Means and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 975, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 975, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committees on Ways and Means
and Judiciary,



KARL RHOADS, Chair

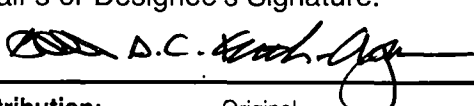


DONOVAN M. DELA CRUZ, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* SB 975 SDI	Committee Referral: HHS/CPN, WAM/JDC	Date: 3/3/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
AQUINO, Henry J.C.	X			
DECOITE, Lynn	X			
INOUYE, Lorraine R.	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
KIM, Donna Mercado	X			
LEE, Chris	X			
MORIWAKI, Sharon Y.	X			
SHIMABUKURO, Maile S.L.	X			
WAKAI, Glenn	X			
FEVELLA, Kurt				X
TOTAL	12			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

