



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

H.B. NO. 551, H.D. 1, RELATING TO HEALTH.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Wednesday, February 15, 2023 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Chelsea Okamoto, Deputy Attorney General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General (Department) strongly supports this bill and offers the following comments.

Hawaii's youth has been disproportionately affected by the nationwide vaping epidemic, and approximately one in three high schoolers in Hawaii have used an e-cigarette in the last 30 days.¹ The United States Centers for Disease Control and Prevention estimates that among current youth e-cigarette users, 84.7 percent use flavored e-cigarettes.²

This bill will prohibit retailers from selling flavored tobacco products and mislabeling e-liquid products as nicotine-free, and will establish fines of up to \$1,000 for each offense to be deposited to the credit of the general fund. This bill also authorizes the Department of Health to appoint, commission, or contract inspectors for services and establishes two full-time equivalent program specialist positions and one full-time equivalent hearing officer position.

The Department supports the Department of Health's administrative enforcement of the ban on the sale and distribution of flavored tobacco products and efforts to

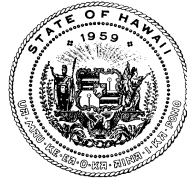
¹ Youth Risk Behavior Survey, 2019. <https://www.cdc.gov/healthyyouth/data/yrbs/index.htm>

² Park-Lee E, Ren C, Sawdey MD, et al. Notes from the Field: E-Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. MMWR Morb Mortal Wkly Rep 2021;70:1387–1389. DOI: <http://dx.doi.org/10.15585/mmwr.mm7039a4external> icon.

prevent Hawaii's children from being targeted by and addicted to flavored tobacco products.

The Department recommends eliminating the specific reference to "chapter 11-266.1, Hawaii Administrative Rules" (page 9, lines 14-15) and instead revert to the original wording of "pursuant to the rules" If the Hawaii Administrative Rules change, the citation codified in the statute would also need to be changed. We recommend reverting to the original wording to avoid the necessity of statutory revisions in the future.

We respectfully ask the Committee to pass this bill with the original effective date and with our recommended revision. Thank you for this opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P.O. Box 3378
Honolulu, HI 96801-3378
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**Testimony in SUPPORT of H.B. 551, H.D. 1
RELATING TO HEALTH**

REPRESENTATIVE MARK M. NAKASHIMA, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: February 15, 2023

Room Number: Conference Room 329
& Videoconference

1 **Fiscal Implications:** The fiscal impact of a ban on flavored tobacco products in Hawaii would
2 result in modest reductions in Hawaii's tax revenues while at the same time leading to reductions
3 in chronic diseases and health care spending, including Medicaid spending in the state.

4 **Department Testimony:** The Department of Health (DOH) supports House Bill 551, House
5 Draft 1 (H.B. 551, H.D. 1) as both a health equity and social justice issue to protect the next
6 generation from lifelong addiction to tobacco use and offers technical amendments for clarity.
7 H.B. 551, H.D. 1 prohibits the sale of flavored tobacco products and synthetic nicotine products
8 (including menthol), prohibits the mislabeling as nicotine-free any e-liquid products containing
9 nicotine, appropriates general funds, requires creation of administrative rules, and establishes
10 three full-time positions to administer enforcement/inspections related to this measure.

11 The absence of protective policies to act as a preventive buffer between the promotion of
12 enticing electronic smoking devices (ESDs), also known as e-cigarettes, and youth, contributed
13 to the ongoing rise in frequent use and unrestricted access to nicotine. Thirty-one percent of
14 Hawaii's high school and eighteen percent of Hawaii's middle school students reported using e-
15 cigarettes in the past 30 days with highest rates on the neighbor islands.^{1,2} The unrestricted

¹ HHDW. (2019). Hawaii-IBIS - Query Result—Hawaii's Youth Risk Behavior Survey (YRBS) Data—Electronic vapor products—Use, past 30 days, High Schools, State-level. http://ibis.hhdw.org/ibisph-view/query/result/yrbs/VaporCurr/VaporCurr_HS_ST.html

² HHDW. (2019). Hawaii-IBIS - Query Result—Hawaii's Youth Risk Behavior Survey (YRBS) Data—Electronic vapor products—Use, past 30 days, Middle Schools, State-level. http://ibis.hhdw.org/ibisph-view/query/result/yrbs/VaporCurr/VaporCurr_MS_ST.html

1 promotion of e-cigarettes has addicted a new generation of young people to nicotine, increased
2 exposure to harmful substances and likelihood for smoking cigarettes in the future.³ According
3 to the Federal Trade Commission, the amount of nicotine in disposable ESDs popular with youth
4 and young adults went up 60% from 2015 to 2018 and that raises serious public health and safety
5 concerns because of the long-term effects on their brain development.⁴ Comprehensive
6 evidence-based prevention policies are needed that restrict flavored tobacco products and
7 regulate e-cigarettes.

8 Alluring flavored tobacco products continue to drive the youth vaping epidemic. Nearly
9 85% of U.S. youth who currently use e-cigarettes use flavors. The most popular flavors continue
10 to be fruit, followed by candy/dessert/sweets, mint, and menthol. Among users of cartridge or
11 pod-based e-cigarettes, over half reported using either fruit (58.4%) or menthol (53.9%),
12 followed by candy/desserts/sweets (30.3%) and mint (27.6%).⁵

13 Menthol flavors are too often exempted from tobacco control policies.⁶ Menthol is an
14 organic compound that has cooling, analgesic, and irritative properties, which can change the
15 way the brain registers the sensations of taste and pain⁷ and when in cigarettes can make harmful
16 chemicals more easily absorbed in the body.⁸ Menthol also facilitates absorption by masking the
17 harshness of, and making it easier to inhale, cigarette smoke. The availability of menthol
18 cigarettes likely increases experimentation and progression to regular smoking and the

³ US Department of Health and Human Services. E-cigarette Use Among Youth and Young Adults: A Report of the Surgeon General. pdf icon [PDF – 8.47MB]. Atlanta, GA: US Department of Health and Human Services, CDC; 2016. Accessed July 27, 2018.

⁴ Federal Trade Commission, Bureau of Consumer Protection. Federal Trade Commission E-Cigarette Report for 2015-2018. Issued 2022.

⁵ Cooper, M. (2022). Notes from the Field: E-cigarette Use Among Middle and High School Students — United States, 2022. *MMWR. Morbidity and Mortality Weekly Report*, 71. <https://doi.org/10.15585/mmwr.mm7140a3>

⁶ *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>

⁷ U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

⁸ U.S. Department of Health and Human Services. Tobacco Use Among U.S. Racial/Ethnic Minority Groups—African Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 1998

1 availability of menthol increases the likelihood of addiction for youth smokers.^{9,10} Exempting
2 menthol perpetuates social injustice as menthol flavoring has been used by the tobacco industry
3 to appeal to youth, racial minorities, and marginalized populations. The tobacco industry has
4 targeted minority groups such as the lesbian, gay, bisexual and transgender (LGBT) community,
5 Asian Americans, Pacific Islanders, Native Hawaiians, and African Americans.^{11,12,13} Menthol
6 use is also high among those with behavioral health conditions and those who are
7 socioeconomically disadvantaged.¹⁴

8 The US Federal Drug Administration (FDA) states that there are no safe tobacco products
9 including e-cigarettes.¹⁵ This measure is important to prevent more keiki from inhaling nicotine,
10 propylene glycol (solvent), vegetable glycerin (oils), and flavorants since evidence is mounting
11 these products are compromising their brain development and contribute to illness.^{16,17,18,19} The
12 DOH supports H.B. 551, H.D. 1 as a measure to protect Hawaii's next generation from lifelong
13 addiction to tobacco use by prohibiting the sales, distribution, and mislabeling of all flavored
14 tobacco and synthetic nicotine products and stands ready to implement these measures.

⁹ U.S. Food and Drug Administration, Tobacco Products Scientific Advisory Committee. Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations. March 23, 2011. Available at: <https://wayback.archiveit.org/7993/20170405201731/https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>

¹⁰ U.S. Food and Drug Administration. Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes. 2013. Available at: <http://purl.fdlp.gov/GPO/gpo39032>

¹¹ 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>

¹² 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>

¹³ 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.

¹⁴ National Survey on Drug Use and health, 2018

¹⁵ U.S. Food and Drug Administration. Tobacco Products. E-Cigarette Problems and Potential Violations. Accessed 2/14/2023: <https://www.fda.gov/tobacco-products/products-ingredients-components/e-cigarettes-vapes-and-other-electronic-nicotine-delivery-systems-ends#:~:text=There%20are%20no%20safe%20tobacco,Lung%20injuries>

¹⁶ Kligerman, S., Raptis, C., Larsen, B., Henry, T. S., Caporale, A., Tazelaar, H., ... & Kanne, J. (2020). Radiologic, pathologic, clinical, and physiologic findings of electronic cigarette or vaping product use-associated lung injury (EVALI): evolving knowledge and remaining questions. *Radiology*, 294(3), 491-505. Accessed 2/14/2023: <https://pubs.rsna.org/doi/pdf/10.1148/radiol.2020192585>.

¹⁷ Song MA, Reisinger SA, Freudenheim JL, et al. Effects of Electronic Cigarette Constituents on the Human Lung: A Pilot Clinical Trial. *Cancer Prevention Research*. 2020;13(2):145-152. [doi:10.1158/1940-6207](https://doi.org/10.1158/1940-6207.CAPR-19-0400).

¹⁸ Staff, J., Kelly, B. C., Maggs, J. L., & Vuolo, M. (2022). Adolescent electronic cigarette use and tobacco smoking in the Millennium Cohort Study. *Addiction*, 117(2), 484-494. Accessed 2/14/2023: <https://onlinelibrary.wiley.com/doi/10.1111/add.15645>

¹⁹ National Center for Chronic Disease Prevention and Health Promotion (US) Office on Smoking and Health. E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General [Internet]. Atlanta (GA): Centers for Disease Control and Prevention (US); 2016. Chapter 5, E-Cigarette Policy and Practice Implications. Accessed 2/14/2023: https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf

1 Thank you for the opportunity to testify.

2 **Offered Amendments:** None



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/15/2023
Time: 02:00 PM
Location: 329 VIA VIDEOCONFERENCE
Committee: House Consumer Protection
& Commerce

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: HB 0551, HD1 RELATING TO HEALTH.

Purpose of Bill: Prohibits the sale of flavored tobacco products and the mislabeling of e-liquids as nicotine free. Authorizes the department of health to appoint, commission, or contract for services of inspectors. Establishes two full-time equivalent program specialist positions and one full-time equivalent hearing officer position. Appropriates funds. Effective 6/30/3000. (HD1)

Department's Position:

The Hawaii State Department of Education (Department) supports HB 551, HD1, which would make it unlawful for a retailer to sell, offer for sale, or possess with the intent to sell or offer for sale, a flavored tobacco product or mis-label as nicotine-free, or sell or market for sale as nicotine-free, any e-liquid product that contains nicotine.

The Department finds youth, in all levels of school, using flavored tobacco products. One example is an elementary-level principal's report on grade 3 and grade 4 students possessing flavored tobacco products. The students, only eight and nine years old, stated that they wanted to "try" these products since they were readily available and saw many adults using them. Another example is a high school principal who confiscated 70 electronic (e-)cigarettes and liquid "juices" in the first semester of this school year.

Principals' frustration and concerns are validated by the 2019 National Youth Tobacco Survey results which show that 1 in 4 high school and 1 in 8 middle school students (6.2

million total) in the United States used some type of tobacco product in the last 30 days. E-cigarettes were the most commonly used tobacco product among both middle (10.5%) and high (27.5%) school students for the sixth year in a row. Many students who use tobacco products report using products with flavors such as menthol, alcohol, candy, fruit, chocolate or other sweets.

The 2019 Hawaii Youth Risk Behavior Survey data indicate that more youth use e-cigarettes in Hawaii compared to other states. Nearly 1 in 5 (18%) public middle school students and 30.6% of public high school students in Hawaii use e-cigarettes.

By prohibiting sales of flavored tobacco products, distribution and access to youth will be reduced and the products will be less appealing.

Further, the flavored tobacco producers should be held accountable for their marketing. The mislabeling of products containing nicotine as “nicotine-free” encourages usage by youth and perpetuates the misconception that they are safe to use. Exposure to nicotine during periods of significant brain development, such as adolescence, can negatively impact learning, memory and attention, and increase the risk for addiction to other drugs.

Finally, the Department will defer to the Hawaii State Department of Health on the enforcement, inspections, and other services to help curb this health crisis, which impacts students’ academic achievement and their future opportunities as Hawaii community members.

Thank you for the opportunity to provide testimony on HB 0551, HD1.

HB-551-HD-1

Submitted on: 2/13/2023 2:40:08 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan L.K. Lee Loy	Hawai'i County Council - District 3	Support	Written Testimony Only

Comments:

Honorable Rep Mark Nakashima, Chair, Rep Jackson Sayama, Vice-Chair, and the members of the Committee on Consumer Protection & Commerce:

HB 551 will end the sale of all flavored tobacco products, including menthol cigarettes and synthetic nicotine products, in Hawai'i. It also subjects synthetic nicotine and heated tobacco products to age restriction regulations.

As a lifelong resident of the State of Hawai'i, I am expressing my **STRONG SUPPORT** of this bill.

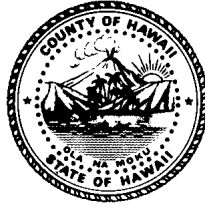
Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.

Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth.

Please support HB551. You don't want to "be the one" to leave a legacy of another generation addicted to nicotine.

Jennifer Kagiwada
Council Member District 2 South Hilo



Office: (808) 961-8272
jennifer.kagiwada@hawaiicounty.gov

HAWAI‘I COUNTY COUNCIL - DISTRICT 2

25 Aupuni Street • Hilo, Hawai‘i 96720

DATE: February 13, 2023

TO: House Committee on Consumer Protection and Commerce

FROM: Jennifer Kagiwada, Council Member
Council District 2

SUBJECT: HB 551

Aloha Chair Nakashima, Vice Chair Sayama, and members of the Committee,

I am writing to you in strong support of HB 551. This is a long overdue and very important bill to help protect the health and safety of our keiki. Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Menthol is just as, if not more harmful than, any other flavored tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If we are aiming to protect our keiki and reduce the burden of tobacco in our communities, then we must include menthol.

Another important thing to note is that ending the sale of flavored tobacco will advance health equity - disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth. Please pass HB 551 to help end the sale of flavored tobacco products and mislabeling of e-liquids.

Mahalo,

Jenn Kagiwada



American Heart Association testimony for HB 551, HD1 “Relating to Health”

February 15, 2023

Chairman of the Board

Jason Fujita

President

Zia Khan, MD

Board Members

Rick Bruno, MD, FACEP

Greg Christian

Jackie De Luz

Michael Lui, MD

Ben Morgan

Michael Rembis, FACHE

Andrew S. Rosen

Ben Salazar

David Underriner

Jennifer Walker

The American Heart Association supports HB 551, HD1 “Relating to Health.”

Tobacco use among kids is being driven by youth-friendly flavors like mint, fruit, and candy. From 2017 to 2019, e-cigarette use more than doubled among high school students (from 11.7% to 27.5%) and tripled among middle school students (from 3.3% to 10.5%), according to the CDC’s 2019 National Youth Tobacco Survey. Numbers among Hawaii youths are even higher, especially on neighbor islands.

E-cigarettes are available in thousands of youth-appealing flavors, including fruit, candy, mint and menthol. Menthol flavor remains available in traditional cigarettes despite the FDA banning the use of other flavors in those products. The overwhelming majority of youth tobacco users report using flavored products. Tobacco companies target youth and adolescents with million-dollar marketing campaigns and thousands of appealing flavors that are specifically designed to attract and hook kids.

Mint and menthol flavored tobacco products are heavily marketed to kids, especially those from communities of color and the LGBTQ community with products specifically designed to entice them. A 2019 Stanford study found that JUUL’s initial advertising campaigns were “patently youth-oriented.” More than half a million youth tobacco users report using menthol. Menthol products, with their cooling and soothing effects, entice kids to use tobacco products.

Flavored e-cigarettes are driving the youth e-cigarette epidemic. In 2020, 82.9% of current youth e-cigarette users reported the use of flavored e-cigarettes. In 2019, 97% of youth e-cigarette users report using a flavored product in the past month, and 70% cite flavors as a key reason for their use. Though e-cigarettes are the most commonly used tobacco product among middle and high school students, they are also using other flavored tobacco products such as cigars, cigarettes, hookahs and chewing tobacco. The CDC’s 2019 National Youth Tobacco Survey found that nearly 1 in 3 high school students have used a tobacco product in the last 30 days.

E-cigarettes have been falsely marketed as a safe alternative to traditional cigarettes and as a tool to help adult smokers quit. Tobacco companies are targeting youth and addicting a new generation to tobacco and nicotine, reversing the decades-long progress that has been made in reducing youth tobacco use. The long-term health effects of these products are still unknown, and e-cigarettes should not be considered “safe.” What is known is that nicotine can have adverse health effects on kids, such as causing addiction to dangerous tobacco

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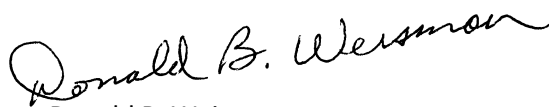
For more information on the AHA’s educational or research programs, visit www.heart.org or contact your nearest AHA office.

products, harming their brain development, and increasing the risk of heart disease. Recent studies have found that e-cigarettes decrease blood flow in the heart even more than traditional cigarettes and can worsen heart disease risk factors such as high cholesterol.

Current FDA tobacco flavor policy falls short of what is necessary to address youth tobacco use, state and local governments need to move forward to address loopholes. Under the FDA's guidance, thousands of e-cigarette flavors will remain on the market since the policy exempts menthol e-cigarettes and allows fruit, candy, and mint flavored liquid nicotine used in refillable open tank systems or in disposable e-cigarettes (like the popular brand Puff Bar), to stay on the market. In addition, other flavored tobacco products such as menthol cigarettes and flavored smokeless tobacco and cigars are still allowed to be sold. **The FDA has also shown to be ineffective at enforcing restrictions on flavored tobacco products that were disallowed through its Premarket Tobacco Approval process. It's also important to note that no flavored tobacco product has been approved by the FDA for use as a tobacco cessation product, despite misstatements made by the tobacco industry. No tobacco product is safe. Local authority and enforcement need to be exercised to address this health emergency.**

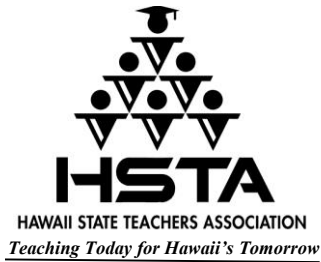
Recently, California joined Massachusetts, New Jersey, New York and Rhode Island as states that prohibit the sale of all flavored tobacco products—including menthol. We respectfully urge Hawaii legislators to make our state the next to enact such comprehensive policy to address our extremely high youth use rates.

Respectfully submitted,



Donald B. Weisman

Government Relations/Communications and Marketing Director



Osa Tui, Jr.
President
Logan Okita
Vice President
Lisa Morrison
Secretary-Treasurer
Ann Mahi
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON CONSUMER
PROTECTION & COMMERCE

RE: HB 551 HD1 - RELATING TO HEALTH

WEDNESDAY, FEBRUARY 15, 2023

OSA TUI, JR., PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Nakashima and Members of the Committee:

The Hawaii State Teachers Association **supports HB 551 HD1**, relating to health. The main focus of this bill that we support bans the sale of flavored tobacco (vaping) products prohibits and the mislabeling of e-liquid products containing nicotine.

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 2023 with a proliferation of flavored tobacco in the form of e-liquids luring our children into becoming lifelong and habitual nicotine users. **Unfortunately, this FDA flavor ban did not include vaping products. We can change that with this bill as a state and protect our youth.**

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.

The use of e-smoking products among youth is at epidemic levels, especially in Hawaii. According to the 2017 Youth Risk Behavior Survey, **Hawaii has one of the highest rates of middle and high school usage in the nation at 15.7% and 25.5% respectively.** Moreover, 27% of middle school students and a whopping 42% of high school students have tried e-cigarettes. On the neighbor islands, usage trends are particularly concerning—in Hawaii county 34% of students reported they are regular users while on Kauai 32% are regular users.

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.

- Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey).
- Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.
- Menthol is just as, if not more harmful than, any other flavored tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit.
- We aim to protect our keiki and reduce the burden of tobacco in our communities, and we must include menthol.
- Ending the sale of flavored tobacco will advance health equity - disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color.
- In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).
- Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth

Lastly, thank you for not adding any fines for our youth, as HSTA opposes these fines, as we feel our students are the victims in this case. It is the predatory tactics of the vaping industry on our youth that need to be regulated and taxed. So please do NOT add any fines or punishment on our youth who are the victims here. We just want to make this stance clear from the start.

To reduce the youth vaping epidemic and ensure the long-term health and wellbeing of our keiki, the Hawaii State Teachers Association requests you **support** this bill.



American Cancer Society
Cancer Action Network
2370 Nu'uuanu Avenue
Honolulu, Hi 96817
808.460.6109
www.fightcancer.org

House Committee on Consumer Protection and Commerce
Representative Mark Nakashima, Chair
Representative Jackson Sayama, Vice Chair

Hearing Date: Wednesday, February 15, 2023

ACS CAN SUPPORTS HB 551 HD1 – RELATING TO HEALTH.

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

Thank you for the opportunity to SUPPORT HB 551 HD1: RELATING TO HEALTH.

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. ACS CAN supports efforts to invest in comprehensive policies that would strengthen the health infrastructure in Hawaii to prevent kids from starting to use tobacco and help adults already addicted to tobacco to quit.

Lung cancer remains the leading cause of cancer deaths in Hawaii with an estimated 1,400 adults dying from smoking every year.ⁱ There are 21,000 keiki who are alive now that will die prematurely due to smoking-related disease.ⁱⁱ Tobacco use remains the leading preventable cause of death nationwide.

ACS CAN supports ending the sale of menthol cigarettes and all other flavored products. The epidemic of tobacco use by youth and young adults, aggressive marketing tactics by their manufacturers, including the use of flavors appealing to youth, and under-regulation of e-cigarettes requires the public health community to take action to protect youth, young adults, and the public at-large. After years of decline, in 2018 there was an increase in tobacco use among youth nationwide, largely due to skyrocketing rates of e-cigarette use. In Hawaii, 30.6% of high school students currently use e-cigarettes.ⁱⁱⁱ Higher youth use rates are evident in the neighbor islands. Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey).

ACS CAN supports including “electronic smoking devices” in the definition of “tobacco products.” E-cigarettes are now the most popular tobacco product among youth – in part because they are not subject to many of the regulations and taxes other tobacco products are subject to. By implementing the same policies and regulations used to reduce cigarette use to record lows, we can reverse the trends in youth e-cigarette use.

ACS CAN believes in all efforts to reduce tobacco use including Hawaii including taxing, regulating, licensing and permitting, education and cessation services are components of comprehensive approach to tobacco regulation. 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. When appropriately funded and executed in accordance with CDC recommendations, comprehensive tobacco control programs can reduce tobacco use. We would like to continue to strengthen the bill and willing to work with lawmakers during the session.

However, we do not recommend defining “e-liquid” separately from electronic smoking devices, as this may result in only regulating and taxing e-liquid rather than the entire electronic smoking. This may be incredibly difficult to enforce. ACS CAN recommends deleting the definition of e-liquid and reference the definition for tobacco product.

To strengthen the health infrastructure in Hawaii, ACS CAN strongly recommends retailers of e-cigarette and electronic smoking devices should be required to obtain a tobacco permit to help enforce laws and regulations and to increase the penalty to suspend and revoke the licenses of repeat offenders to hold wholesalers and retailers accountable rather than simply through fines.

Furthermore, revenue collected should go toward tobacco prevention and cessation for all tobacco products including electronic smoking devices and e-cigarettes rather than the general fund. Currently, Hawaii is 44.7% under CDC’s recommended funding level for State Tobacco Control Programs. CDC’s evidence-based recommendations for a comprehensive tobacco control program provide 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.

Thank you for the opportunity to comment on this important matter. Should you have any questions, please do not hesitate to contact Cynthia Au at 808.460.6109, or Cynthia.au@cancer.org.

ⁱ Campaign for Tobacco-Free Kids. The Toll of Tobacco in Hawaii. Updated January 20.2023. <https://www.tobaccofreekids.org/problem/toll-us/hawaii>

ⁱⁱ Campaign for Tobacco-Free Kids. The Toll of Tobacco in Hawaii. Updated January 20.2023. <https://www.tobaccofreekids.org/problem/toll-us/hawaii>

ⁱⁱⁱ Centers for Disease Control. High School YRSB “Hawaii 2019 and United States 2019 Results”



Committee on Consumer Protection & Commerce

Rep. Mark Nakashima, Chair

Rep. Jackson Sayama, Vice Chair

Members: Rep. Terez Amato, Rep. Della Au Belatti, Rep. Mark J. Hashem, Rep. Natalia Hussey-Burdick, Rep. Cedric Asuega Gates, Rep. Nicole E. Lowen, Rep. Richard H.K. Onishi, Rep. Adrian K. Tam and Rep. Elijah Pierick

The Coalition for a Tobacco-Free Hawaii's (CTFH) Youth Council **strongly supports HB 551 HD1**. The CTFH Youth Council is a nationally-recognized group of youth leaders fighting for the health of our own generation against the powerful influences of Big Tobacco. The Youth Council consists of students from middle, high school, and college across all of the counties.

In 2019, the most recent data from Hawai'i available, one in three high school students and one in five middle school students report "current use" of e-cigarettes. As many know, these products are harmful to youth in particular, containing toxic chemicals like nicotine and formaldehyde that negatively impact the developing brain. In fact, over 21,000 Hawai'i youth alive today will die from tobacco-related illness if smoking rates don't change. That's 1,400 people every year that die from a tobacco related illness.

But beyond numbers, countless students from across the state and nation have chronicled their experiences with e-cigarettes – whether watching their friends fall victim to the predatory marketing of the industry, seeing their school bathrooms cloud with smoke, or even reporting the struggle of recovering from nicotine addiction themselves. Students today are under siege by an industry that profits off of addiction.

The primary driver of the vaping epidemic is through the creation and marketing of flavored products. 81% of youth who ever used tobacco started with a flavored product, while 97% of youth who vape say they use a flavored product. It comes as no surprise – over the past several years, the market for flavored tobacco products has exploded, with over 15,500, mostly candy and fruity flavors. These have done a number in enticing

youth into using tobacco. The industry, no less, has taken to weaponizing our local food and cultures as well, with flavors like POG, Fruit Punch, and Lilikoi Lychee lining shelves.

Menthol, in particular, is one of the most popular flavors among teens – using names like Ice, Chill and Freeze to describe the cooling sensation that couples with its minty taste, menthol makes it easier to start vaping and harder to quit. Menthol, moreover, is the primary product used in predatory marketing against youth and vulnerable communities – the industry considers Hawai'i a “Menthol State”, with 78% of Native Hawaiian and Pacific Islander smokers using menthol cigarettes, perpetuating a legacy of public health disparities and corporate exploitation.

Banning the sale of all flavored tobacco products would work to end this deadly cycle of addiction and manipulation. In doing so, retailers would no longer have the ability to sell products that have been the primary catalyst for addicting a new generation of people.

It's not just youth – A 2022 Ward Research poll of registered voters found that the vast majority of **Hawaii voters agree** with our stance with **71% supporting a ban on all flavored tobacco products, including menthol**. We also have support from more than 100 organizations, many of which have also submitted testimony. Youth have presented to over 24 Oahu neighborhood boards that have passed resolutions in support, along with organizations like the American Academy of Pediatrics – Hawaii Chapter, Association of Hawaiian Civic Clubs, the Honolulu Youth Commission, Parents for Public Schools of Hawai'i, and many more. You can see a partial list below. In fact the only people that seem to be opposed to the bill are the addicted and those that profit from their addiction.

Many in opposition to HB551, claim flavored e-cigarettes are safe and have helped them quit smoking. Yet a quick sample of company disclaimers that make flavors used in e-cigarettes seem to indicate otherwise. (Red highlights were added)



Product Disclaimer

This product may be harmful to your health. Use at your own risk.

All use of our raw flavoring concentrates requires further processing by a manufacturer into a final product for consumption.

Flavorah is food grade flavoring made from generally recognized as Safe Compounds (GRAS). This GRAS designation is only applied to ingestion and **does not apply to inhalation**. In no event shall our company be liable for any direct, indirect, punitive, incidental, special consequential damages, to property or life, whatsoever arising out of or connected with the use or misuse of our products.

The FDA has not approved Flavorah or any flavoring for inhalation. Vaping flavorings is inherently dangerous and may be harmful to your health. Do not attempt it. We do not claim or warrant, and forbid all claims or warranties that Flavorah is healthier than other flavorings. This product is a raw material that requires further processing for use. “

<https://www.flavorah.com/about/terms-and-conditions/>

LORANN
QUALITY—A FAMILY TRADITION SINCE 1962

“**LorAnn Oils cannot make any claims as to the safety of the use of flavoring substances in e-cigarettes** based solely on the fact that these flavoring ingredients have been declared safe for use in food and beverage according to their intended use. ...

...LorAnn Oils does not advertise or promote its flavors for use in e-cigarettes. LorAnn has not tested its flavors for any purpose other than their use as an ingredient to be used in the preparation of foods to be consumed such as candy, cakes, cookies, and ice cream. **Those using the flavors in e-cigarettes are doing so at their own risk** and without warranty, either expressed or implied, from LorAnn Oils, Inc. or its suppliers.”

<https://www.lorannoils.com/e-cigarette-inquiries>



“You agree to use products **at your own risk**.

Electronic cigarettes have NOT been evaluated by the FDA to treat or diagnose any disease or condition. They are **not intended for use in smoking cessation** or for any therapeutic use.

Some of our E-Liquid blends contain Propylene Glycol (PG) has been **associated with irritants and allergic reactions**. CONSULT YOUR physician before using any product with Propylene Glycol. We do offer a substitute that is Vegetable Glycerin (VG). For more information, contact us.

ECBlend makes NO CLAIMS regarding the effectiveness of our products for ANY use. ECBlend products are intended to be used ONLY by consenting, informed ADULTS OVER THE AGE OF 18 who want to use these products for personal enjoyment.

Nicotine is EXTREMELY addictive.

Electronic cigarettes have NOT been evaluated for use in quitting smoking.

Nicotine is highly addictive and habit-forming. Keep out of reach of children. Some of our products contain **Nicotine, a chemical known in some states to cause birth defects or other reproductive harm.**

HEALTH NOTICE: This product is intended for use by persons 18 or older, and not by children, women who are pregnant or breastfeeding, or persons with or at risk of heart disease, high blood pressure, diabetes, or taking medicine for depression or asthma. If you have a demonstrated allergy or sensitivity to nicotine or any combination of inhalants.

Consult your physician before using any nicotine product. This product is sold purely for recreational purposes - **it is not a smoking cessation product and has not been tested as such.**

You may experience certain symptoms after using this product. Some of the side effects of nicotine may include **irregular heartbeat, changes in blood pressure, inflammation of blood vessels, chest pain, and depression, shortness of breath, sweating, dizziness, dry mouth, throat irritation, rash, swelling, nose bleed, diarrhea, headache, and dry mouth.** Consult your physician prior to using this product. Nicotine is quickly absorbed with skin contact. Keep away from skin, eyes, mouth, and any other area of the body. In the event that you become in contact with nicotine, wash the affected area with soap and water for at least 15 minutes, and immediately contact your local Poison Control Center.

Keep away from children and pets. **Small parts and or e-juice may be ingested and may lead to suffocation, injury, poisoning, and/or death.** Please recycle or dispose according to local law. Propylene Glycol is poisonous to aquatic animals. Not for use by woman who are nursing, pregnant, or are planning to get pregnant. **Vaping and exposure to vaping may potentially cause the emergence, contraction, contribution to, aggravation or exacerbation of various forms of adverse health effects including but not limited to cancer, heart disease, arteriosclerosis, cancer, carcinoma, liver disease, respiratory disease or illness, cancerous or precancerous abnormal condition or conditions, disorder, sickness, ailment, unhealthiness, symptoms, diseases, illness or malady of the human body.”**

<https://www.ecblendflavors.com/terms-and-conditions>

<https://www.ecblendflavors.com/warnings-nicotine-and-e-liquid/>

We urge you to end the sale of all flavored tobacco products and put people over profits.

Thank you for the opportunity to submit testimony.

PARTIAL LIST OF SUPPORTERS

HEALTH ORGANIZATIONS

'Ohana Health Plan
Adventist Health – Castle
Aloha Care
AMA/HMA Student Chapter at JABSOM
American Academy of Pediatrics – Hawaii Chapter
American Heart Association
American Lung Association
Bay Clinic Inc.
Blue Zones Project
Campaign for Tobacco-Free Kids
Coalition for a Drug-Free Hawaii
Coalition for a Tobacco-Free Hawai'i a program of Hawai'i Public Health Institute
Hamakua Kohala Health Centers
Hawaii – American Nurses Association (Hawaii-ANA)
Hawaii COPD Coalition
Hawaii Dental Hygienists' Association
Hawaii Health and Harm Reduction Center
Hawai'i Nurses' Association OPEIU Local 50
Hawaii Public Health Association
Hui No Ke Ola Pono
Hui Ola Pono (UH Public Health's Student Organization)
Kaho'omiki; Hawaii Council of Physical Activity and Nutrition
Kauai Rural Health Association
Keiki Injury Prevention Coalition
Na Lei Wili Area Health Education Center, Inc.
The Queen's Health Systems
Tobacco Prevention Project, Daniel K. Inouye College of Pharmacy
University of Hawaii Student Health Advisory Council
US COPD Coalition
Waimānalo Health Center

YOUTH AND COMMUNITY ORGANIZATIONS

After-School All-Stars Hawaii
American Youth Soccer Organization (AYSO)
Association of Hawaiian Civic Clubs
Big Island Interscholastic Federation (BIIF)
Hale 'Ōpio Kaua'i Inc.
Hawaii Children's Action Network

Hawaii Interscholastic Athletic Directors Association
Hawaii State Teachers Association (HSTA)
Hawai'i Youth Climate Coalition
Hawaii Youth Services Network
Honolulu Youth Commission
Kanu o ka 'Āina Learning Ohana (KALO)
Kauai Path Inc.
LearningBond
Pacific American Foundation
Parents for Public Schools of Hawai'i
Partners in Development Foundation
Residential Youth Services & Empowerment (RYSE)
The Friends of Kamalani and Lydgate Park
Waipahu Intermediate Youth For Safety

BUSINESSES

Country Courier, LLC
Hana Lima Physical Therapy
Home Remedies Interior Design
JCS Enterprises Inc.
Pediatric Therapies Hawaii

NEIGHBORHOOD BOARDS

Kuliouou-Kalani Iki Neighborhood Board 02
Kaimuki Neighborhood Board 04
Diamond Head Neighborhood Board 05
Palolo Neighborhood Board 06
McCully-Moilili Neighborhood Board 08
Makiki- Tantalua Neighborhood Board 10
Ala Moana/Kakaako Neighborhood Board 11
Nuuanu/Punchbowl Neighborhood Board 12
Downtown-Chinatown Neighborhood Board 13
Liliha/Puunui/Alewa Neighborhood Board 14
Aliamanu-Salt Lake Neighborhood Board 18
Aiea Neighborhood Board 20
Pearl City Neighborhood Board 21
Waipahu Neighborhood Board 22
Ewa Neighborhood Board 23
Mililani-Waipio Neighborhood Board 25
North Shore Neighborhood Board 27

Koolauloa Neighborhood Board 28
Kahaluu Neighborhood Board 29
Kaneohe Neighborhood Board 30
Kailua Neighborhood Board 31
Waimanalo Neighborhood Board 32
Mililani Mauka- Launani Valley Neighborhood Board 35
Nanakuli-Mailii Neighborhood Board 36

SCHOOLS

Damien Memorial School
Hawaii Association of Independent Schools (HAIS)
Hawaii Council of Private Schools (HCPS)
Holy Family Catholic Academy
Island Pacific Academy
Maryknoll School
Maui Preparatory Academy
Mid-Pacific Institute
Roots School
St. Andrew's Schools

HEALTH & COMMUNITY LEADERS

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Valerie Chang
Dyson Chee
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Nathalie Razo
Keenan Reader
Crystal Robello
Kimberly Golis-Robello
Mary Santa Maria
Patty Kahanamoku-Teruya
Chien-Wen Tseng, MD
John A Hau'oli Tomoso
Jennifer Valera
Cecilia Villafuerte
Linda Weiner, MD
Matthew Wong



**Testimony before the Hawaii House Committee on Consumer Protection & Commerce
Regarding Banning the Sale of Flavored Tobacco and Vapor Products**

Lindsey Stroud, Director, Consumer Center

Taxpayers Protection Alliance

February 15, 2023

Chairman Nakashima, Vice-Chairman Sayama and Members of the Committee:

Thank you for your time today to discuss banning flavors tobacco and vapor products in Hawaii. My name is Lindsey Stroud and I'm Director of the Consumer Center at 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. TPA's Consumer Center focuses on providing up-to-date information on adult access to goods including alcohol, tobacco and vapor products, as well as regulatory policies that affect adult access to other consumer products, including harm reduction, technology, innovation, antitrust and privacy.

While addressing youth use of age-restricted products is laudable, lawmakers must refrain from prohibitionist bans on both products that adults responsibly consume as well as products that may help adults quit smoking. Youth use of traditional tobacco products has reached record lows, while youth vaping has halved in recent years. Bans will force adult consumers to seek out illicit products from clandestine sources, which may cause more harm.

Key Points

- Youth vaping has decreased by 53 percent between 2019 and 2022, while youth use of traditional tobacco products is at record lows.
- In 2022, among middle and high school students that had used a tobacco or vape product on at least one occasion in the 30 days prior, 9.4 percent reported using e-cigarettes, 1.9 percent had used cigars, 1.6 percent has used combustible cigarettes and 1.3 percent had used smokeless tobacco products.
- Youth are not using e-cigarettes because of flavors.
- In 2017, among Hawaiian high school students that had ever used e-cigarettes, 26.4 percent cited flavors as a reason for e-cigarette use, compared to 38.9 percent that reported "other."
- Nationally, in 2021, among middle and high school students that were currently using e-cigarettes, 43.4 percent had used them because of feelings of anxiety, stress and/or depression, compared to 13.2 percent who had cited using them because of flavors.
- In three of four states with current flavored tobacco and vape bans, smoking rates among young adults increased, while nationally, they decreased on average by nearly 20 percent.
- The illicit market is thriving on internet marketplaces from New York City to California.

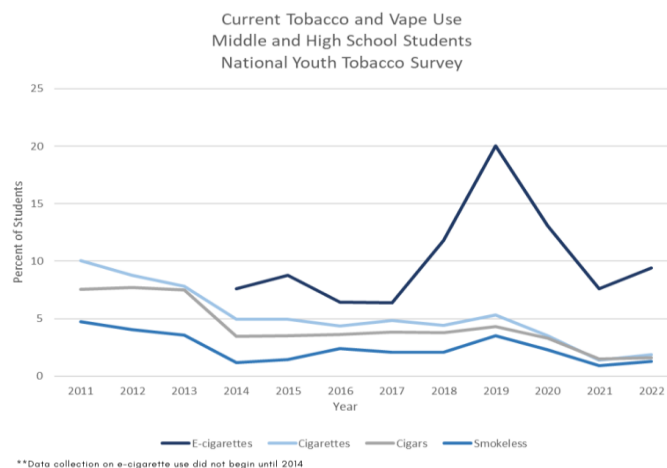
- The introduction of e-cigarettes has not led to increases in cigarette smoking, but rather, correlates with significant declines in smoking rates among young adults.
- Between 2007 and 2018, smoking rates among Hawaii adults aged 18 to 24 years old declined by 39.6 percent. Since 2018, young adult smoking rates have decreased another 47.3 percent, with average annual declines of 16.8 percent.
- Hawaii woefully underfunds programs to prevent youth use of tobacco and/or vapor products and help adults quit smoking, while simultaneously receiving millions of dollars from the pockets of the adults who smoke. In 2021, for every \$1 the state received in tobacco monies, it spent only \$0.06 on tobacco control efforts.

Youth Tobacco and Vapor Product Use

Despite headlines, youth use of traditional tobacco products is at record lows, while youth e-cigarette use peaked in 2019 and has steadily declined in the years since.

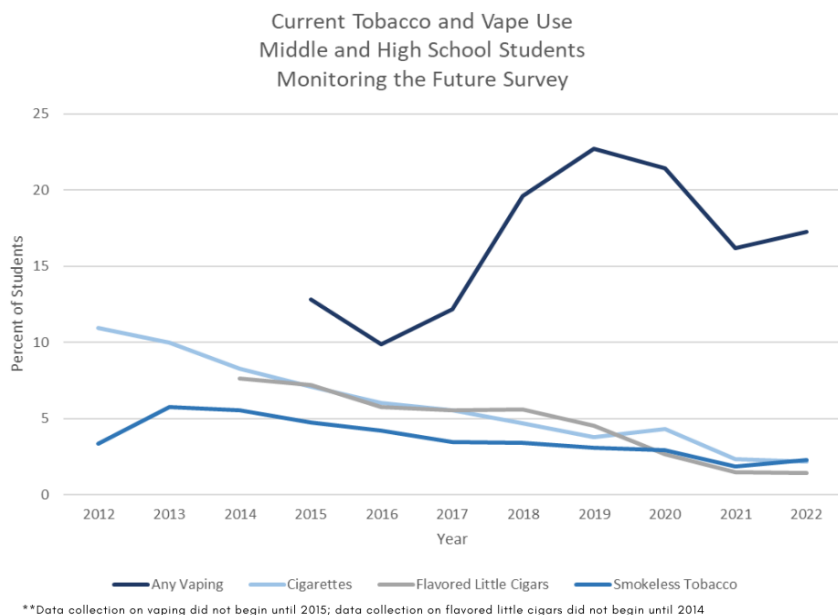
In 2022, according to the National Youth Tobacco Survey (NYTS), among middle and high school students that had reported current tobacco product use (defined as having used the product on at least one occasion in the 30 days prior), 1.9 percent had used cigars, 1.6 percent had used combustible cigarettes and 1.3 percent had used smokeless tobacco products.¹ These are some of the lowest levels recorded. In fact, in the 10 years between 2012 and 2022, current cigar use declined by 75.3 percent, cigarette use by 81.7 percent and smokeless tobacco use by 67.9 percent. These declines have come all the while flavored tobacco and vapor products remain available for sale.

Regarding vaping use (according to the NYTS), vaping seems to have peaked in 2019 when 20 percent of middle and high school students had used an e-cigarette in the 30 days prior to the survey. In 2022, only 9.4 percent of U.S. youth were currently vaping, a 53 percent decrease from 2019's levels.



Other national survey data has found significant declines in youth use of tobacco and vapor products. In 2022, according to the Monitoring the Future Survey (MTFS), among middle and high school students, 2.3 percent reported currently using smokeless tobacco, 2.2 percent reported current combustible cigarette use, and 1.4 percent reported using flavored little cigars.² Again, these are some of the lowest levels recorded. In 2012, more than one in ten U.S. youth (11 percent) reported current cigarette use. In ten years, smoking rates among U.S. youth declined by 78.7 percent. During the same period smokeless tobacco use among youth decreased by 59.6 percent. Between 2014 and 2022, the percent of youth reporting current use of flavored cigars declined by 81.2 percent.

Similar to the NYTS, the MTFS also found that youth vaping peaked in 2019, when 22.7 percent of U.S. youth reported “any vaping” – i.e., using a vapor product to vape either nicotine or other substances. Between 2019 and 2022, the percent of youths reporting any vaping decreased by 23.9 percent.



Youth Are Not Using E-Cigarettes Because of Flavors

National and state surveys consistently find that youth are not overwhelmingly using e-cigarettes because of flavors.

In 2017, among Hawaiian high school students that had ever used e-cigarettes, 26.4 percent cited flavors as a reason for e-cigarette use, compared to 38.9 percent that reported “other.”³

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.⁴

Among highschoolers in Maryland that used e-cigarettes, when asked about the “main reason” for using e-cigarettes only 3.2 percent responded “flavors.”⁵ 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.

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.”⁶ Further, 25.9 percent of Montana high school students reported using vapor products for “some other reason.”

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.”⁷

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.”⁸

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.⁹

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.¹⁰

Reasons for first e-cigarette use			
National Youth Tobacco Survey, United States, 2021			
		Among ever e-cigarette users	Among current e-cigarette users
A friend [used/uses] them		57.8	28.3
I [was/am] curious about them		47.6	10.3
I [was/am] feeling anxious, stressed, or depressed		25.1	43.4
To get a high or buzz from nicotine		23.3	42.8
A friend family member [used/uses] them		18.6	8.7
I [could/can] use them to do tricks		16.5	20
They [were/are] available in flavors, such as menthol, mint, candy, fruit, or chocolate		13.5	13.2
I [could/can] use them unnoticed at home or at school		10.8	13
They are less harmful than other forms of tobacco such as cigarettes		8.3	10.3
They [were/are] easier to get than other tobacco products, such as cigarettes		4.8	6
I've seen people on TV, online, or in movies use them		4.5	2.9
To try to quit using other tobacco product, such as cigarettes		2.5	4.6
They cost less than other tobacco products, such as cigarettes		2.2	4.7
Some other reason		10.6	19.5

This state data is representative of even more recent national survey data. According to the 2021 NYTS, among middle and high school students that reported current e-cigarette use, 43.4 percent cited using them because they were “feeling anxious, stressed, or depressed,” compared to only 13.2 percent who cited using them because they were available in flavors.¹¹

Among students that reported having ever tried an e-cigarette, 57.8 percent cited using them because a friend uses them, compared to 13.5 percent who cited the availability of flavors.

If lawmakers want to address youth vaping, they must understand why youths are vaping.

Adult Tobacco and Vape Use

In 2021, 10.1 percent of adults in Hawaii were currently using cigarettes.¹² Smoking rates were highest among 45- to 64-year-old adults, with 12.1 percent reporting current use. Among all adults earning \$25,000 annually or less in 2021, more than one fifth (21.2 percent) reported currently smoking, compared to only 7.3 percent of adults who earned \$50,000 or more per year.

The CDC provides data on adult e-cigarette use for only 2016, 2017, and 2021.

TAXPAYERS PROTECTION ALLIANCE

In 2021, among all Hawaii adults, 7.3 percent were currently using e-cigarettes. This is a 55.3 percent increase from 2017 when 4.7 percent of Hawaiian adults were current e-cigarette users.

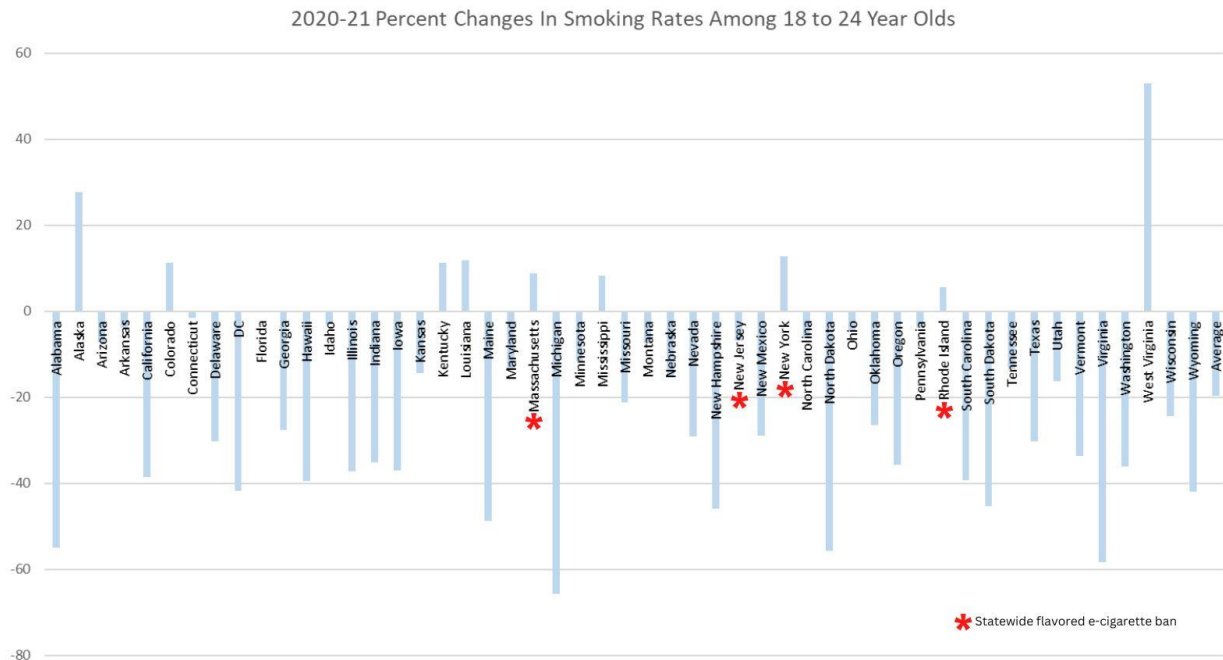
In 2021, among all Hawaii adults, 24.5 percent of 18- to 24-year-olds, 11.2 percent of 25–44-year-olds, 2.4 percent of 55–64-year-olds, and 0.7 percent of adults aged 65 years or older were currently using e-cigarettes.

Among adults earning \$15,000 or less, 7.9 percent reported current e-cigarette use, compared to 4.8 percent who reported earning \$50,000 or more.

In Hawaii, 10.7 percent of Multiracial, non-Hispanic adults, 10.5 percent of Native Hawaiian and/or Pacific Islander adults, 10.2 percent of Hispanic adults, 7.4 percent of Black adults, 6.1 percent of White adults, and 5.1 percent of Asian adults were currently using e-cigarettes in 2021.

Effects of Current Flavor Bans

As of January 2023, five states have active statewide bans on the sale of flavored vapor products, including two states which have also banned the sale of flavored traditional tobacco products. Opponents claim that prohibition will work to reduce smoking and thus liberate resources for states due to reduced health care costs attributed to smoking. Yet, evidence from existing states find flavor bans correlate with increases in young adult smoking, all the while states lose revenue and neighboring ones profit.¹³



TAXPAYERS PROTECTION ALLIANCE

In 2021, 14.4 percent of American adults were currently smoking. This is a 7.1 percent decrease from 2020's 15.5 percent. Among young adults (aged 18 to 24 years old), a miniscule 7.4 percent were current smokers.

Among all states (minus Florida), smoking rates among adults aged 18 to 24 years old decreased by 19.7 percent on average between 2020 and 2021. Only nine states saw young adult smoking rates increase during the same period. Alarming, three of those states are home to flavored e-cigarette bans and lawmakers should avoid pushing prohibitionist flavor policies forward.

In Massachusetts, 7.4 percent of 18- to 24-year-olds were current smokers in 2021. This is an 8.8 percent increase from 2020's 6.8 percent. In New York, young adult smoking rates increased by 12.7 percent from 5.5 percent in 2020 to 6.2 percent in 2021. In Rhode Island, between 2020 and 2021, smoking rates among young adults aged 18 to 24 years old increased by 5.7 percent. Of the then-four states with active flavored e-cigarette bans, only New Jersey saw a reduction (6.8 percent) in young adult smoking rates. This is significantly lower than the average rate of reduction among all U.S. young adults.

Flavored tobacco bans have also failed to meaningfully reduce smoking rates while significantly reducing cigarette tax revenue and transferring it to other states.

The Massachusetts flavored tobacco and vape ban went into effect in 2020. Between 2020 and 2021 state excise tax revenue decreased by 22.3 percent, representing a loss of over \$106 million. Meanwhile, smoking rates among all adults only decreased by 4.5 percent (11.1 percent of adults in 2020 to 10.6 percent in 2021).

Neighboring New Hampshire saw an 11.5 percent reduction in adult smoking rates between 2020 and 2021, yet cigarette excise tax revenues increased by 14.4 percent during the same period.

Given the poor effects of flavored tobacco bans on young adult smoking and the failed experiment in Massachusetts, lawmakers should refrain from restricting the sales of flavored tobacco and vapor products.

In Thriving Illicit Market, Unregulated Products Harm Users

Flavored tobacco and vape product bans only punish responsible retailers while incentivizing clandestine actors to engage in new illicit marketplaces. Unregulated tobacco and vapor products pose a risk to all consumers, both youth and adults alike. Nonetheless, consumers have indicated they would seek out illicit products should their product of choice be banned, and there are already rogue sellers using online marketplaces to sell these unregulated products.

One study examining a possible menthol ban found that at least 25 percent would "find a way to buy a menthol brand."¹⁴ An experiment which examined current e-cigarette users under a hypothetical flavor ban found that banning "vaping products from the marketplace may shift preference towards purchasing vaping products in the illegal marketplace."¹⁵ An international

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(202) 930-1716, www.protectingtaxpayers.org**



TAXPAYERS PROTECTION ALLIANCE

survey of vapers from Canada, the United Kingdom and the United States found that over one-fourth (28.3 percent) “would find a way to get their banned flavor(s).”¹⁶

There is already a booming marketplace online. The examples are relatively easy to find. A Craigslist ad in New York City offers for sale a variety of flavored e-liquid products, from peach to cotton candy.¹⁷ The seller informs the potential customer to “[i]nteract with [them] the same way [one] would a sales person.” Alarming, this seller is not interested in providing potential customers with information regarding the products that they may be consuming, noting that any questions about their “cost, date purchased, where purchased, why selling is no one’s concern.” In California, which recently enacted a ban on flavored tobacco and vapor products, “menthol man” is offering to deliver menthol cigarettes for \$15 a pack.¹⁸

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Made in USA. Multiple flavors: Peach, Island Rum, Orange Mint, Cotton Candy, Cherry, Blueberry, Watermelon, Menthol, Apple, Pina Colada, Grape, Mocha Latte, Candy Cane, Blueberry Frost, Maple, Mango, 2 Lean.
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ALL PERTINENT INFO IN ADVERTISEMENT.

Interact with me the same way you would a sales person @ Macy's, Bloomingdales, Target, Kmart, or a street vendor. Personal Questions of my cost, date purchased, where purchased, why selling is no one's concern. If you see the advertisement, it is still available. Don't waste my time inquiring if it is still available!

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I have all sorts of marbrol menthol. 15 a pack will deliver for purchases over 10 packs will trade for items of value also have puff bars disposable vapes.

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There is also an even larger international market of counterfeit vapor products, with officials in numerous countries attempting to stem their flow.

In January 2021, the FDA worked with other federal agencies and seized 42 shipments of counterfeit disposable vapor products from China.¹⁹ In March 2021, Customs and Border Protection officers in Chicago seized \$1.5 million in counterfeit vapes.²⁰

In 2022, officials in Australia, China, Singapore and the United Kingdom have all reported massive seizures of counterfeit vapor products.^{21 22 23 24} The illicit products are so prevalent that a vapor product company has been actively working with government officials in China and has successfully shut down more than 20 factories manufacturing counterfeit vapes.²⁵

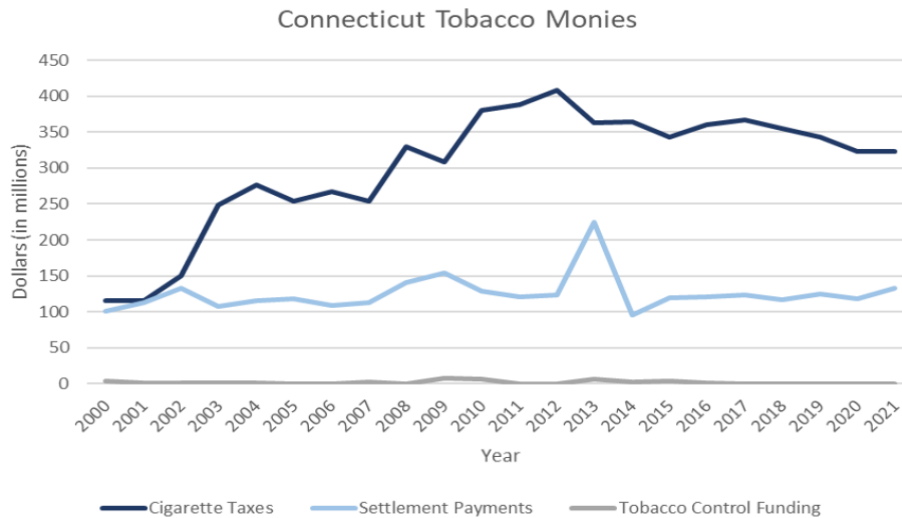
Tobacco Monies

Each year, states receive millions of dollars borne out of the lungs of persons who smoke. This revenue includes excise cigarette taxes and settlement payments. Yet, each year, states spend miniscule amounts of tobacco-related monies on programs to help adults quit smoking and prevent youth use.

In 2021, the Aloha State collected nearly \$98.1 million in state excise tax revenue from combustible cigarettes.²⁶ This was a 4.2 percent decline from 2020's \$102.4 million. Between 2001 and 2021, Hawaii collected more than \$2.1 billion in cigarette taxes.

Since 2000, Hawaii has collected annual payments from tobacco manufacturers based on the percentage of cigarettes and tobacco products sold in the state in that year. Hawaii collected \$37.5 million in settlement payments in 2021, a 6.2 percent increase from 2020's \$35.3 million.²⁷ Since 2000, the Aloha State collected nearly \$997 million in tobacco settlement payments.

While Hawaii collected an estimated \$135.6 million in tobacco-related monies in 2021, the state allocated only \$7.9 million in state funding towards tobacco control programs, including cessation, education, and youth prevention efforts, which was a 23.4 percent increase in funding from 2020 levels.²⁸ This amounts to 8.1 percent of taxes and 21.1 percent of settlement payments. In 2021, for every \$1 the state received in tobacco monies, it spent only \$0.06 on tobacco control efforts.



Conclusion

Lawmakers must refrain from prohibitionist policies that will only drive adult consumers to an underground market, exposing users to possibly harmful, unregulated products. Given the significant reductions in youth use of e-cigarettes, as well as the record lows in use of traditional tobacco products, bans on the sales of flavored tobacco and vapor products are not necessary. Rather, policymakers should use more of the already-existing monies derived from cigarettes to prevent youth use and help adults quit.

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Tobacco & Vaping 101: Hawaii 2023

Lawmakers are often bombarded with misinformation on the products used by adults in their state. This annual analysis provides up-to-date data on the adults who use cigarettes and e-cigarette products in Hawaii, youth use, impacts of e-cigarettes and analyses of existing tobacco monies.

Key Points:

- In 2021, 10.1 percent of adults were currently smoking in Hawaii. This is a 12.9 percent decrease from 2020.
- In 2021, among all Hawaii adults, 56.9 percent of 18- to 24-year-olds, 11.8 percent of 25–44-year-olds, 12.1 percent of 45–64-year-olds, and seven percent of adults aged 65 years or older were currently smoking combustible cigarettes.
- Among all adults earning \$25,000 or less in 2021, 21.2 percent were current smoking compared to only 7.3 percent of adults earning \$50,000 or more.
- Among all smoking adults in 2021 in Hawaii, 27.7 percent were Asian, 20.2 percent were Multiracial, 18.9 percent were White, non-Hispanic, 18.6 percent were Native Hawaiian and/or Pacific Islander, and 14.5 percent were Hispanic.
- Cigarette excise taxes in Hawaii disproportionately impact low-income persons, while failing to significantly reduce smoking rates among that class.
- The percentage of Hawaii adults earning \$25,000 or less that were smoking decreased by 30.3 percent between 2011 and 2021, while the percent of adults earning \$50,000 or more that were smoking decreased by 36 percent during the same period.
- Among Hawaiians who did not graduate high school, smoking rates decreased by 38.1 percent, yet rates among adults with a college degree decreased by 42.6 percent.
- In 2021, 6.1 percent of adults reported past-month e-cigarette use, which was a 27.1 percent increase from 2017.
- Youth vaping seems to have peaked in 2019, when 20 percent of youth reported current e-cigarette use. Between 2019 and 2022, current e-cigarette use declined by 53 percent.
- Traditional tobacco use among youth is at record lows. In 2022, only 1.9 percent of U.S. youth reported current cigar use, 1.6 percent reported current combustible cigarette use and 1.3 percent reported using smokeless tobacco products.
- The introduction of e-cigarettes has not led to increases in cigarette smoking, but rather, correlates with significant declines in smoking rates among young adults.
- Between 2007 and 2018, smoking rates among Hawaii adults aged 18 to 24 years old declined by 39.6 percent. Since 2018, young adult smoking rates have decreased another 47.3 percent, with average annual declines of 16.8 percent.
- Hawaii woefully underfunds programs to prevent youth use of tobacco and/or vapor products and help adults quit smoking, while simultaneously receiving millions of dollars from the pockets of the adults who smoke. In 2021, for every \$1 the state received in tobacco monies, it spent only \$0.06 on tobacco control efforts.

Tobacco & Vaping 101: Hawaii 2023

Adult Combustible Cigarette Use

In 2021, according to data from the annual Behavioral Risk Factor Surveillance System survey (BRFSS) conducted by the Centers for Disease Control and Prevention, 10.1 percent of Hawaiians were currently smoking, amounting to nearly 114,852 adults. This is a 12.9 percent decrease from 2020 when 11.6 percent reported current cigarette use. In 2021, 6.8 percent of Hawaiian adults reported smoking every day.

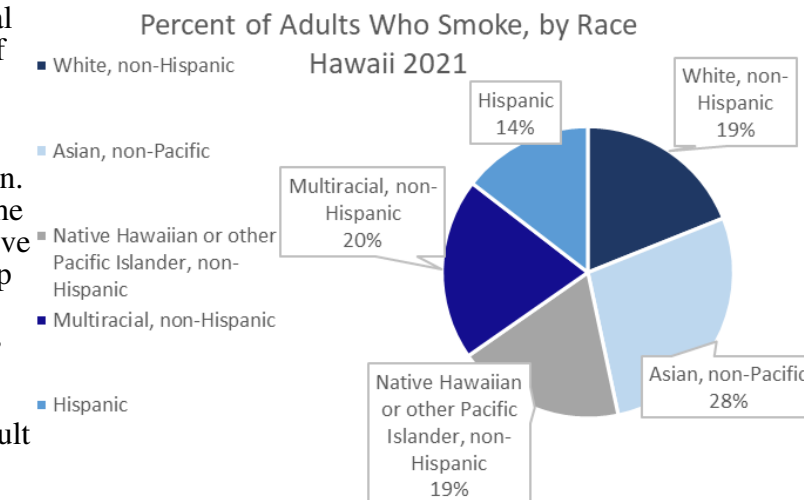
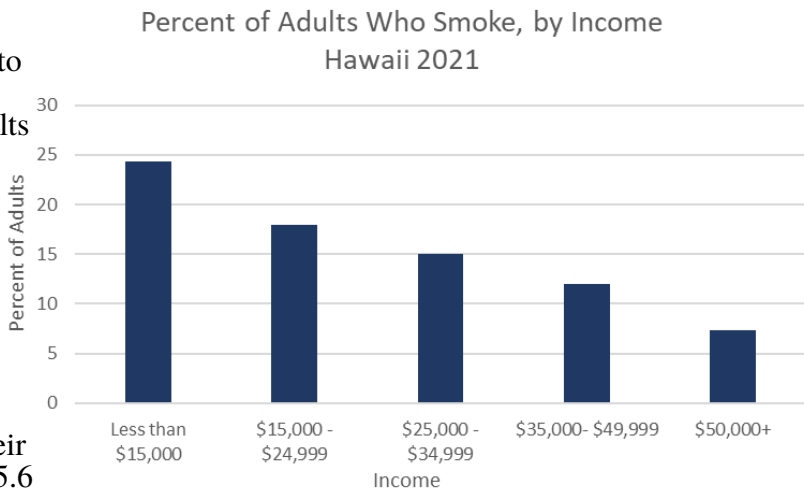
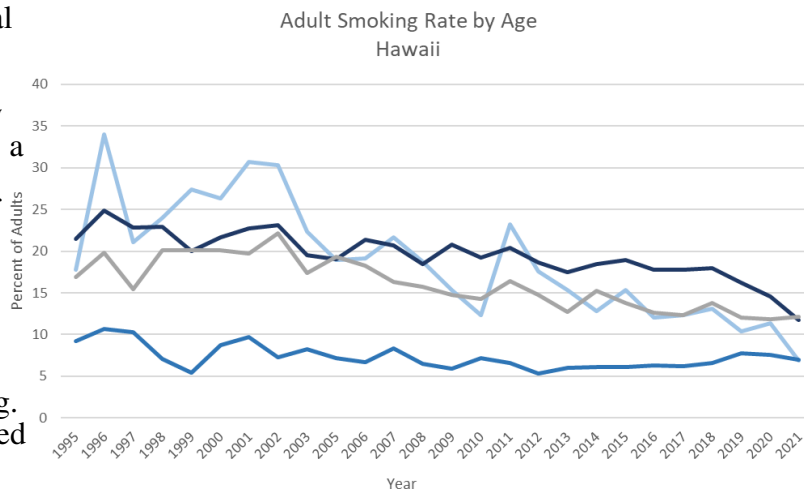
Smoking rates in the Aloha State have significantly declined since 1995 when the BRFSS Aloha began reporting combustible cigarette use. That year, 17.8 percent of Hawaii adults were then-currently smoking. Between 1995 and 2021, smoking rates have decreased by 43.3 percent with average annual decreases of 5.8 percent.

In 2021, among all Hawaii adults, 6.9 percent of 18- to 24-year-olds, 11.8 percent of 25–44-year-olds, 12.1 percent of 45–64-year-olds, and seven percent of adults aged 65 years or older were currently smoking combustible cigarettes.

Among all adults earning \$25,000 annually or less in 2021, more than one fifth (21.2 percent) reported currently smoking, compared to only 7.3 percent of adults who earned \$50,000 or more per year.

In Hawaii, Native Hawaiian and/or Pacific Islander adults reported smoking at a greater percentage of their identified race at 17.5 percent. This is compared to 15.6 percent of Hispanic adults, 13.2 percent of Multiracial adults, 7.8 percent of White adults, and 6.8 percent of Asian adults.

Yet, Asian adults made up a significantly larger percentage of Hawaii's total adult smoking population. In 2021, Asian adults accounted for 27.7 percent of the state's current smoking population, compared to Native Hawaiian and/or Pacific Islander adults, who made up 18.6 percent of the current adult smoking population. White adults accounted for 18.9 percent of the state's current adult smoking population, Multiracial, non-Hispanic adults accounted for 20.2 percent, and Hispanic adults made up 14.5 percent of Hawaii's adult smoking population in 2021.



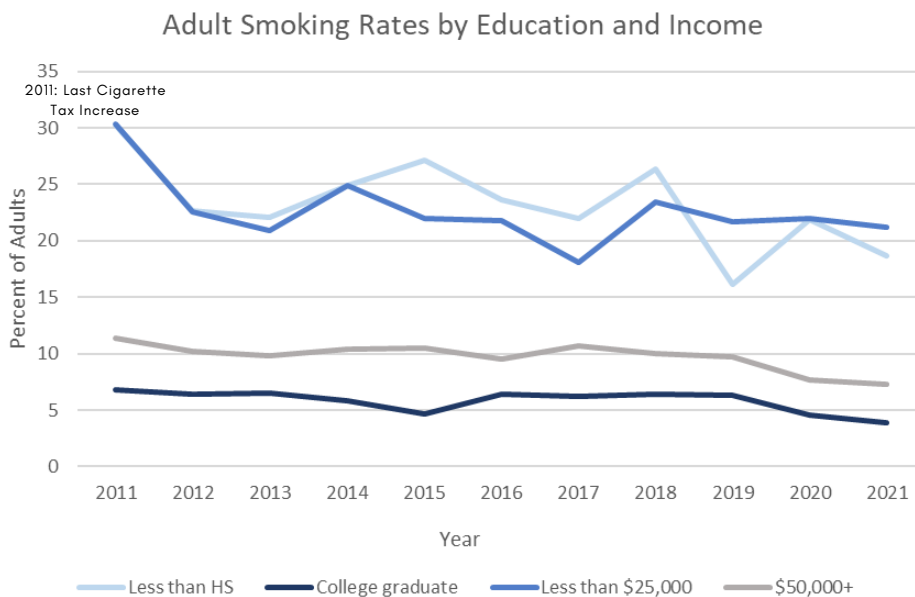
Tobacco & Vaping 101: Hawaii 2023

Effects of Cigarette Taxes

Hawaii last increased its state cigarette excise tax in 2011 from \$3.00 to \$3.20-per-pack. Lawmakers often justify excise taxes on cigarettes to deter persons from using combustible cigarettes, yet, such taxes disproportionately harm lower income, lower educated adults, as well as fail to significantly reduce smoking rates among those persons.

The number of percent of Hawaii adults earning \$25,000 or less that were smoking decreased by 30.3 percent between 2011 and 2021, while the percent of adults earning \$50,000 or more that were smoking decreased by 36 percent during the same period. Among Hawaiians who did not graduate high school, smoking rates decreased by 38.1 percent, yet rates among adults with a college degree decreased by 42.6 percent.

Lawmakers should refrain from enacting further increases in cigarette taxes given their disproportionate effect on low-income persons, while failing to reduce smoking rates.



Adult E-Cigarette Use

The CDC provides data on adult e-cigarette use for only 2016, 2017, and 2021.

In 2021, among all Hawaii adults, 7.3 percent were currently using e-cigarettes. This is a 55.3 percent increase from 2017 when 4.7 percent of Hawaiian adults were current e-cigarette users.

In 2021, among all Hawaii adults, 24.5 percent of 18- to 24-year-olds, 11.2 percent of 25–44-year-olds, 2.4 percent of 55–64-year-olds, and 0.7 percent of adults aged 65 years or older were currently using e-cigarettes. Among adults earning \$15,000 or less, 7.9 percent reported current e-cigarette use, compared to 4.8 percent who reported earning \$50,000 or more.

In Hawaii, 10.7 percent of Multiracial, non-Hispanic adults, 10.5 percent of Native Hawaiian and/or Pacific Islander adults, 10.2 percent of Hispanic adults, 7.4 percent of Black adults, 6.1 percent of White adults, and 5.1 percent of Asian adults were currently using e-cigarettes in 2021.

Tobacco & Vaping 101: Hawaii 2023

Youth Smoking and Vaping Rates

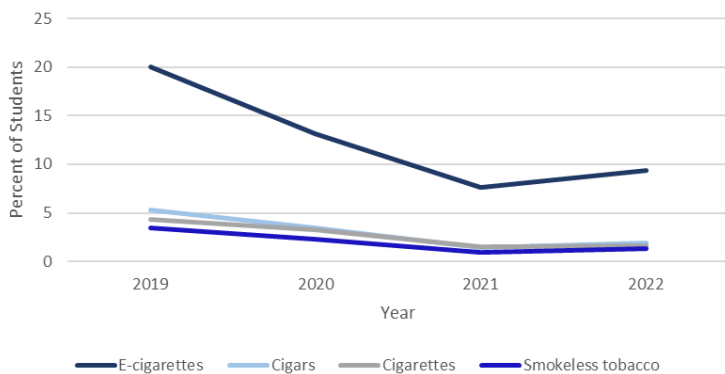
The CDC continues to delay publishing the 2021 results of the Youth Risk Behavior Survey resulting in state-specific data being unavailable at the time of this publication. Nonetheless, youth use of vapor products has declined significantly in recent years and youth use of traditional tobacco products is at record lows.

According to the National Youth Tobacco Survey, in 2022, only 9.4 percent of middle and high school students reported current use of e-cigarette products, defined as having used a product on at least one occasion in the 30 days prior to the survey. Youth vaping seems to have peaked in 2019, when 20 percent of youth reported current e-cigarette use. Between 2019 and 2022, current e-cigarette use declined by 53 percent.

Regarding traditional tobacco products, in 2022, only 1.9 percent of U.S. youth reported current cigar use, 1.6 percent reported current combustible cigarette use, and 1.3 percent reported using smokeless tobacco products. Between 2019 and 2022, current cigar use declined by 64.2 percent, current cigarette use decreased by 62.8 percent and smokeless tobacco use by 62.9 percent.

Given the record lows in youth tobacco use and continued declines in youth vapor product use, policymakers must refrain from prohibitionist policies that would hinder adult access to harm reduction products.

Youth Tobacco and Vape Use
U.S. Middle and High School Students



Young Adult Smoking Rates

As e-cigarettes have disrupted the traditional tobacco market, policymakers have shifted their attention towards youth use and subsequent smoking initiation. Despite the rhetoric, the introduction of e-cigarettes has not led to increases in young adult cigarette smoking, but rather, correlates with significant declines.

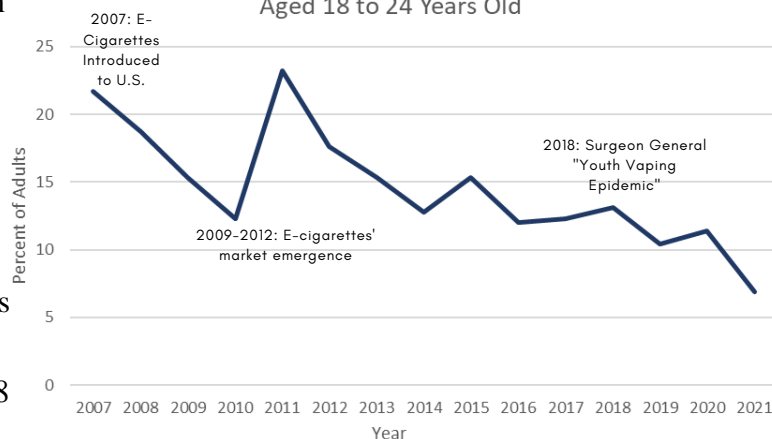
E-cigarettes first came to U.S. market in 2007, when 21.7 percent of Hawaiians aged 18 to 24 years old were currently smoking. In 2018, public health purported to a so-called “youth vaping epidemic,” when 13.1 percent of young adults in the Aloha State were smoking. Between 2007 and 2018, young adult smoking rates declined by 39.6 percent. Further, since 2018, young adult smoking rates have decreased another 47.3 percent, with average annual declines of 16.8 percent.

Though data is limited to only three years, increases in vaping correlate with decreases in smoking.

In 2017, (among 18- to 24-year-olds) 12.3 percent and 12.2 percent were currently using combustible cigarettes and e-cigarettes, respectively. Between 2017 and 2021, current cigarette use among young adults decreased by 43.9 percent while vapor product use increased by 100.8 percent.

Given the epic lows in young adult smoking rates, lawmakers must refrain from policies that restrict access to alternatives to smoking.

Current Smoking Rates Among Hawaii Adults
Aged 18 to 24 Years Old



Tobacco & Vaping 101: Hawaii 2023

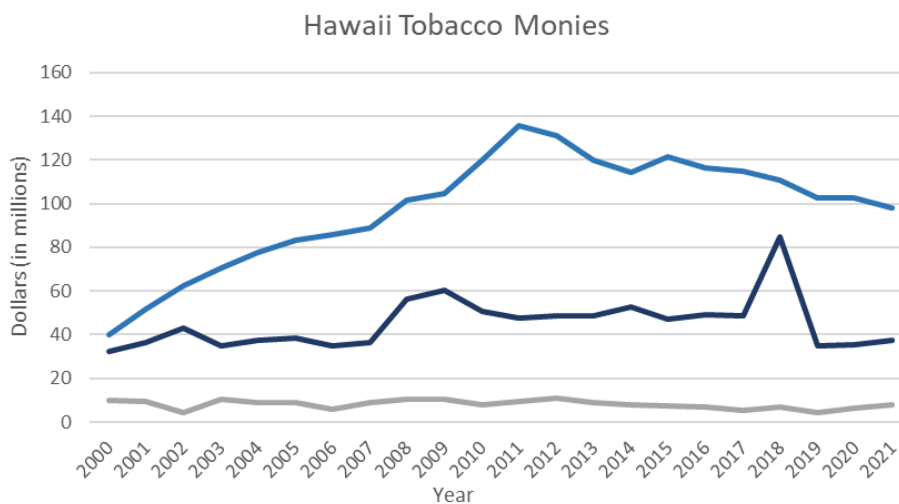
Tobacco Monies

Each year, states receive millions of dollars borne out of the lungs of persons who smoke. This revenue includes excise cigarette taxes and settlement payments. Yet, each year, states spend miniscule amounts of tobacco-related monies on programs to help adults quit smoking and prevent youth use.

In 2021, the Aloha State collected nearly \$98.1 million in state excise tax revenue from combustible cigarettes. This was a 4.2 percent decline from 2020's \$102.4 million. Between 2001 and 2021, Hawaii collected more than \$2.1 billion in cigarette taxes.

Since 2000, Hawaii has collected annual payments from tobacco manufacturers based on the percentage of cigarettes and tobacco products sold in the state in that year. Hawaii collected \$37.5 million in settlement payments in 2021, a 6.2 percent increase from 2020's \$35.3 million. Since 2000, the Aloha State collected nearly \$997 million in tobacco settlement payments.

While Hawaii collected an estimated \$135.6 million in tobacco-related monies in 2021, the state allocated only \$7.9 million in state funding towards tobacco control programs, including cessation, education, and youth prevention efforts, which was a 23.4 percent increase in funding from 2020 levels. This amounts to 8.1 percent of taxes and 21.1 percent of settlement payments. In 2021, for every \$1 the state received in tobacco monies, it spent only \$0.06 on tobacco control efforts.



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— Cigarette Taxes — Tobacco Settlement Payments — Tobacco Control Funding

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2. Data on race was compiled using population data from the Annie E. Casey Foundation (<https://datacenter.kidscount.org/>) and Demographic data from the CDC to cross reference the racial population. Then, data from Smoking and Race was used to determine the percent of adults who were smoking in 2021.
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**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 15, 2023
Re: HB 551 HD1 RELATING TO HEALTH.**

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

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

We OPPOSE HB 551 HD1 Relating to Heath. This measure prohibits the sale of flavored tobacco products and the mislabeling of e-liquids as nicotine free. Authorizes the department of health to appoint, commission, or contract for services of inspectors; establishes two full-time equivalent program specialist positions and one full-time equivalent hearing officer position; appropriates funds; and is effective 6/30/3000. (HD1)

It is our understanding that **e-liquid available worldwide are “flavored.” Because many do not contain tobacco, e-liquids have no “natural tobacco” taste, or any taste for that matter, without the addition of flavorings.** These flavored e-liquids are enjoyed by many adults as well as menthol cigarettes, cigars, chewing and pipe tobacco.

This bill would **essentially ban all e-liquids as well as flavored tobacco products and compel people to purchase these goods online or on the black market or on military bases or try to make it themselves and essentially force many small local businesses who sells these items to shut down, thus leaving many of our family, friends, and neighbors out of work.**

If this is to deter underage use, Hawaii currently has a law in place that states that it is unlawful for a person under the age of 21 years to purchase electronic vaping devices, e-liquids, and tobacco products. However, adults that are 21 and older are able to purchase these items and enjoy them like menthol cigarettes or an electronic vaping device with their favorite flavored e-liquid.

We also want to make it clear that retailers are not the ones selling the vaping devices to those who are under 21 years of age. **Many of whom are underage are obtaining their cigarettes and vaping devices from their parents or older friends or purchasing them on the black market.** We have seen a significant spike in theft and tobacco and vape products are a favorite to be stolen. Those selling the stolen goods do not card to see how old someone is.

We wonder why are there NOT more stricter laws and consequences aimed at the minors who are vaping or those who purchase the products for the minors? Why is the Department of Education not cracking down on those who vape on campus if so many students are doing this? Why are adults who can legally purchase these items going to be denied if the aim is at minors?

In addition, vapor products and e-liquids are NOT the same as a tobacco product. The New England Journal of Medicine published found that **electronic vaping devices were nearly twice as effective as conventional nicotine replacement products, like patches and gum, for quitting smoking.** The study was conducted in Britain and funded by the National Institute for Health Research and Cancer Research UK.

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



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
House Committee on Consumer Protection & Commerce
Wednesday, February 15, 2023 at 2:00 p.m.

By

Thomas A. Wills, PhD, Professor
Pallav Pokhrel, PhD, Co-Director
Population Sciences in the Pacific Program

And

Naoto T. Ueno MD, PhD, Director
University of Hawai'i Cancer Center

And

Michael Bruno, PhD, Provost
University of Hawai'i at Mānoa

HB 551 HD1 – RELATING TO HEALTH

Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

The University of Hawai'i Cancer Center strongly support HB 551 HD1, which prohibits the sale of flavored tobacco products and the mislabeling of e-liquids as nicotine free.

We support this bill because of findings from our research on Hawai'i adolescents and young adults conducted over the past 6 years. Recent studies have shown that use of electronic smoking devices is quite prevalent among Hawai'i high school and college students. Even at younger ages, the prevalence among middle school students is over 20% of the school population.

Our research has shown that e-cigarette use is linked to several adverse outcomes. Notably, using e-cigarettes is related to initiation of cigarette smoking among previous nonsmokers, hence is contributing to undesirable outcomes. These findings from Hawai'i have been reported in national and international scientific journals. Moreover, our research has shown that e-cigarette use is related to a higher likelihood of respiratory disease (asthma and COPD) among Hawai'i adolescents and young adults. These findings have been confirmed in a number of independent studies conducted in Asia, Europe, and the US mainland. Thus, there is now evidence that e-cigarette use may be linked to adverse health consequences as well as adverse behavioral consequences such as smoking initiation.

HB 551 HD1 is important because flavors in tobacco products attract young people to becoming e-cigarette users, who then become addicted to nicotine. Research has shown that the majority of youth e-cigarette users (as many as 80% in some studies)

use a flavored tobacco product. Mint, menthol, and fruit-flavored e-cigarettes are some of the most popular flavors with youth. Our research in Hawai'i shows that higher preference for sweet and mint/menthol flavors among young people is associated with increased addiction to e-cigarettes and decreased likelihood of quitting e-cigarette use. The tobacco companies aggressively market e-cigarettes to Hawai'i youth in television, radio, and point-of-sale advertising venues. Without regulation, e-cigarette manufacturers will continue to aggressively market their products to youth and young adults capitalizing on the appeal of popular flavorings to entice new users to tobacco product use.

Because of the adverse consequences that are known to be related to e-cigarette use, we urge the legislature to regulate the sale of flavored tobacco products. Ending the sale of flavored tobacco products will protect our young people and improve the health of the larger Hawai'i population.

Regulating the sale of flavored tobacco products will also promote health equity, because menthol flavors are disproportionately used by Native Hawaiians and Pacific Islanders, who will then suffer disproportionately from the adverse health consequences of use.

We strongly support HB 551 HD1 and ask you to pass this out of committee.



February 15, 2023

Testimony on Hawai'i HB 551 — “An Act Relating to Health”

Dear Chairs and Members of the Committee on Consumer Protection and Commerce,

My name is Elizabeth Hicks and I am the US Affairs Analyst of the consumer advocacy group Consumer Choice Center.

Simply put, HB 551 will do more harm than good if passed. Enacting a flavor ban on vaping products will push adult consumers to switch back to smoking combustible tobacco. Sadly, 1,400 Hawaiians lose their lives to smoking-related illnesses every year. Considering that [studies have shown vaping to be 95% less harmful than smoking](#) and that adults who use flavored vaping products are [2.3 times more likely](#) to quit smoking cigarettes, ensuring that adult consumers have access to the vaping products they prefer will ultimately lead to fewer cigarette smoking-related deaths in Hawai'i.

Smoking-related illnesses are very serious and can lead to cancer. After being around second-hand smoke most of my life, this past year I unfortunately received my own cancer diagnosis, undergoing 12 rounds of chemotherapy, 20 sessions of radiation, 9 cycles of immunotherapy and multiple surgeries - and I can assure you that I would not wish this on anyone. Considering this committee is focused on protecting consumers, embracing vaping as a harm reduction tool here in Hawai'i will help ensure that your citizens are less likely to end up in a situation similar to mine.

More than 7% of Hawaii's adult population uses vaping products, accounting for over 100,000 Hawaiians who have switched to a less risky alternative to combustible tobacco. According to data from the [Hawaii Journal of Medicine and Public Health](#), the largest demographic of Hawaiian vapers are actually 65+ years in age and started vaping as a means to quit smoking combustible cigarettes. Banning flavored vaping products will encourage these former smokers to switch back to smoking cigarettes, and will ultimately lead to increases in smoking-related healthcare costs, which are already costing Hawaiian taxpayers \$141.7 million annually through medicaid alone.

Furthermore, while this bill is intended to protect youth from tobacco use, [data from the Journal of the American Medicine Association](#) shows that when flavored vaping products are banned, combustible smoking rates **increase** for youth aged 18 and younger. This unintended consequence would only exacerbate the problem Hawai'i is trying to fix, making this particular bill unviable in achieving its desired outcomes.

Additionally, if a flavor ban is enacted in Hawai'i, then consumers will look towards the illicit market in order to get access to their preferred flavored vaping products. This presents serious concerns for public health in Hawai'i as vapers will be purchasing unregulated products that do not necessarily adhere to regulatory standards. Additionally, the illicit market does not abide by age restrictions therefore making it much easier for youth to acquire these products illegally.



Our goal should be to expand adult's choices to quit combustible tobacco, not to limit them severely.

The fear of our organization if this bill is adopted, is that counties will move quickly to deprive adult consumers of these less risky options, unaware of the severe repercussions and harm that would happen.

Our policies must be fair, just, and based on scientific evidence. I believe this body, composed of diverse legislators from the entire state, can help make that determination for the residents who depend on you to protect their consumer choice. **We would urge you to vote against HB 551.**

Thank you for your time & I'm happy to answer any questions you may have.

Elizabeth Hicks
US Affairs Analyst
Consumer Choice Center
elizabeth@consumerchoicecenter.org





Chair Mark M. Nakashima
Vice Chair Jackson D. Sayama

House Committee on Consumer Protection & Commerce

Wednesday, February 15, 2023
2:00 PM

TESTIMONY IN STRONG SUPPORT OF HB551 RELATING TO HEALTH

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the House Committee on Consumer Protection & Commerce,

The Hawai'i State Youth Commission was first created through Act 106 in 2018, "to advise the governor and legislature on the effects of legislative policies, needs, assessments, priorities, programs, and budgets concerning the youth of the State." The Hawai'i State Youth Commission's Public Health legislative committee is in **strong support** of **HB551**.

As representatives of the youth of Hawai'i, the commission is committed to promoting inclusivity, opportunity, and progress in Hawai'i. This includes the *health* of Hawai'i's youth. That is why the commission strongly supports this measure, because its efforts to end the sale and mislabelling of flavored tobacco products is crucial to improving the health and lives of not

only Hawai'i's youth, but also the communities that they live in, which are negatively affected by tobacco and vape.

To understand the severity and importance of this bill, the legislature needs to understand that, currently, one in five middle schoolers and one in three high schoolers use e-cigarettes. 81% started with a flavored product. We must understand that 97% of youth who currently vape use flavored products. This is because there are over 15,000 flavors of vape that are constantly being marketed to target, entice, and hook our youth population. Finally, we must contend with the fact that 21,000 of Hawai'i's youth who are alive today will ultimately die from a tobacco related illness if rates don't change. So, we must acknowledge that flavored tobacco products are a severe threat to the health of our youth, and also acknowledge that ending sales of flavored products is a critical and necessary step towards a better future.

Therefore, the Hawai'i State Youth Commission strongly urges the committee to **PASS HB551**, so that we can prevent the dangers of tobacco from affecting present and future generations of our keiki.

Mahalo for the opportunity to testify,

The Hawai'i State Youth Commission
hawaiiistateyc@gmail.com

Date: February 15, 2023

To: Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair
Members of the Committee on Consumer Protection and Commerce; Relating to Health

From: Members of the University of Hawaii Student Health Advisory Council

Re: Support for HB551, Relating to the Youth Vaping Epidemic

Hearing: Wednesday, February 15 at 2:00PM Via Videoconference

Thank you for the opportunity to submit testimony in SUPPORT of HB 551 which would prohibit the sale and distribution of flavored tobacco products including menthol.

The Student Health Advisory Council has played a pivotal role in the development and implementation of health policies and tobacco education on the UH System campuses. We remain deeply committed to the mission of reducing the use of all tobacco products, including electronic smoking devices, among adolescents and young adults.

With products like Volcano and other popular electronic smoking devices, it is increasingly clear that these products are addicting a whole generation of youth to a harmful product. The Surgeon General has gone so far as to declare youth e-cigarette use an epidemic, and states that there is an urgent need to protect young people from a lifetime of nicotine addiction and associated health risks.

Electronic cigarettes are now the most commonly used form of tobacco among young people in the United States, surpassing conventional tobacco products, including cigarettes, cigars, chewing tobacco, and hookahs. The sale of candy-like flavored tobacco products entices young people to start using these harmful products which can lead to addiction and cause damage to the developing brain. Menthol should also be banned as it masks the harmfulness of tobacco and is one of the very popular flavors among youth. Flavored tobacco products also increase individuals' risk for dual use of vape products and combustible cigarettes. Banning the sale of flavored and menthol tobacco products will help with the health issues disproportionately affecting those in lower socioeconomic status and people of color.

The banning of flavored tobacco products as well as providing tobacco education and cessation programs without monetary penalties for youth, is imperative if we are committed to protecting the health and well-being of our communities. Therefore, we urge you to support this measure and prohibit the sale of all flavored tobacco products including menthol in the State of Hawaii.

Mahalo,

Student Health Advisory Council



To: Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair
Committee on Consumer Protection and Commerce

RE: Support: HB 551: HD1: Relating to Health

Hrg: February 14, 2022 at 2:00pm

The Campaign for Tobacco-Free Kids & the Tobacco-Free Kids Action Fund are pleased to strongly support HB 551 HD 1: to end to the sale of flavored tobacco products in the Hawai'i to reduce tobacco use, particularly among youth. The Campaign for Tobacco-Free Kids is the nation's largest non-profit, non-governmental advocacy organization solely devoted to reducing tobacco use and its deadly toll by advocating for public policies that prevent kids from using tobacco and help smokers quit.

While Hawai'i has made great strides in reducing tobacco use, tobacco use remains the number one preventable cause of premature death and disease in Hawai'i and the nation, killing 480,000 Americans annually, including 1,400 in Hawai'i.

Prohibiting the sale of all flavored tobacco products in all tobacco retailers is a critical step that will help protect children living in Hawai'i from the unrelenting efforts by the tobacco industry to hook them 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 their colorful packaging and sweet flavors, flavored tobacco products are often hard to distinguish from the candy displays near which they are frequently placed in retail outlets. **Eight out of ten youth who have ever used a tobacco product started with a *flavored* product.**¹

Although tobacco companies claim to be responding to adult tobacco users' demand for variety, it's clear that flavored tobacco products play a key role in enticing new users, particularly kids, to

a lifetime of addiction. This growing market of flavored tobacco products is undermining progress in reducing youth tobacco use.

These sweet products have fueled the popularity of e-cigarettes and cigars among youth. A government study found that **eight out of ten of kids who have ever used tobacco products started with a flavored product.**² Across all tobacco products, the data is clear: flavored tobacco products are overwhelmingly used by youth as a starter product, and preference for flavors declines with age.

Nationally, e-cigarettes have been the most commonly used tobacco product among youth since 2014. Today, youth e-cigarette use remains a serious public health concern, with over 2.5 million youth, including 14.1% of US high schoolers, reporting current e-cigarette use in 2022, according to the National Youth Tobacco Survey (NYTS).³ According to the 2019 Hawai'i Youth Risk Behavior Survey, 30.1% of Hawai'i high school students and 17.7% of middle school students are current e-cigarette users.⁴

Kids are not just experimenting with e-cigarettes, but are using them frequently, leading to an addiction that is difficult to break. According to the 2022 NYTS, 46% of high school e-cigarette users reported vaping on 20 or more days/month, and 30.1% reported daily use.⁵ This youth addiction crisis has been fueled by the growth of high nicotine e-cigarettes—many contain as much or more nicotine as a pack of twenty cigarettes. Nicotine is a highly addictive drug that can have lasting damaging effects on adolescent brain development—the brain keeps developing until about age 25. In particular, nicotine use can harm the parts of the adolescent brain responsible for attention, learning, mood and impulse control.⁶ The Surgeon General concluded that, “The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”⁷

Youth e-cigarette users are also at risk of smoking cigarettes. A 2018 report 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.”⁸ More recent research confirms this finding.⁹ Therefore, it is critical for any policy restricting sales of flavored tobacco products to include e-cigarettes.

In February 2020, the FDA restricted some flavors in cartridge-based e-cigarettes, but exempted all menthol-flavored e-cigarettes and left flavored e-liquids and disposable e-cigarettes widely available in every imaginable flavor, including flavors that uniquely appeal to Hawai'i's children – like luau punch and lychee ice. New data show that the market share of these products has grown substantially and that youth quickly migrated to the flavored products that were exempt

from the FDA's policy. In 2022, 55.3% of US youth e-cigarette users reported using disposable e-cigarettes and 26.6% of users of flavored e-cigarettes reported using menthol e-cigarettes.¹⁰

While the FDA recently announced that it had denied marketing applications for certain flavored e-cigarettes, many of the flavored products most popular among kids, like Juul, are still on the market. Every day these products remain on the market, our kids remain in jeopardy. Because of the delays and gaps in the FDA's actions, it is critical that states and cities step up their efforts to eliminate ALL flavored e-cigarettes, as well as other flavored tobacco products. The evidence is also clear that as long as any flavored e-cigarettes – including menthol-flavored products – are on the market, kids will shift to them and we will not end this public health crisis. Hawai'i must close the gaps left by the FDA and protect our kids from these dangerous and addictive products.

Menthol Cigarettes and Flavored Cigars Increase Youth Smoking and Exacerbate Health Disparities

No other flavored product contributes more to the death and disease caused by tobacco use than menthol cigarettes. Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating smoking. As the only flavored cigarette left on the market, it's also no surprise that menthol cigarettes are popular among youth. About half of youth who have ever tried smoking started with menthol-flavored cigarettes.¹¹ The FDA's Tobacco Product Scientific Advisory Committee (TPSAC) has reported that:

- Menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking.
- Young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.

According to the 2019 Hawaii Youth Risk Behavior Survey, an 59% of Hawaii's high school cigarette smokers and 38% of middle school cigarette smokers used menthol cigarettes.

In addition, cheap, flavored cigars – sold in hundreds of flavors like cherry dynamite, tropical twist and chocolate – have flooded the market in recent years and fueled the popularity of these products with kids. The 2022 National Youth Tobacco Survey shows that cigars are the second most popular tobacco product (after e-cigarettes) among all high school students and are especially popular among Black high school students.¹²

Tobacco companies have a long history of targeting communities with menthol marketing.

Tobacco industry marketing, often targeted at minority communities, has been instrumental in

increasing the use of menthol products and in the disproportionate use of menthol products by minority groups and youth. TPSAC concluded that menthol cigarettes are marketed disproportionately to younger smokers and Black Americans.¹³ Dating back to the 1950s, the tobacco industry has targeted these communities with marketing for menthol cigarettes through sponsorship of community and music events, targeted magazine advertising, youthful imagery, and marketing in the retail environment. Nationwide, as a result of this targeting, 85% of Black smokers smoke menthol cigarettes, compared to 29% of White smokers.¹⁴ Nationally, menthol is also disproportionately high among Asian and Hispanic smokers, LGBTQ+ smokers, smokers with mental health problems, socioeconomically disadvantaged populations, and pregnant women.¹⁵

There is also evidence that the industry has targeted the Hawaiian population. In the 1980s, a marketing group strategized how to reach native Hawaiians with Kool cigarettes, a popular menthol brand. The agency recommended that Kool employ “ethnic advertising” in Hawai’i, recommending the use of models that were “fun, happy-go-lucky young people in their 20s...[who have] full social calendars and spend a lot of time outdoors at the beach... people who display what islanders call the aloha spirit.”¹⁶ An assessment of tobacco advertising in Hawai’i found that Kool, a popular menthol brand, was the most heavily advertised brand across Hawai’i in the early 2000s.¹⁷ The 2020 Behavioral Risk Factor Surveillance System shows that prevalence is high among ethnic groups that comprise a significant proportion of Hawaii’s population, with 79% of Filipino smokers, 78% of Native Hawaiian smokers, and 69% of

Action to prohibit menthol cigarettes is long overdue. In 2011, TPSAC concluded that “Removal of menthol cigarettes from the marketplace would benefit public health in the United States.”¹⁸ Over a decade after TPSAC issues its report—in April 2022—the FDA issued proposed rulemaking to prohibit menthol cigarettes and flavored cigars. However, until any FDA action is finalized, states and cities should continue their growing efforts to end the sale of menthol cigarettes and other flavored tobacco products. It will take time for the FDA to finalize and implement the necessary regulations to prohibit menthol cigarettes and flavored cigars, and tobacco industry lawsuits could cause more delays. States and cities have an obligation to protect the health of their citizens and must act now to stop tobacco companies from targeting kids and other groups with menthol cigarettes and other flavored products. We can’t afford more delay in taking action to protect kids and save lives.

The scientific evidence leaves no doubt that menthol cigarettes and other flavored tobacco products increase the number of people, particularly kids, who try the product, become addicted and die a premature death as a result. Prohibiting the sale of menthol cigarettes and other flavored tobacco products is an important step toward protecting our children from the

tobacco industry's aggressive efforts to hook children to a deadly, addictive product. This issue is about protecting our kids, saving lives, and advancing health equity.

This is an Effective Policy: See Flavored Tobacco Sales Restrictions: Promising Evidence for Reducing Youth Access and Tobacco Use (Attached)

These are proven effective policies. Available data indicate that strong laws can be easily implemented and can help reduce youth access to and use of tobacco by removing from store shelves the products that are most attractive to youth and the products that youth use most often.

In 2017, the San Francisco Board of Supervisors enacted the first comprehensive ban on all flavored tobacco products, which was upheld by city voters in June 2018. The San Francisco Department of Public Health's outreach and retailer education efforts extended through the fall of 2018. Between January and December 2019, compliance was 80%, compared to 18% in December 2018.¹⁹ Sales data show that flavored tobacco product sales decreased by 96% in San Francisco after implementation of the city law in early 2019. Total tobacco sales also significantly decreased over the same period, suggesting consumers did not broadly switch to unflavored tobacco products. The study concluded, "A reduction in total tobacco sales in SF suggests there was not a one-to-one substitution of tobacco/unflavored products for flavored products."²⁰

E-cigarettes are not a cessation device: Electronic Cigarettes: An Overview of Key Issues (Attached).

Some e-cigarette users report that they believe that e-cigarettes will help them quit or reduce the number of cigarettes they smoke;²¹ however, leading public health authorities have found that there is not enough evidence to conclude whether e-cigarettes are an effective smoking cessation device.²² For example, the 2020 Surgeon General's Report on Smoking Cessation concluded that "there is presently inadequate evidence to conclude that e-cigarettes, in general, increase smoking cessation." The Surgeon General also cautions that because e-cigarettes are not a single product, but "a continually changing and heterogeneous group of products" that "are used in a variety of ways," it is difficult to make broad generalizations about the efficacy of e-cigarettes for smoking cessation based upon any one study or any one product.²³ The U.S. Preventive Services Task Force (USPSTF), which makes recommendations about the effectiveness of specific preventive care services after a thorough assessment of the science, concluded that "the current evidence is insufficient to assess the balance of benefits and harms of electronic cigarettes (e-cigarettes) for tobacco cessation in adults... The USPSTF recommends that clinicians direct patients who use tobacco to other tobacco cessation interventions with proven effectiveness and established safety."²⁴ A 2021 World Health Organization

Net benefit to the state: Potential Effects of a Ban on the Sale of Flavored Tobacco Products in Hawaii (Attached)

Despite concerns over revenue loss, this policy is projected to benefit the state in the long term due to a reduction in long term health care costs in the amount of \$48 billion. This more than makes up for any potential tax declines that might be associated with this policy, and will be a boon to the state.

The time to act is now. We have waited long enough for FDA to act. Every day that we delay, more youth begin a potentially deadly addiction that can be stopped. There is broad public support for these policies, and while we wait for others to take action, we allow an industry to continue to sink it's teeth into our youth further.

Thank you for considering a strong and comprehensive policy without exemptions. This ordinance will save lives in Hawai'i.

Sincerely,



Lindsey Freitas, MPA

Director, Hawai'i

Campaign for Tobacco-Free Kids

LFreitas@tobaccofreekids.org

Appendix

A1: Examples of Flavored Tobacco Products



A2: Flavored Tobacco Products That Specifically Target Hawai'i's Kids



A3: Examples of Menthol Marketing



Source: TrinketsandTrash.org, CounterTobacco.Org

¹ 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.

² 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.

³ Cooper, M et al., "E-Cigarette Use Among Middle and High School Students—United States, 2022," *MMWR*, 71(40): 1283-1285, October 7, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a3-H.pdf>.

⁴ Centers for Disease Control and Prevention (CDC). 2019 High School Youth Risk Behavior Survey Data. Available at <http://nccd.cdc.gov/youthonline/>.

⁵ Cooper, M et al., "E-Cigarette Use Among Middle and High School Students—United States, 2022," *MMWR*, 71(40): 1283-1285, October 7, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a3-H.pdf>.

⁶ HHS, *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*, CDC, Office of Smoking and Health (OSH), 2014, <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html>. See also: CDC Office on Smoking and Health, "Quick Facts on the Risks of E-cigarettes for Kids, Teens, and Young Adults," March 2019. Accessed August 9, 2019.

⁷ HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

⁸ National 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>.

⁹ Berry, KM, et al., "Association of Electronic Cigarette Use with Subsequent Initiation of Tobacco Cigarettes in US Youths," *JAMA Network Open*, 2(2), published online February 1, 2019; Pierce, JP, et al., "Use of E-Cigarettes and Other Tobacco Products and Progression to Daily Cigarette Smoking," *Pediatrics*, 147(2), published online January 11, 2021.

¹⁰ Cooper, M et al., "E-Cigarette Use Among Middle and High School Students—United States, 2022," *MMWR*, 71(40): 1283-1285, October 7, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a3-H.pdf>.

¹¹ 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.

¹² Park-Lee E, et al. "Tobacco Product Use Among Middle and High School Students — United States, 2022." *MMWR* 71(45):1429–1435, November 11, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7145a1-H.pdf>.

¹³ TPSAC, *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011.

¹⁴ Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.

¹⁵ Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.

¹⁶ Anderson, SJ, "Marketing of menthol and consumer perceptions: a review of tobacco industry documents," *Tobacco Control*, 20(Suppl 2): ii20-ii28, 2011.

¹⁷ Glanz, K, et al., "Operation Storefront Hawaii: Tobacco Advertising and Promotion in Hawaii Stores," *Journal of Health Communication*, 11(7): 699-707, 2006.

¹⁸ Tobacco Products Scientific Advisory Committee (TPSAC), *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011

<http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>.

¹⁹ Vyas, P, et al, "Compliance with San Francisco's flavoured tobacco sales prohibition," *Tobacco Control*, published online April 16, 2020.

²⁰ Gammon, DG, et al., "Implementation of a comprehensive flavoured tobacco product sales restriction and retail tobacco sales," *Tobacco Control*, published online June 4, 2021.

²¹ Grana, R, et al., "E-Cigarettes: A Scientific Review," *Circulation* 129(19):1972-86, 2014,

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4018182/pdf/cir-129-1972.pdf>

²² King, BA, et al., "Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011," *Nicotine & Tobacco Research*, 15(9):1623-7, 2013. See also, Fiore, MC, et al., *Treating Tobacco Use and Dependence: 2008 Update, U.S. Public Health Service Clinical Practice Guideline*, May 2008, http://www.surgeongeneral.gov/tobacco/treating_tobacco_use08.pdf.

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

²³ HHS, Office of the Surgeon General, "Smoking Cessation: A Report of the Surgeon General," 2020

<https://www.hhs.gov/sites/default/files/2020-cessation-sgr-full-report.pdf>.

²⁴ United States Preventive Services Task Force, "Interventions for Tobacco Smoking Cessation in Adults, Including Pregnant Persons, Final Recommendation Statement," 2021, <https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/tobacco-use-in-adults-and-pregnant-women-counseling-and-interventions>.



ELECTRONIC CIGARETTES: AN OVERVIEW OF KEY ISSUES

A significant number of adults and youth are using electronic cigarettes, which provide a relatively new way to deliver the addictive substance nicotine without burning tobacco. E-cigarettes are less harmful than cigarettes but are not risk-free or safe.¹ In a 2020 report, the Surgeon General found that “the long-term health effects of using these products remain unknown, and short-term risks are only slowly coming into focus.”²

Research is still needed to determine whether or not e-cigarettes will help people quit, discourage smokers from quitting completely, or lead to established tobacco use for new users, including kids, especially in an environment where the products continue to evolve. In December 2018, the Surgeon General issued an advisory on e-cigarette use among youth, “officially declaring e-cigarette use among youth an epidemic in the United States.” He called for “aggressive steps to protect our children from these highly potent products that risk exposing a new generation of young people to nicotine.”³

What are Electronic Cigarettes?

The term “electronic cigarettes” covers a wide variety of products now on the market, from those that look like cigarettes, pens or USB drives to somewhat larger products like “personal vaporizers” and “tank systems.” Instead of burning tobacco, e-cigarettes most often use a battery-powered coil to turn a liquid solution into an aerosol that is inhaled by the user. Over time, e-cigarette devices have become more sleek, more concealable, and the e-liquids contain more nicotine.

There are a wide range of reusable e-cigarettes and “pods,” which enable users to replace a nicotine-containing cartridge (such as Juul) or refill a tank with a liquid solution (such as Suorin), and there are disposable e-cigarettes, which cannot be refilled (such as Puff Bar). There are also “mods,” which are units that users assemble themselves from separate component parts, to allow variation in battery power, style, and size.⁴ A study found more than 430 brands of e-cigarettes available for purchase online in 2017.⁵ As of October 2022, pre-filled cartridges or pods made up 49.6% of sales in traditional retail outlets,[†] while disposable e-cigarettes made up 50.2%.⁶



Sample of e-cigarette products. Images are not to scale.

* For the purposes of this factsheet, the term “e-cigarettes” will be used to represent the entire category of products.

† Convenience stores, gas stations, grocery stores, drugstores/pharmacies, mass merchandiser outlets, club stores, dollar stores, and military sales. Excludes Internet sales and sales from tobacco specialty stores like vape shops.

The liquid solution used in e-cigarettes typically contains nicotine, propylene glycol, glycerin or some other solvent, and other additives. E-cigarettes and refill liquids or cartridges often contain flavorings, including fruit and candy flavorings that are not permitted in regular cigarettes. Many e-cigarettes and their refill liquids also come in sweet flavors, such as fruit punch, funnel cake, orange soda, and strawberry, which have long been considered attractive to kids. By 2017, researchers identified more than 15,500 unique e-cigarette flavors available online.⁷ In addition to the vast selection available online, refill liquids and disposables in a variety of flavors, and other e-cigarette products are available at vape shops.

Currently, no reliable estimate of the size of the overall e-cigarette market exists, but market sales data from traditional retail markets show that e-cigarette sales reached an all-time high in 2021, at 324.8 million units sold, a 23.9% increase from 2020. Additionally, total e-cigarette unit sales from January to October 2022 outpaced sales during the same period in 2021.⁸ The three major U.S. tobacco companies – Altria/Philip Morris, Reynolds American/Lorillard, and ITG Brands – have all invested in the e-cigarette market with their own brands, though in late 2018, Altria announced it would end sales of its e-cigarette products and made a \$12.8 billion investment in Juul Labs (for a 35% stake in the company).⁹ There are, however, hundreds of e-cigarette companies, thousands of “vape shops,” and many online retailers, leading to a wide variety of product characteristics, including ingredients and nicotine content. A large proportion of e-cigarettes in the U.S. market are imported. Globally, more than 95% of e-cigarettes are estimated to be manufactured in or sourced from China.¹⁰

E-cigarettes must obtain a marketing order from FDA to be sold in the U.S. To date, FDA has authorized the marketing of Vuse Solo devices and compatible tobacco-flavored cartridges and Logic Vapeleaf, Logic Power and Logic Pro with compatible tobacco-flavored cartridges, while denying marketing orders for flavored cartridges from those brands.¹¹ Notably, these products have low market share;¹² for instance, Vuse Solo is the least popular of the Vuse line of products.¹³ FDA denied the marketing of some myblu products.¹⁴ In April 2022, FDA reported that it has addressed 99% of the 6.7 million pre-market applications it received since September 9, 2020, including denying marketing orders for one million products.¹⁵

E-Cigarette Marketing

The 2016 Surgeon General’s Report stated that, “E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to youth and young adults.”¹⁶ E-cigarette manufacturers resurrected the marketing practices used by tobacco companies for decades to attract kids to smoking – including some tactics that have been prohibited for tobacco companies precisely because they appealed to kids.¹⁷

Types of E-Cigarette Marketing. Some e-cigarette marketing tactics have included ads that reach youth audiences; sponsorships and free samples at youth-oriented events such as auto races and music festivals; celebrity spokespeople who depict e-cigarette use as glamorous; social media marketing; and sweet, kid-friendly flavors.

The Federal Trade Commission (FTC) documented a more than five-fold increase in spending by the top e-cigarette companies to promote their products, from \$197.8 million in 2015 to a peak of \$1.0 billion in 2019, before declining to \$719.9 million in 2020 (most recent available).¹⁸ The FTC previously noted that exposure to e-cigarette advertising is one of the “factors that has contributed to the surge in e-cigarette use among youth.”¹⁹ These findings align with early studies showing increases in marketing spending in the years that youth e-cigarette use also rose.²⁰ Separate ad-tracking data found that JUUL led the large increase in spending between 2018 and 2019, followed by BAT/Reynolds (makers of Vuse) and ITG Brands (makers of blu). By 2020, after JUUL stopped marketing in all print, broadcast, and digital product marketing, BAT/Reynolds accounted for 90 percent of all tracked ad spending.²¹

Like cigarette and smokeless tobacco companies, e-cigarette companies spent the majority of their marketing expenditures on price-reducing strategies, including price discounts, retail value added, promotional allowances, coupons, and sampling. In 2020, they spent \$423.6 million, or nearly 60% of

total marketing spending, on point-of-sale and pricing strategies, a four-fold increase since 2015. In addition, the FTC found that, following the FDA's ban on free e-cigarette samples, companies began offering their products for \$1 or less—a clear effort to evade a regulation aimed at limiting youth access. Between 2018 and 2020, spending in this category more than doubled to \$140.1 million, the second-largest spending category in 2020. FTC noted, “The increased spending occurred because following the ban on free e-cigarette samples, some companies began offering e-cigarette products for \$1 or a similar highly discounted price in order to evade the spirit, if not the letter, of the FDA’s sampling ban.”²² The U.S. Surgeon General concluded in 2012 that the tobacco industry’s price-reducing promotions are one of the factors that has led to higher tobacco use among youth.²³

The FTC first recorded spending on company-controlled social media accounts in 2017, with an increase to \$1.2 million in 2020.²⁴ In 2019, in addition to the \$1.3 million they spent on social media marketing, they also spent \$6.8 million on endorsements from celebrities, influencers, brand ambassadors, and others often appearing on social media, which was a massive increase from \$288,000 in 2015, before ending all spending in this category in 2020.²⁵ Celebrities and social media influencers were asked or paid to mention products on their social media pages, appear in TV or other sponsored ads, provide testimonials, write blog posts, and appear at events. In some cases, they were also provided with free products or discount codes. The FTC stated, “This increased expenditure suggests an attempt by some manufacturers to use newer media to secure lucrative, long-term customers addicted to their e-cigarette products.”²⁶

Social media has helped to fuel the popularity of e-cigarettes, including one of the top-selling e-cigarette brands, Juul. A study analyzing Juul marketing noted that Juul was one of the first major e-cigarette brands to rely heavily on social media to market and promote its products. The study found that Juul’s initial marketing expenditures in traditional channels were modest compared to competing brands, and that these expenditures decreased as the brand increased content and received more promotion on social media channels like Instagram and Twitter.²⁷

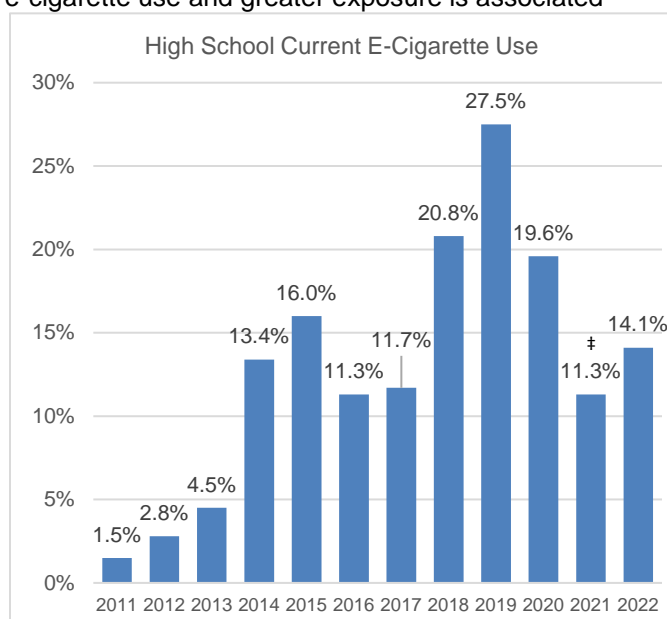
Impact of E-Cigarette Marketing on Youth. These advertising efforts have effectively reached youth and young adults. The Surgeon General concluded that, “E-cigarettes are marketed in a wide variety of channels that have broad reach among youth and young adults.”²⁸ The 2021 National Youth Tobacco Survey (NYTS) found that 70.3% of middle and high school students – 17.77 million youth – had been exposed to e-cigarette advertisements from at least one source.²⁹

Studies using data from several national government surveys (PATH, NYTS) find that youth e-cigarette advertising exposure is significantly associated with e-cigarette use and greater exposure is associated with higher odds of use.³⁰

Use of E-Cigarettes Among Adults and Youth

E-cigarettes have been the most popular tobacco product among youth since 2014, and the number of youth using e-cigarettes is alarming and raises serious concerns. While e-cigarettes have become increasingly popular among youth and young adults, uptake has remained low among older adults.

Youth Use. According to the NYTS, e-cigarettes have been the most popular tobacco product

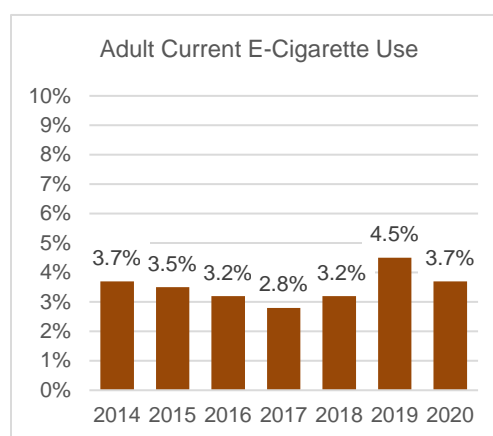


among youth since 2014. In 2022, over 2.5 million youth, including 14.1%[‡] of US high schoolers, were current e-cigarette users.³¹

Kids are not just experimenting with e-cigarettes, but are using them frequently, leading to an addiction that is difficult to break. In 2022, 46% of high school e-cigarette users reported vaping on 20 or more days/month, and 30.1% reported daily use. In total, 700,000 middle and high school students are vaping every single day.³² According to the FDA, “Teens who vape may end up addicted to nicotine faster than teens who smoke cigarettes. This is because vapes may expose users to more nicotine and may be used more frequently. Plus, e-cigarettes may come in flavors that appeal to youth. Appealing flavors may cause teens to vape longer and more often, putting them at risk for nicotine addiction.”³³

While cartridge (or “pod”) systems like Juul initially drove the youth e-cigarette epidemic, disposable e-cigarettes are now the most popular e-cigarette devices among youth. In 2022, 55.3% of youth e-cigarette users reported using disposable e-cigarettes.³⁴ Puff Bar is the most popular e-cigarette brand among youth e-cigarette users (14.5%), followed by Vuse (12.5%), Hyde (5.5%) and SMOK (4.0%).³⁵

Adult Use. Data from the National Health Interview Survey (NHIS) show that in 2020, 3.7% of adults currently used e-cigarettes every day or some days, a statistically significant decline from 4.5% in 2019. E-cigarette use is highest among younger adult populations. Compared to 2.2% of 45-64 year olds, 9.4% of 18-24 year olds currently use e-cigarettes every day or some days. While the overall e-cigarette use rate declined, use among young adults 18-24 did not change from the previous year (9.3% in 2019).³⁶



In 2019, NHIS data showed that more than half of 18-24 year-old current e-cigarette users (56.0%) had never been cigarette smokers, the highest proportion among the age groups. This youngest adult age group also had the lowest percentage of e-cigarette users who were former smokers.³⁷

Similarly, data from the Behavioral Risk Factor Surveillance System (BRFSS), show that the proportion of young adult never smokers using e-cigarette users roughly doubled between 2016 and 2018, while e-cigarette use rates among older adult never smokers changed very little.³⁸

The fairly stable e-cigarette use rates among adults have not tracked with the rising trend in e-cigarette sales. For instance, the FTC found a “dramatic growth in e-cigarette sales” from \$304.2 million in 2015 to \$2.7 billion in 2019³⁹ but during that time, adult use remained relatively stable, with only a small rise in 2019. In contrast, youth use increased significantly during this time.

Flavored E-Cigarettes

Research shows that the wide availability of flavored e-cigarettes has driven their popularity among youth. According to the FDA, “The evidence shows that the availability of a broad range of flavors is one of the primary reasons for the popularity of ENDS among youth. The majority of youth who use ENDS report using a flavored ENDS product, and the use of flavored ENDS has increased over time.”⁴⁰ The 2022 NYTS found that 85% of youth e-cigarette users use flavored products. Among youth users of flavored e-cigarettes, the most commonly used flavor types were fruit (69.1%), candy/desserts/other sweets (38.3%), mint (29.4%) and menthol (26.6%).⁴¹ Earlier data from the 2016-2017 wave of the Population Assessment of Tobacco and Health (PATH) study found that 70.3% of youth e-cigarette users say they use e-cigarettes “because they come in flavors I like.”⁴²

[‡] 2021 NYTS data are not comparable to other survey years due to a methodological change.

The popularity of various flavors of e-cigarettes has changed over time. When e-cigarettes were first introduced in the U.S., only tobacco and menthol flavors were available, but very quickly, the number of flavors exploded. Beginning in 2017, as the popularity of Juul surged, other flavors like fruit, dessert and candy made up the largest portion of sales.⁴³ However, sales of mint-flavored products grew when Juul removed its mango, cucumber, and crème flavors from the market in late 2018.⁴⁴ When Juul stopped sales of mint-flavored products in late 2019⁴⁵ and the FDA prohibited sale of cartridge-based products in flavors other than tobacco and menthol in February 2020, menthol-flavored e-cigarette sales grew dramatically. Sales of menthol-flavored e-cigarettes in traditional retail outlets increased by 22% between February 2020 and October 2022. As of October 30, 2022, menthol-flavored products made up 32.4% of all unit sales in traditional retail outlets and 62.2% of sales of cartridge-based products like Juul. However, due to the surge in sales of disposable e-cigarettes, other flavors, like fruit and candy are now the top-selling e-cigarette flavor, comprising 40.2% of the market.⁴⁶

Youth use of certain flavored products has tracked these changes in the market. From 2018 to 2019, youth use of fruit flavors fell, while youth use of mint and menthol flavors increased by 50%.⁴⁷ In 2022, 28.2% of high school users of flavored e-cigarettes reported using menthol-flavored products.⁴⁸ The FTC report detailing e-cigarette marketing spending and sales during 2015-2016 stated, “The dramatic increase in flavored products raises serious concerns that such products might have increased youth use of e-cigarette products and facilitated their continued use, resulting in addiction and other harmful effects.”⁴⁹

While data does show that flavored e-cigarettes are used by adults as well, according to the FDA, youth e-cigarette users are more likely to use flavored e-cigarettes compared to adult e-cigarette users.⁵⁰ As such, the dramatic increase in sales of flavored e-cigarettes has not yielded a similar uptake in adult use of e-cigarettes. Further, data from the PATH study has found that while the availability of flavors is the number one reason for use among youth (ages 12-17) and young adult (ages 18-24) e-cigarette users, but just the seventh most commonly reported reason for use among adults ages 25 and older.⁵¹ While some adult users claim that they need flavored e-cigarettes to help them quit, public health authorities in the U.S., including the CDC, have found that there is not enough evidence to recommend e-cigarettes, including flavored e-cigarettes, for tobacco cessation.

For more information, see Campaign for Tobacco-Free Kids fact sheet, *Flavored E-Cigarettes Hook Kids*, <https://www.tobaccofreekids.org/assets/factsheets/0407.pdf>.

Health and Public Health Concerns

Under the right circumstances, e-cigarettes could benefit public health if they help significantly reduce the number of people who use combustible cigarettes and die of tobacco-related disease. However, these potential benefits must be weighed against the current epidemic of use among youth. As the Surgeon General stated in a 2020 report, “The potential benefit of e-cigarettes for cessation among adult smokers cannot come at the expense of escalating rates of use of these products by youth.”⁵²

According to CDC, the Surgeon General, and the 2018 National Academies of Sciences, Engineering, and Medicine (NASEM) report on e-cigarettes, e-cigarettes are less harmful than combustible cigarettes, but that doesn’t mean that they are safe or without risk.⁵³ The Surgeon General found that “the long-term health effects of using these products remain unknown, and short-term risks are only slowly coming into focus.”⁵⁴ While many questions still remain about the potential long-term risks to the public health posed by these products, emerging evidence suggests that using e-cigarettes can increase respiratory and cardiovascular risk.

For more information, see Campaign for Tobacco-Free Kids fact sheet, *Understanding the Health Risks of E-Cigarettes*, <https://www.tobaccofreekids.org/assets/factsheets/0418.pdf>.

Individual-Level Health Risks

E-cigarette ingredients and constituents. There is insufficient research on the long-term effects of using e-cigarettes, which involves regular inhalation of nicotine, glycerin or some other solvent, and other additives.⁵⁵ According to the Surgeon General, “E-cigarette aerosol is not harmless. It can contain harmful and potentially harmful constituents, including nicotine.”⁵⁶ The nicotine present in e-cigarette aerosol is absorbed by users and bystanders.⁵⁷ Studies have found other chemicals and toxins present in some e-cigarettes, including formaldehyde, acrolein, volatile organic compounds like toluene, tobacco-specific nitrosamines, and metals like nickel and lead.⁵⁸ These compounds are generally present at levels much lower than in cigarette smoke, although the compounds themselves are found on FDA’s list of harmful or potentially harmful substances.⁵⁹ Because FDA is still reviewing the wide variety of products on the market, there is no way for consumers to know for sure yet what is in specific products or the aerosol.

In addition, while some of the other substances, such as flavorings, used in e-cigarettes might be labeled as “generally recognized as safe,” some researchers as well as the organization primarily responsible for granting that designation⁶⁰ have noted that it applies to ingestion, not for other exposures such as inhalation. The NASEM report committee expressed concern about flavor additives because even to-date, they “have not been widely tested for sensitizing, toxic, or irritating potency.”⁶¹ In its 2016 report, the Surgeon General stated that, “while some of the flavorings used in e-cigarettes are generally recognized as safe for ingestion as food, the health effects of their inhalation are generally unknown” and noted that some of the flavorings found in e-cigarettes have been shown to cause serious lung disease when inhaled.⁶² According to the FDA, “Flavorings that are safe for use in food may become toxic when these chemicals are heated and inhaled. Some have been shown to be harmful to the lungs.”⁶³

Impact of Nicotine. E-cigarettes and refill liquids contain widely varying levels of nicotine, and the nicotine delivered through the aerosol can also vary depending on the device characteristics and user practices.⁶⁴ Some e-liquids are formulated with nicotine salts, which, according to the Surgeon General, “allow particularly high levels of nicotine to be inhaled more easily and with less irritation than the free-base nicotine that has traditionally been used in tobacco products, including e-cigarettes.”⁶⁵ While e-cigarettes can be used for non-nicotine products, including marijuana, the vast majority of e-cigarette products sold in traditional retail stores contain nicotine,⁶⁶ and more than two-thirds of youth e-cigarette users report using e-cigarettes exclusively for nicotine-containing products.⁶⁷

Nicotine is a highly addictive drug that can have lasting damaging effects on adolescent brain development and has been linked to a variety of adverse health outcomes for the developing fetus.⁶⁸ The Surgeon General concluded that, “The use of products containing nicotine poses dangers to youth, pregnant women, and fetuses. The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”⁶⁹

In general, nicotine has been found to impact the cardiovascular system.⁷⁰ The NASEM report found that the nicotine in e-cigarettes can increase heart rate and diastolic blood pressure in users shortly after use, but evidence was not available to determine an association between e-cigarette use and other cardiovascular outcomes such as heart disease and stroke. However, the NASEM report acknowledged that the nicotine in e-cigarettes could elevate cardiovascular disease risk in users with pre-existing cardiovascular disease.⁷¹

Poisoning and Exposure to Liquid Nicotine. Delivered in high doses, nicotine can be lethal. The Surgeon General’s 2016 report and the NASEM report both found that contact with e-liquids can cause adverse health effects and ingesting e-liquids can lead to death.⁷² Exposure to liquid nicotine found in e-cigarettes has resulted in thousands of calls to poison control centers, according to the American Association of Poison Control Centers

Number of calls to poison control centers involving exposures to e-cigarette devices and liquid nicotine.*

2011	269
2012	459
2013	1,540
2014	4,011
2015	3,733
2016	2,899
2017	2,470
2018	3,139
2019	5,356
2020	3,832
2021*	5,360
Through Nov. 2022*	6,013

* Preliminary data, as poison centers continue to update their reports.

(AAPCC).⁷³ To begin to address the poisoning risk that e-cigarettes and liquid nicotine pose to young children, in 2016 Congress passed the Child Nicotine Poisoning Prevention Act, which gave the Consumer Product Safety Commission authority to enforce child resistant packaging standards for e-cigarette products. This law went into effect in July 2016.

Population-Level Health Concerns

Youth and Young Adults. The number of youth using e-cigarettes raises serious concerns that e-cigarettes may function as a gateway to the use of more dangerous, combustible tobacco products.

- The Surgeon General found that while more research is needed, e-cigarette use is “strongly associated” with the use of other tobacco products among youth and young adults, including conventional cigarettes.⁷⁴
- The NASEM report concluded that “[t]here is substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults.”⁷⁵
- An analysis of data from the FDA’s nationally representative PATH study found that from 2013 to 2016, youth (ages 12-15) e-cigarette use was associated with more than four times the odds of trying cigarettes and nearly three times the odds of current cigarette use. The researchers estimate that this translates to over 43,000 current youth cigarette smokers who might not have become smokers without e-cigarettes.⁷⁶
- New research shows that the latest generation of high nicotine e-cigarettes like Juul that have fueled the youth e-cigarette epidemic are also associated with subsequent smoking initiation. An analysis of 2017-2019 data from the Truth Longitudinal Cohort, a study of young and young adults (ages 15-27), found that compared with those who had never used an e-cigarette, those who reported ever use of any e-cigarette (Juul or other brands) in 2018 had significantly higher odds of ever cigarette use one year later, and those who reported ever use of Juul in 2018 had significantly higher odds of current e-cigarette use one year later.⁷⁷

Dual Use and Cessation. Data show that a significant number of e-cigarette users report using both e-cigarettes and conventional cigarettes, raising additional concerns beyond the potential health effects of e-cigarettes alone.

Many e-cigarette users report using both e-cigarettes and cigarettes. According to the 2019 NHIS, 36.9% of adult e-cigarette users are also current cigarette smokers (dual users) while 23.6% had never been smokers.⁷⁸ Research shows that, depending on the degree of continued smoking, dual users may not be exposed to lower levels of toxicants compared to exclusive cigarette smokers.⁷⁹ A study using 2013-2014 PATH data found that dual users had toxicant exposures that were similar to those who only smoked cigarettes.⁸⁰

Little data are available on what happens with dual users over time. Analysis of PATH data found that nearly 9 out of 10 early dual users were still smoking cigarettes at follow-up. Among adults who were dual users of e-cigarettes and cigarettes at Wave 1 (2013-2014), 44.3% maintained dual use, 43.5% discontinued e-cigarette use but maintained cigarette smoking, and only 12.1% discontinued cigarette use (5.1% discontinued cigarette use but continued e-cigarette use and 7.0% discontinued use of both products) at Wave 2 (2014-2015).⁸¹ Another study analyzing the same baseline PATH data (Wave 1) also found that three years later (Wave 4, 2016-2018) adult dual users were less likely to completely quit smoking cigarettes compared to those who hadn’t used e-cigarettes.⁸²

Some e-cigarette users report that they believe that e-cigarettes will help them quit or reduce the number of cigarettes they smoke;⁸³ however, leading public health authorities have found that there is not enough evidence to conclude whether e-cigarettes are an effective smoking cessation device.⁸⁴ For example, the 2020 Surgeon General’s Report on Smoking Cessation concluded that “there is presently inadequate evidence to conclude that e-cigarettes, in general, increase smoking cessation.” The Surgeon General also cautions that because e-cigarettes are not a single product, but “a continually changing and heterogeneous group of products” that “are used in a variety of ways,” it is difficult to make broad generalizations about the efficacy of e-cigarettes for smoking cessation based upon any one study or any

one product.⁸⁵ The U.S. Preventive Services Task Force (USPSTF), which makes recommendations about the effectiveness of specific preventive care services after a thorough assessment of the science, concluded that “the current evidence is insufficient to assess the balance of benefits and harms of electronic cigarettes (e-cigarettes) for tobacco cessation in adults... The USPSTF recommends that clinicians direct patients who use tobacco to other tobacco cessation interventions with proven effectiveness and established safety.”⁸⁶ A 2021 World Health Organization (WHO) report concluded that “evidence on the use of ENDS as a cessation aid is inconclusive”.⁸⁷

Several studies have found that e-cigarette use is not associated with successful quitting. For example, a 2020 meta-analysis of 55 studies found that e-cigarette use was not significantly associated with smoking cessation.⁸⁸ A 2018 study by Weaver et al., did not find any evidence that ENDS help adult smokers quit at a higher rate than smokers who did not use these products despite ENDS users being more likely to make a quit attempt. In fact, the authors state that “findings indicate that, at the time of this study, ENDS under “real world” use and conditions may have suppressed or delayed quitting among some adult smokers.”⁸⁹ More recent research has found that e-cigarette use increases the risk of relapse among former smokers. A 2022 study published in *Tobacco Control* analyzed FDA’s PATH data (Waves 3-5, 2016-2019) and found that recent former smokers who’d used e-cigarettes to quit had a significantly lower rate of staying quit from cigarette smoking compared to those who’d used either no e-cigarette products or specifically, used any NRT/pharmaceutical aid.⁹⁰ A 2022 meta-analysis that examined smoking relapse among former smokers found that the risk of smoking relapse was double among those who used e-cigarettes compared to those who did not.⁹¹

On the other hand, some studies do indicate that e-cigarettes could help smokers stop smoking, especially if used under certain conditions, such as every day or as part of a clinical intervention with behavioral support.⁹² For example, several studies have found that daily or frequent e-cigarette use is associated with increased smoking cessation. A 2021 study that assessed the efficacy of e-cigarettes for cessation in a “real-world” setting found daily e-cigarette use was significantly associated with increased cessation for at least one month at follow-up, while non-daily e-cigarette use was significantly associated with decreased cessation.⁹³ A 2020 meta-analysis found that daily e-cigarette use was associated with increased smoking cessation while less than daily e-cigarette use was associated with significantly less smoking cessation.⁹⁴ An earlier study using PATH data found that cigarette smokers who used e-cigarettes daily had significantly greater odds of quitting compared to non e-cigarette users.⁹⁵ Of concern, some research has found that non-daily use of e-cigarettes and dual use of e-cigarettes and cigarettes can reduce a smoker’s chance of quitting compared to not using e-cigarettes at all.⁹⁶ These findings have critical implications for public health since a significant percentage of e-cigarette users do not use e-cigarettes daily and a significant percentage are dual users, and thus, are unlikely to quit smoking using e-cigarettes.

Other studies have found that electronic cigarettes may be effective at helping smokers quit traditional cigarettes when combined with behavioral support or when used as part of a clinical program.⁹⁷ A 2020 study found that combining NRT with nicotine e-cigarettes can lead to a modest improvement in smoking cessation.⁹⁸ A 2018 study published in the *New England Journal of Medicine (NEJM)* found that smokers receiving behavioral support to stop smoking through the U.K. National Health Service, had a quit rate of 18%, at one year follow-up, compared to 9.9% in the nicotine-replacement group.⁹⁹

While existing research provides mixed results about the effectiveness of e-cigarettes in helping current smokers successfully quit, unfortunately, most of the research that finds that e-cigarettes are effective for cessation do not reflect how the products are actually being used in the real world. More research reflecting actual use patterns is needed to determine any role e-cigarettes may play in helping smokers to quit smoking.

Quitting cigarette smoking completely is the most important step smokers can take to improve their overall health. The 2018 NASEM report stated that a “reduction in rate of smoking does not ensure reduction in tobacco-related harm” and that, “there is no available evidence whether or not long-term e-cigarette use among smokers (dual use) changes morbidity and mortality compared with those who only smoke combustible tobacco cigarettes.”¹⁰⁰ Furthermore, the CDC has highlighted the importance of quitting cigarettes completely, not just cutting down. According to the CDC, “If you only cut down the

number of cigarettes you smoke by adding another tobacco product, like e-cigarettes, you still face serious health risks. Smokers must quit smoking completely to fully protect their health – even a few cigarettes a day are dangerous.”¹⁰¹ Studies have found that smoking just one to four cigarettes a day increases the risk of developing or dying from heart diseases.¹⁰² A recent review of 141 studies that examined the relationship between cigarette consumption and the risk for cardiovascular disease and stroke found that smoking even one cigarette per day carries a very high risk for developing cardiovascular disease and stroke. The authors concluded that, “Smokers need to quit completely rather than cut down if they wish to avoid most of the risk associated with heart disease and stroke.”¹⁰³ Thus, prolonging smoking, despite smoking fewer cigarettes from using e-cigarettes, will continue to put that person’s health at greater risk than if he or she had quit smoking entirely.¹⁰⁴

For more detail and sources, see Campaign for Tobacco-Free Kids fact sheet, *E-Cigarettes and Smoking Cessation: A Summary of the Evidence*, <https://www.tobaccofreekids.org/assets/factsheets/0414.pdf>.

Important unanswered questions:

- *What are the long-term health impacts of e-cigarette use?*
- *Do e-cigarettes help smokers quit more effectively than FDA-approved cessation products?*
- *Currently, six in ten adult e-cigarette users are either dual users (continue to smoke cigarettes) or had never smoked in the first place. Will most e-cigarette users continue to be dual-users or never users?*
- *Will e-cigarette marketing renormalize tobacco use?*
- *Research shows a strong association between e-cigarette use and subsequent combustible cigarette smoking among youth and young adults. Will that translate into increased smoking rates in the long-term?*
- *Do e-cigarettes draw former smokers back into nicotine addiction and potentially back to cigarette smoking?*

There are many important unanswered questions regarding the short and long-term impact that e-cigarettes may have on public health. Effective regulation is needed to minimize the potential harms of e-cigarettes and maximize any potential benefits.

Campaign for Tobacco-Free Kids, December 27, 2022

¹ U.S. Centers for Disease Control and Prevention (CDC), About Electronic Cigarettes (E-Cigarettes), last reviewed March 21, 2022, https://www.cdc.gov/tobacco/basic_information/e-cigarettes/about-e-cigarettes.html#e-cigarettes-less-harmful. National Academies of Sciences, Engineering, and Medicine (NAEM), *Public Health Consequences of E-Cigarettes*, Washington, DC: The National Academies Press, 2018, <http://nationalacademies.org/hmd/Reports/2018/public-health-consequences-of-e-cigarettes.aspx>.

² HHS, Office of the Surgeon General, *Smoking Cessation: A Report of the Surgeon General*, 2020 <https://www.hhs.gov/sites/default/files/2020-cessation-sgr-full-report.pdf>.

³ Office of the Surgeon General, “Surgeon General’s Advisory on E-Cigarette Use Among Youth,” December 18, 2018, <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.

⁴ Wells Fargo, *Vape Shops – Springing Up Across The Country*, April 14, 2014.

⁵ Zhu, S-H, et al., “Evolution of Electronic Cigarette Brands from 2013-2014 to 2016-2017: Analysis of Brand Websites,” *Journal of Medical Internet Research*, 20(3), published online March 12, 2018.

⁶ CDC Foundation & Information Resources, Inc., “Monitoring U.S. E-Cigarette Sales: National Trends,” <https://www.cdcfoundation.org/programs/monitoring-e-cigarette-use-among-youth>. Data from Information Resources, Inc. (IRI), which includes e-cigarette sales data from convenience stores, gas stations and other retail store chains. Sales from the internet and tobacco-specialty stores, including vape shops, are not included.

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FLAVORED TOBACCO SALES RESTRICTIONS: PROMISING EVIDENCE FOR REDUCING YOUTH ACCESS AND TOBACCO USE

In November 2019, Massachusetts became the first state to restrict the sale of all flavored tobacco products, including menthol cigarettes, followed by California in 2022, when voters upheld the state's law from a tobacco industry-funded ballot challenge. In 2020, New Jersey, New York and Rhode Island also passed bans on the sale of flavored e-cigarettes. In addition, over 360 localities across the U.S. have enacted restrictions on the sale of flavored tobacco products, although laws differ in their application to specific products and store types. Over 170 of these communities restrict the sale of menthol cigarettes, in addition to other flavored tobacco products.

Emerging Evidence from U.S. State and Local Flavor Restrictions is Promising

Because it is a relatively new strategy, data on the impact of flavored tobacco sale restrictions is still emerging. However, the available data indicate that strong laws can be easily implemented and can help reduce youth access to and use of tobacco by removing from store shelves the products that are most attractive to youth and the products that youth use most often. A 2020 Surgeon General report concluded that, "Prohibiting flavors, including menthol, in tobacco products can benefit public health by reducing initiation among young people and promoting cessation among adults."¹

Research also points to the importance of strong laws with robust enforcement programs, including retailer education. Weak enforcement measures and exemptions can reduce compliance and have other unintended consequences. In many localities, the most commonly sold noncompliant products were cigars or cigarillos with "concept flavors" like "Blue," "Jazz," and "Wild Rush." Case studies show that retailer education and providing retailers with a list of known flavored products can help to increase compliance. A report from the Johns Hopkins University concluded that, "When compliance is high, a comprehensive flavor ban or restriction without exemptions is likely to significantly affect sales of flavored tobacco products" and that, "A comprehensive flavor ban without product, flavor, and retailer exemptions may maximize public health benefits and minimize the opportunity for unintended consequences."²

California Local Policies

In 2017, the **San Francisco** Board of Supervisors enacted the first comprehensive ban on all flavored tobacco products, which was upheld by city voters in June 2018. The San Francisco Department of Public Health's outreach and retailer education efforts extended through the fall of 2018. Between January and December 2019, compliance was 80%, compared to 18% in December 2018.³ Sales data show that flavored tobacco product sales decreased by 96% in San Francisco after implementation of the city law in early 2019. Total tobacco sales also significantly decreased over the same period, suggesting consumers did not broadly switch to unflavored tobacco products. The study concluded, "A reduction in total tobacco sales in SF suggests there was not a one-to-one substitution of tobacco/unflavored products for flavored products."⁴

In 2018, **Oakland** restricted the sale of all flavored tobacco products to adult-only tobacco retailers. From 2017 to 2019, high school e-cigarette use in Oakland declined from 11.2% to 8.0% and high school smoking declined from 4.4% to 2.4%.⁵ Oakland later strengthened its law to remove the retailer exemptions.

A survey conducted in 2019 found that youth and young adult flavored e-cigarette users who lived in a California locality with a flavored restriction were less likely than their peers in the rest of the state to report obtaining flavored e-cigarettes from a retail source, but more likely to report obtaining them from a social source.

New York City, NY

New York City restricted sales of flavored tobacco products (excluding e-cigarettes and menthol cigarettes) in 2009 and began enforcement in November 2010. In 2020, New York City's law was strengthened to prohibit flavored e-cigarettes, but evaluation data is not yet available on the new law.

- Implementation: Retailer scanner data through 2012 showed sale of all flavored cigar, smokeless and pipe/roll-your-own tobacco declined by 87%. These declines were coupled with only minor increases in the sale of non-flavored cigars and pipe/roll-your-own tobacco (5% and 4%, respectively).⁶ Out of over 75,000 compliance checks conducted from 2010 to 2015, the New York City Department of Community Affairs found only a 4.1% violation rate.⁷
- Youth tobacco use: Data from the New York City YRBS shows that New York City teens in 2013 had 37% lower odds of ever-trying flavored tobacco products and 28% lower odds of ever using tobacco products than teens in 2010. The percent of New York City teens who reported ever use of flavored tobacco products or use of any tobacco products declined significantly after the policy was implemented (from 19.6% in 2010 to 15.6% in 2013; a 20% decline).⁸

Together, these findings indicate that not only are retailers complying with the New York City ordinance, it is effectively reducing youth access to and use of these products.

Massachusetts

Local Policies

Research shows that local-level policies passed before the statewide law had an impact on reducing youth use and access to flavored tobacco products.

- Counties with greater implementation of flavored tobacco product restrictions (restricting flavored non-cigarette tobacco products to adult-only retailers) were associated with reductions in the likelihood of current e-cigarette use and a decrease in the frequency of cigarette use among users.⁹
- Store assessments conducted 8-10 months after implementation of **Boston's** law restricting the sale of flavored non-cigarette tobacco products, 14.4% of stores were selling flavored products, compared to 100% before the law was implemented. The law also led to a significant reduction in advertising for flavored tobacco products. Flavor advertisements were present in 28% of retailers at follow-up, compared to 58.9% before the law. Finally, the law reduced retail demand for flavored tobacco products. After the law, 64% of retailers reported that customers only asked for flavored products a few times a week or did not ask at all.¹⁰
- After implementing flavored tobacco restrictions, **Salem** and **Attleboro** experienced significantly smaller increases in current use of flavored and nonflavored tobacco products, compared to Gloucester, a locality with similar demographics but no flavored tobacco restriction.¹¹

Statewide Policy

The statewide menthol ban was associated with a statistically significant decrease in state-level menthol and all cigarette sales. Adjusted 4-week sales of cigarettes in Massachusetts, compared to comparison states that had not passed flavor policies, decreased by 372.27 packs per 1000 people for menthol cigarettes but increased by 120.25 packs per 1000 people for nonflavored cigarettes. Overall, the adjusted 4-week sales of all cigarettes decreased by 282.65 packs per 1000 people in Massachusetts vs. the comparison states.¹² Despite a small increase in menthol pack sales in bordering states, the law still led to a net decrease of 340.51 packs per 1000 persons across Massachusetts and its bordering states.¹³ Another analysis similarly found that the law did not have any significant impact on cross-border sales in neighboring states where menthol cigarettes are sold. Menthol and overall cigarette sales in border states did not significantly change and were not significantly different from patterns in non-border states.¹⁴

Minnesota Local Policies

In 2016, both **Minneapolis** and **St. Paul** implemented laws restricting all flavored non-cigarette tobacco products to adult-only retailers. In both Minneapolis and St. Paul, significantly fewer convenience and

grocery stores sold flavored tobacco after policy implementation. In Minneapolis, availability was reduced from 85.4% of retailers before implementation to 39% after 5 months and 15.4% after 14 months. In St. Paul, availability was reduced from 97.3% of retailers before implementation to 8.1% after 2 months. While Minneapolis saw a decrease in the sale of concept-flavor (e.g., “Blue”) cigars (from 80.5% to 61.5%), St. Paul had an increase (from 67.6% to 81.1%).¹⁵ From 2014 to 2017, youth e-cigarette use in the Twin Cities increased by a much lesser extent than the rest of Minnesota (34.1% vs. 114% increase), suggesting that these policies attenuated the increases in e-cigarette use that occurred in the rest of the state.¹⁶

In 2018, **Minneapolis** and **St. Paul** implemented stronger laws that included restrictions on menthol cigarettes, but they added liquor stores to the definition of exempted retailers. In the same year, **Duluth** and **Falcon Heights** implemented comprehensive flavored tobacco bans with no retailer exemptions. Compliance has been high across all four cities, with only eight retailers found to be non-compliant. Minneapolis and St. Paul’s policies led to 76% and 62% reductions in the number of retailers selling menthol cigarettes, respectively, whereas Duluth and Falcon Heights saw larger reductions (95% and 100% respectively) because they did not allow for retailer exemptions.¹⁷ From 2016 to 2019, e-cigarette use and any tobacco use increased by a lesser extent in the Twin Cities area than the rest of Minnesota, and cigarette, cigar, and hookah use prevalence decreased to a greater extent in the Twin Cities than the rest of the state.¹⁸

Providence, RI

In January 2013, Providence began enforcement on its sales restriction on flavored non-cigarette tobacco products (except mint, menthol and wintergreen). Sales data from 2012 to 2016 show that sales of cigars with explicit flavor names (e.g., Cherry) declined by 93%. However, sales of concept-flavor cigars (e.g., Jazz) increased by 74%, resulting in a 51% overall decline in flavored cigar sales.¹⁹

International Evidence

In October 2017, Canada banned menthol cigarettes nationwide, although most provinces had banned menthol cigarettes prior to the nationwide law. A study from the International Tobacco Control Policy Evaluation Project (ITC), using longitudinal surveys of Canadian smokers in seven provinces from 2016-2018, found that after implementation of the law, menthol smokers were more likely to try to quit than non-menthol smokers (59% vs. 49%), and were twice as likely to have quit smoking for at least six months (12% vs. 6%).²⁰

Earlier studies of Ontario’s provincial menthol ban found that the law was associated with significant reductions in menthol cigarette sales and total cigarette sales²¹ In addition, the law was associated with increases in quit attempts and cessation:

- A 1-year follow-up survey found that both daily and occasional menthol smokers were more likely to report having quit smoking (24% and 20% vs 14%) or having made a quit attempt (63% and 62% vs 43%), compared to non-menthol smokers.²²
- A 2-year follow-up survey found that menthol smokers were more likely to report having quit smoking for at least the last 6 months (12% for daily menthol smokers and 10% for occasional menthol smokers), compared to non-menthol smokers (3%), with no significant differences in relapse rates. Menthol smokers also reported more quit attempts than non-menthol smokers. Daily menthol smokers reported an average of 3 quit attempts, compared to 2.6 for occasional menthol smokers and 1.2 for non-menthol smokers.²³

Based on this research from Canada and Ontario’s bans, researchers estimate that a menthol ban in the United States would lead over 1.3 million smokers to quit, including 381,000 Black smokers.²⁴ It is important to note that menthol cigarettes comprised a much smaller proportion of the Canadian cigarette marketplace (~5%) than the US marketplace (37%), and the demographics of menthol smokers are very different between the two countries.

In May 2020, the European Union and the United Kingdom banned the sale of menthol cigarettes. Similar to Canada, emerging research shows a positive impact on quitting behaviors. According to data from the Netherlands, pre-ban menthol smokers were significantly more likely to attempt to quit than non-menthol smokers (66.9% vs. 49.6%) and a higher, but non-significant proportion of pre-ban menthol smokers reported quitting (26.1% vs. 14.1%). Researchers estimate that if the 12.0% additional quitting found in the Netherlands were applied to the entire European Union and United Kingdom, there would be more than a million additional quitters.²⁵

Campaign for Tobacco-Free Kids, December 15, 2022 / Laura Bach

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Potential Effects of a Ban on the Sale of Flavored Tobacco Products in Hawaii*

Summary Highlights

Ending the sale of flavored tobacco products will reduce tobacco use initiation, lead current tobacco users to quit, improve health, and save lives. The policy will result in modest reductions in Hawaii's tobacco tax revenues while at the same lead to significant reductions in health care spending, including Medicaid spending, in the state.

Fiscal Impact:

- \$11.5 million decline in cigarette tax revenue (13.1% decline)
- \$1.3 million decline in other tobacco products tax revenue (14.9% decline)
- At least \$48 million in long-term health care cost savings for the state

Public Health Impact:

- More than 3,000 smokers (5.6% of menthol smokers) would quit as a result of the policy
- 700 premature smoking-caused deaths avoided
- Fewer youth initiating smoking with menthol cigarettes

The projected health care savings and public health benefits are conservative because they do not include the impact on youth who will not start to smoke as a result of this policy. Preventing kids in Hawaii from becoming addicted smokers would secure millions of dollars in future health care cost savings.

Public Health and Economic Burden of Tobacco Use in Hawaii

Tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 Americans each year, including 1,400 in Hawaii. Each year, 2,300 kids in Hawaii try their first cigarette; and another 300 additional kids become new regular, daily smokers.

Nationally, youth e-cigarette use has reached epidemic proportions, and in Hawaii, e-cigarette use among youth has far surpassed cigarette smoking. Flavors, including menthol, play a key

role in youth use of tobacco products. Tobacco use is known to cause cancer, heart disease and respiratory diseases, among other serious health problems.

In addition to tobacco's impact on health and well-being, tobacco use imposes a considerable financial toll on the economy. The Centers for Disease Control and Prevention (CDC) estimates that in Hawaii, tobacco use costs an estimated \$526 million in health care costs each year, including approximately \$142 million in state Medicaid expenditures.

These burdens on the state highlight the need to implement evidence-based policies to reduce tobacco use.

Introduction

In recent years, state and local governments in the U.S. have implemented policies banning the sale of flavored tobacco products and/or flavored liquids used in vaping. At the same time, policies banning the sale of flavored tobacco products have been implemented at the national level in a few countries, while a growing number of others have adopted but not yet implemented similar policies. Efforts to evaluate the effects of these policies on prevalence, consumption, and sale of tobacco and vaping products are ongoing and new evidence is rapidly emerging.

A variety of methodological approaches have been applied in efforts to understand the potential and actual impact of a ban on the sale of flavored tobacco and other nicotine products on the use of these products and on overall tobacco product use. These include: asking flavored tobacco product users how they would respond to a ban on the sale of flavored products, experiments that assess tobacco users' choices under different scenarios, including when flavored products are not available; evaluation of the impact of bans on the sale of flavored products in jurisdictions that have implemented these policies; and others. The most relevant evidence comes from Canada, where bans on the sale of menthol cigarettes were implemented in many provinces, beginning with Nova Scotia in May 2015, and culminating with a national ban in October 2017. The research on the potential and actual effects of comprehensive bans on the sale of flavored tobacco and other nicotine products suggests that these policies will have an impact on the use of the banned products and on overall use of tobacco and vaping products. These effects include increases in cessation among flavored product users, as well as reductions in initiation among potential users. At the same time, many continuing users are likely to substitute to non-flavored products, while some will avoid/evade the policy by obtaining flavored products on-line, from

jurisdictions where the products remain available, or through illicit vendors.

Modeling the Impact of a Comprehensive Flavor Ban on Tobacco Tax Revenues and Public Health

Key Projections:

- Percent of menthol smokers who would quit: 5.6%
- Menthol cigarettes portion of total cigarettes in Hawaii: 38.5%
- Percent reduction in overall cigarette consumption from menthol smokers quitting: 2.2%

Research indicates that the Canadian ban significantly increased smoking cessation among menthol smokers, with cessation rates 50 to 100 percent higher for menthol smokers than for non-menthol smokers following the implementation of the provincial and national bans. Given this range, I assume that a comprehensive flavor ban will raise the quit rate for menthol smokers by 75 percent relative to that of non-menthol smokers. Given estimates that 7.4 percent of smokers are recent quitters, this implies that almost 5.6 percent of menthol smokers would quit in the short run in response to a ban. Based on data from the 2014/15 Tobacco Use Supplement to the Current Population Survey (TUS-CPS), 40.8 percent of smokers smoked menthol cigarettes in Hawaii. Based on the same TUS-CPS data, menthol smokers in Hawaii smoke fewer cigarettes per month, on average, than non-menthol smokers – 286 cigarettes vs. 315 cigarettes, respectively. Given the prevalence of menthol smoking and lower average cigarette consumption among menthol smokers, menthol cigarettes account for approximately 38.5 percent of total cigarette consumption. Taken together, these data imply that a comprehensive flavor ban in Hawaii would reduce overall cigarette consumption by 2.2 percent, given increased cessation among menthol smokers.

Among menthol smokers who continue to smoke after the ban, many will switch to non-menthol

cigarettes or other tobacco products, while some will continue to smoke menthol cigarettes. The Canadian data suggest that roughly 70 percent of those who continue to smoke will substitute to non-menthol cigarettes, with the remainder purchasing menthol cigarettes from jurisdictions where they continue to be available and/or from illicit sources, or switching to other tobacco/nicotine products. These data imply a potential reduction in tax paid cigarette sales in Hawaii due to avoidance and evasion of the ban or switching to other products of 10.9 percent. However, this is likely to overstate the decline given that Hawaii residents are unable to avoid the policy by driving to other jurisdictions where a ban is not in place.

Together, overall tax paid cigarette sales in Hawaii would fall by 13.1 percent in response to a comprehensive flavor ban, with a corresponding reduction in cigarette tax revenues. Given estimated cigarette excise tax revenues of just over \$88.3 million in FY2022, this implies a drop of about \$11.5 million in cigarette tax revenues.

Projecting the impact of a comprehensive flavor ban on use of and tax revenues from other tobacco/nicotine products is more speculative given the limited data available. Using the average share of flavored tobacco product sales for the years from 2011 through 2015 and assuming that the reductions in sales of other flavored tobacco products are of a similar magnitude to the reduction in the sale of menthol cigarettes, I estimate that other tobacco product sales and resulting other tobacco product tax revenues would fall by 14.9 percent in Hawaii. Given estimated other tobacco product tax revenues of \$9 million in FY2022, this implies a reduction in other tobacco

product tax revenues of \$1.3 million. These estimated reductions in revenues are based on limited data and research evidence and are likely to be imprecise. To some extent, they are likely to overstate the actual declines in revenues as they do not consider the substitution between cigarettes and other tobacco products that might result from a flavor ban and given that at least some tobacco users who quit in response to the ban may eventually relapse and consume non-flavored products. Strengthened enforcement and increased penalties on illicit traders can reduce illegal sales of flavored products and lessen the impact of the flavor ban on tobacco tax revenues.

While a comprehensive flavor ban would lead to modest reductions in Hawaii's tobacco tax revenues, it will also improve public health given the reductions in tobacco use that result. As described above, a comprehensive flavor ban will result in almost 5.6 percent more menthol smokers quitting smoking in the short run. Given an estimated 131,300 adult current smokers in Hawaii, about 40.8 percent of whom smoke menthol cigarettes, this implies that over 3,000 adults would quit smoking in response, resulting in over 700 fewer deaths caused by smoking. In addition, the limited existing evidence suggests that a comprehensive ban would also deter numerous young people from taking up tobacco use, adding to the public health benefits. Finally, the reductions in tobacco use resulting from a comprehensive flavor ban would lead to significant reductions in health care spending, including Medicaid spending, with an estimated reduction in lifetime health care spending of at least \$48 million for those induced to quit by the policy.

*For more details, see: Chaloupka FJ (2020). *Potential Effects on Tobacco Tax Revenues of a Ban on the Sale of Flavored Tobacco Products*. Chicago, IL: Tobacconomics Research Program, Institute for Health Research and Policy, University of Illinois at Chicago; www.tobacconomics.org.

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About Tobacconomics

Tobacconomics is a collaboration of leading researchers who have been studying the economics of tobacco control policy for nearly 30 years. The team is dedicated to helping researchers, advocates and policymakers access the latest and best research about what's working—or not working—to curb tobacco consumption and the impact it has on our economy. As a program of the University of Illinois at Chicago, Tobacconomics is not affiliated with any tobacco manufacturer. Visit www.tobacconomics.org or follow us on Twitter <https://twitter.com/Tobacconomics>.



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Ho`ola Na Pua

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Ka Hale Pomaika`i

Kahi Mohala

Kokua Kalihi Valley

Kaua`i Planning and Action Alliance

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Na Pu`uwai Molokai Native

Hawaiian Health Care

Systems

P.A.R.E.N.T.S., Inc.

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PHOCUSED

PFLAG – Kona, Big Island

Planned Parenthood of the

Great Northwest, Hawaii

Alaska, Kentucky, Indiana

Residential Youth Services

& Empowerment (RYSE)

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community

Center

The Catalyst Group

February 23, 2023

To: Representative Mark Nakashipa, Chair,
And members of the Committee on Consumer Protection and
Commerce

TESTIMONY IN SUPPORT OF HB 551 HD 1 RELATING TO HEALTH

Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, supports HB 551 HD 1 Relating to Health.

Flavored tobacco is extremely damaging to the health and future of youth both in Hawaii, and the United States. Tobacco companies are using well known and liked flavors, such as watermelon or grape, to draw in youth who are not yet aware of the damage such products can cause. Tobacco products such as this can act as gateways to later addictions, which is not only damaging to health, but to future careers and stability. The nicotine in commonly found flavored vape products, for example, is capable of slowing brain development in people up to their late teens. This is extremely damaging as it is not only taking advantage of a younger age group, but actually damaging their development. Such a setback early in life can have heavy consequences later on in adulthood.

In addition, many schools are battling to keep their students out of the bathroom during class hours. Rather than spend time in class learning, students skip in favor of vaping in restrooms or on the edges of campus. Not only does this affect those who vape, but also any and all students who end up walking through toxic vape clouds while simply trying to use the restroom. The fumes in restrooms can cause lightheadedness, coughing fits, and even eye irritation for nearby students.

By allowing flavored tobacco products to remain on the shelf, Hawaii is knowingly allowing companies to use familiar flavors to take advantage of the youth, causing damage to them and their peers.

Thank you for this opportunity to testify.

Respectfully submitted,

Abby Evans

Abby Evans
Legislative Intern

Judith F. Clark

Judith F. Clark, MPH
Executive Director

Testimony of
Jonathan Ching
Government Relations Director

Before:
House Committee on Consumer Protection & Commerce
The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair

February 15, 2023
2:00 p.m.
Conference Room 329 and Via Videoconference

Re: HB 551, HD1, Relating to Health

Chair Nakashima, Vice Chair Sayama, and committee members, thank you for this opportunity to provide testimony on HB 551, HD1, which prohibits the sale of flavored tobacco products and the mislabeling of e-liquids as nicotine free.

Kaiser Permanente Hawai'i STRONGLY SUPPORTS HB 551, HD1.

Kaiser Permanente Hawai'i is one of the nation's largest not-for-profit health plans, serving 12.6 million members nationwide, and more than 269,000 members in Hawai'i. In Hawai'i, more than 4,200 dedicated employees and more than 650 Hawai'i Permanente Medical Group physicians and advance practice providers work in our integrated health system to provide our members coordinated care and coverage. Kaiser Permanente Hawai'i has more than 20+ medical facilities, including our award-winning Moanalua Medical Center. We continue to provide high-quality coordinated care for our members and deliver on our commitment to improve the health of our members and the 1.4 million people living in the communities we serve.

Youth in Hawai'i experience tobacco-related harm at alarming rates. Approximately 130 youth in Hawai'i under the age of 18 become new daily smokers each year, 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. In 2019, approximately 48% of high school students and 31% of middle school students in Hawai'i reported having used electronic tobacco products at least once. In the same year, more than a quarter (30.6%) of high school students and 17.7% of middle school students in Hawai'i reported current use of electronic tobacco products. In 2019, approximately one in five (17.8%) high school students in Hawai'i reported ever smoking cigarettes and 5.3% reported current cigarette use. 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.

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, the use of which continues to rise among teens. There are many risks of vaping for teens and young adults, including:

- Inhaled nicotine harms brain development and can lead to addiction and the use of more harmful tobacco products;
- Known short-term health effects and unknown long-term effects; and
- Flavoring and other ingredients may be toxic, and 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 HB 551, HD1 is a significant step in restricting access to these dangerous products. This legislation is a positive step toward preventing another generation of young people from living with a lifetime of addiction.

We ask the committee to PASS HB 551, HD1. Mahalo for the opportunity to testify on this important measure.

HB-551-HD-1

Submitted on: 2/13/2023 3:44:44 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Donita Garcia	Hawaii Health & Harm Reduction Center	Support	Written Testimony Only

Comments: Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction. Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol. Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth.



COMMITTEE ON CONSUMER PROTECTION & COMMERCE

DATE: Wednesday, February 15, 2023
TIME: 2:00 PM
PLACE: Conference Room 329
State Capitol
415 South Beretania Street

**TESTIMONY IN SUPPORT OF HB 551
RELATING TO HEALTH**

Honorable Chair Nakashima, Vice Chair Sayama, and members of the committee:

Waimānalo Health Center supports House Bill 551 prohibiting the sale or distribution of all flavored tobacco products, including products with menthol, and prohibit the mislabeling of products as nicotine-free.

Waimānalo Health Center's (WHC) mission is rooted in Native Hawaiian values and devoted to improving the health and wellness of all people, regardless of ability to pay, by providing comprehensive primary and preventive health care services of the highest quality. WHC recognizes the increase in the use of electronic smoking devices among youth. As a healthcare and mentoring provider of youth in the Waimānalo community, and as a non-smoking facility, we strongly support HB 551.

- Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey).
- Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.
- Menthol is just as, if not more harmful than, any other flavored tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit.
- We aim to protect our keiki and reduce the burden of tobacco in our communities, and we must include menthol.
- Ending the sale of flavored tobacco will advance health equity - disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color.
- In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).
- Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.

Thank you for the opportunity to provide testimony.

Mary Frances Oneha, Chief Executive Officer

HB-551-HD-1

Submitted on: 2/13/2023 2:49:14 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	Written Testimony Only

Comments:

STRONGLY SUPPORT [HB551 HD1](#) Stop Poisoning Our Keiki.

www.WeAreOne.cc

HB-551-HD-1

Submitted on: 2/13/2023 4:21:39 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessie Grace	Hamakua Cougars	Support	Written Testimony Only

Comments:

- Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.
- Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.
- Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth



To: The Honorable Representative Mark M. Nakashima, Chair
The Honorable Representative Jackson D. Sayama, Vice-Chair
House Committee on Consumer Protection & Commerce

From: Paula Arcena, External Affairs Vice President
Mike Nguyen, Public Policy Manager

Hearing: Wednesday, February 15, 2023 2:00 PM

RE: **HB551, HD1 Relating to Health - Support**

AlohaCare appreciates the opportunity to provide testimony in **support of HB551, HD1**. This measure would prohibit the sale of all flavored tobacco products and the mislabeling of products as nicotine-free.

Founded in 1994 by Hawai`i's community health centers, AlohaCare is a community-rooted, non-profit health plan serving over 80,000 Medicaid and dual-eligible health plan members on all islands. Approximately half of our membership are keiki. We are Hawai`i's only health plan exclusively dedicated to serving Medicaid beneficiaries. Our mission is to serve individuals and communities in the true spirit of aloha by ensuring and advocating for access to quality health care for all. We believe that health is about supporting whole-person care.

Hawai`i is experiencing a youth vaping epidemic and we must take action to protect the health of our young people from life-threatening addiction.

Flavored and menthol tobacco and vaping products are designed and marketed specifically to entice youth. Appealing flavors have driven youth tobacco usage to nearly 31% of high school students and 18% of middle school studentsⁱ, both reporting e-cigarettes use within the past 30 days. Approximately 78% of Native Hawaiian and Pacific Islander smokers report using menthol cigarettes and 81% of youth who use tobacco started with flavored products.ⁱⁱ Tobacco use is the leading cause of preventable death and disease in Hawai`i.

We greatly appreciate the Committee's consideration of this important measure. Banning the sale of flavored tobacco products will greatly reduce the number of tobacco users in our state and most importantly discourage youth initiation. 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.

Mahalo for the opportunity to submit testimony in **support of HB551, HD1**.

ⁱ <https://www.hawaiihealthmatters.org/index.php?module=indicators&controller=index&action=dashboard&id=83016762154173692>

ⁱⁱ <https://www.flavorshookkidshi.org>



HB551 HD1 Ban Flavored E-Cigarettes

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Wed, Feb 15, 2023, 2:00 : Room 329 Videoconference

HSAC Supports HB551 HD1:

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 for substance use disorder and co-occurring mental health disorder treatment and prevention agencies and recovery services.

HSAC notes that the intent is to protect our youth from the health dangers of a lifelong addiction caused by Hawaii's vaping epidemic of electronic smoking devices and e-liquids by using proven policies to restrict the use of strategies to attract youth use.

Reasons to Restrict Youth Use

What about the Vaping Epidemic?

- Vaping increased 900% among high school students from 2011 to 2015.¹
- The historic rise in e-cigarettes by youth is fueled in part by extensive marketing campaigns to make the products more appealing to young people, as referred in the Surgeon General's report.
- Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019².
- In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).

Dangers of E-cigarettes are Documented:

- The Surgeon General's report details the harmful effects of e-cigarettes.


¹ American Academy of Pediatrics: 2016 <https://www.aap.org/en/news-room/aap-voices/protecting-children-from-the-dangers-of-e-cigarettes/> Site is linked to federal agency: National Institute of Drug Abuse

² CDC Centers for Disease Control and Prevention: National Youth Tobacco Survey: https://www.cdc.gov/tobacco/data_statistics/surveys/nyts/index.htm

- Advocates hears the call from 650,000 physicians belonging to numerous medical coalitions, reasserting our dedication to keeping patients safe from tobacco products.³
- Nicotine, regardless of its source, is highly addictive and has clear neurotoxic effects, especially on the developing brains of adolescents.
- The aerosol from e-cigarettes is not harmless; it includes nicotine and other harmful and potentially harmful chemicals, including heavy metal and carcinogens. Since children’s brain and lungs are still developing, it is especially important to protect children and non-users from secondhand e-cigarette aerosol.

A Comment about Menthol

- Moreover, Menthol is just as, if not more harmful than, any other flavored tobacco.
- Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit.
- Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.
- If we want to protect our keiki and reduce the burden of tobacco in our communities, and we must include menthol.



Ending the sale of flavored tobacco will advance health equity - disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color.

Summary

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. Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

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

³ Surgeon General’s Advisory on E-cigarettes Use Among Youth: <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>



**Testimony to the House Committee on Consumer Protection and Commerce
Wednesday, February 15, 2023; 2:00 p.m.
State Capitol, Conference Room 329
Via Videoconference**

RE: HOUSE BILL NO. 0551, HOUSE DRAFT 1, RELATING TO HEALTH.

Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** House Bill No. 0551, House Draft 1, RELATING TO HEALTH.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live 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.

This bill, as received by your Committee, would prohibit the sale or distribution of all flavored tobacco products, including products with menthol, and prohibit the mislabeling of products as nicotine-free. This bill would also appropriate an unspecified amounts of general funds for fiscal years 2023-2024, and 2024-2025, for the establishment of two full-time equivalent (2.0 FTE) program specialist positions to review, process, and initiate inspections, and one full-time equivalent (1.0 FTE) administrative hearings officer to preside over administrative hearings. It would take effect on June 30, 3000.

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 harms our citizenry on a generational basis with people experimenting at even earlier ages. Because of this, the HPCA supports efforts that would create disincentives for consumers to use these products.

Accordingly, the HPCA urges your favorable consideration of this measure.

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.



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: Representative Nakashima, Chair
Representative Sayama, Vice Chair
House Committee on Consumer Protection & Commerce

Re: HB551 HD1, relating to health
2:00 p.m., Feb. 15, 2023

Aloha Chair Nakashima, Vice Chair Sayama and committee members:

On behalf of Hawai'i Children's Action Network (HCAN) Speaks!, mahalo for the opportunity to testify in **STRONG SUPPORT** of House Bill 551 HD1, relating to health.

We cannot let the epidemic that is youth vaping continue any longer. **One in three high school students and one in five middle school students report "current use" of e-cigarettes.** This time frame for a youth is critical for brain development, and e-cigarettes can negatively impact it. Nicotine use in adolescence can harm the parts of the brain that control attention, learning, mood, and impulse control.

In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019. Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. **Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.**

HB551 is a necessary step that cannot wait any longer. We must end the sale of flavored tobacco and the mislabeling of e-liquids as nicotine-free. **Please advance this essential measure.**

Mahalo,

Ke'ōpū Reelitz
Director of Early Learning and Health Policy

February 14, 2023

TO: Mark M. Nakashima, Chair
Jackson D. Sayama, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

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

RE: **HB 551 HD1** - Relating to Health
Hearing Date: February 15, 2023
Time: 2:00 pm

My name is William Goo. I represent the Cigar Association of America, Inc. ("CAA"). CAA **opposes HB 551 HD 1** which seeks to ban the sale of flavored tobacco products including cigars.

CAA is the leading national trade organization representing the interests of cigar manufacturers, importers, distributors, and major suppliers of the industry. CAA was founded in 1937 as a non-profit trade organization. Today, its member companies come from all sectors of the industry, from major manufacturers of handmade premium cigars to the largest producers of machine-made cigars. CAA members manufacture a significant share of the large, premium, little, and filtered cigars sold in the United States. Its members also include internet retailers of cigars, as well as leaf, and other suppliers to the cigar industry. CAA is a key stakeholder in any discussion of regulation of cigars, as changes in laws and/or regulations significantly affect its members' ability to conduct business.

CAA submits that there is no legal, factual, or scientific basis to prohibit the sale of flavored cigars and pipe tobacco and doing so would be detrimental to Hawaii businesses and deprive adult cigar consumers of their right to a legal product.

The proposed flavor ban seeks the same sweeping action of banning flavors and removing adult consumers' ability to choose across nearly all categories of tobacco products – but such draconian measures are simply not justified for cigars or pipe tobacco, as there is no youth epidemic of use or access to these products. CAA estimates that flavored cigars represent up to 47% of the cigar market, and nearly all pipe tobacco can be considered flavored simply based on the process that is used to manufacture the product. Passage of the proposed flavor ban would deeply harm Hawaii businesses selling these products and would be a flawed decision.

The proposed flavor ban as to cigars and pipe tobacco is not supported by scientific data. Surveys conducted or funded by government agencies all show that youth usage of cigars, including flavored cigars, is at historic lows, and youth usage of pipe tobacco is nearly unmeasurable. In fact, youth usage of cigars, including flavored cigars, is at an all-time low both in Hawaii and nationwide. In Hawaii, the most recent survey data available from 2019 showed that high school usage of all cigars was 2.8%.¹ While updated data is not available for Hawaii, nationwide there have been steep declines in youth usage of cigars since 2019. Nationwide, the National Youth Tobacco Survey tells us that in 2022, youth usage of cigars was at 1.9% and in 2021, youth usage of flavored cigars was at 0.6%.² This is compared to the 20.4% of Hawaii's youth who currently use alcohol³ and the 17.2% who currently use marijuana.⁴

Evidence from other localities demonstrates that if a flavor ban is enacted consumers will purchase products from a black market, and also that flavor bans can increase youth cigarette smoking rates. A study done after a flavor ban was instituted in San Francisco, CA found that "Difference-in-differences analyses found that San Francisco's flavor ban was associated with more than doubled odds of recent smoking among underage high school students relative to concurrent changes in other districts (adjusted odds ratio, 2.24 [95% CI, 1.42-3.53]; P = .001."⁵

The proposed flavor ban does nothing but restrict the choices of adult tobacco consumers, damage Hawaii businesses, and encourage unregulated black-market sales. Flavored cigars and pipe tobacco are sold through licensed businesses that are vigilant at age verifying purchase of such products. Imposing a prohibition on the legal sale of these products will do nothing but drive adult consumers to purchase these products through an untaxed black-market. Regarding the unregulated black market, the Tax Foundation has done an extensive study of the cigarettes consumed across the country and the rate at

¹Hawaii Youth Tobacco Survey https://hhdw.org/report/query/result/yts/CurrCigar/HS_ST.html

²Park-Lee E, Ren C, Cooper M, Cornelius M, Jamal A, Cullen K.A. Tobacco Product Use Among Middle and High School Students — United States, 2022. MMWR Morb Mortal Wkly Rep 2022;71:1429-1435. DOI: <http://dx.doi.org/10.15585/mmwr.mm7145a1>; See Consilium Sciences, "Evaluation of Flavored Cigar Products as they Relate to Questions of Public Health – Supplement to October 2020 Report" (2022), Appendix Tables 1 and 3. (on file with author and available in CAA's publicly filed comments to FDA's Proposed Product Standard on Characterizing Flavors in Cigars).

³https://hhdw.org/report/query/result/yrbs/CurAlcoholUse/CurAlcoholUse_HS_ST.html

⁴https://hhdw.org/report/query/result/yrbs/DrugUseMarj30/DrugUseMarj30_HS_ST.html

⁵Abigail Friedman, *A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California*, *JAMA Pediatrics* 175:8; 863-865 (2021).

which the products are smuggled from elsewhere.⁶ While Hawaii was not part of the study, it does illustrate the large extent of the black market for these products. While Hawaii is in a unique situation from other states, data has shown that a flavor ban does not actually change behavior, it just changes where consumers purchase their products. CAA has seen this exact situation in Massachusetts due to the flavor ban imposed there in 2020. The data shows that the flavor ban has done little to alter consumer consumption behavior – other than to force Massachusetts consumers to purchase flavored tobacco products in other states.⁷ The Tax Foundation stated this upon analyzing the impact of the Massachusetts flavor ban:

The end result of the ban, in fact, is that Massachusetts is stuck with the societal costs associated with consumption, while the revenue from taxing flavored tobacco products is being raised in neighboring states. In fact, the flavor ban has been far from successful, as sales in both New Hampshire and Rhode Island experienced double-digit growth – almost making up for the entire decrease in Massachusetts.⁸

In fiscal year 2021- 2022, Hawaii cigar excise tax revenues were in excess of \$1 million.⁹ Should these products be prohibited almost half of this revenue would be lost, as well as the additional loss of sales tax revenue collected on the sale of these products.

In summary, the primary focus of this bill is to address the rising use of flavored tobacco products by youth in Hawaii especially with respect to electronic smoking devices. Cigars are the choice and custom of mature, responsible and informed adults. Cigars are not the tobacco product of choice of Hawaii's youth. Any ban on flavored tobacco products should therefore exclude cigars.

Thank you for considering this testimony.

⁶Hoffer, A. Cigarette Taxes and Cigarette Smuggling by State, 2020, Tax Foundation (Dec. 6, 2022) [https://taxfoundation.org/cigarette-taxes-cigarette-smuggling-2022/#:%7E:text=New%20York%20has%20the%20highest,and%20Minnesota%20\(34.8%20percent\)](https://taxfoundation.org/cigarette-taxes-cigarette-smuggling-2022/#:%7E:text=New%20York%20has%20the%20highest,and%20Minnesota%20(34.8%20percent))

⁷Bosen, U. Massachusetts Flavored Tobacco Ban: No Impact on New England Sales. Tax Foundation (Feb. 3, 2022) <https://taxfoundation.org/massachusetts-flavored-tobacco-ban-sales-jama-study/>

⁸*Id.*

⁹<https://files.hawaii.gov/tax/stats/monthly/202112tob.pdf>



February 14, 2023

To: Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair
Members of the Committee
House Committee on Consumer Protection and Commerce

Re: Testimony in Support of HB551 HD1, Relating to Health

Hrg: 15 Feb 2023, 2:00PM, House Conference room 329 via Videoconference

The Hawai'i Public Health Association (HPHA) is a group of over 450 community members, public health professionals, and organizations statewide dedicated to improving public health. Our mission is to promote public health in Hawai'i through leadership, collaboration, education and advocacy. Additionally, HPHA aims to call attention to issues around social justice and equity in areas that extend beyond the traditional context of health (e.g., education, digital equity, cultural sensitivity), which can have profound impacts on health equity and well-being. Therefore, as stewards of public health, HPHA is also advocating for equity in all policies.

We strongly support HB551 HD1, which prohibits the sale of flavored tobacco. The youth vaping epidemic presents a significant public health risk. In Hawai'i, one in three high school students and one in five middle school students report current use of e-cigarettes. Flavored tobacco products are a significant driver of the vaping epidemic as 8 in 10 children start vaping with a flavored tobacco product. A major way to address vaping among youth is to prohibit the sale of the flavored tobacco products that entices youth to first try tobacco products.

Additionally, this bill addresses the sale of menthol in e-cigarettes and cigarettes. Menthol also promotes tobacco use as it has a cooling and numbing effect and can reduce throat irritation from smoking. This make menthol flavors more appealing to youth who may initiate smoking. Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth.

Ending the sale of flavored tobacco will also advance health equity as the tobacco industry has a history of marketing menthol cigarettes to youth and people of color. In Hawai'i, 78% of Native Hawaiian and Pacific Island smokers use menthol cigarettes (Hawai'i BRFSS, 2008).

We strongly support HB551 HD1 to prohibits the sale of flavored tobacco and the mislabelling of e-liquids as nicotin free. This bill would help address the youth vaping epidemic and make tobacco products less attractive to children. Hawai'i can be a leader in addressing this epidemic and join the five other states that have enacted policies to end the sale of flavored tobacco products to some extent. Flavored tobacco products pose a significant public health threat, especially to our keiki. Thank you for the opportunity to provide testimony on this important public health issue affecting youth in our communities.

Respectfully submitted,

Holly Kessler
Executive Director

Hawaii
House Consumer Protection & Commerce Committee
Testimony: HB 551 Prohibiting Sale of Flavored Tobacco Products
Guy Bentley, Director of Consumer Freedom, Reason Foundation
February 15, 2023

Chair Nakashima and members of the committee,

Thank you for the opportunity to submit testimony on the proposed ban of flavored tobacco products.

My name is Guy Bentley, and I am 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.

The intention behind this measure to limit tobacco use, especially among youth, is to be applauded. However, the track record of such prohibitions should raise significant concern that the proposed ban would promote further inequalities in the criminal justice system, simply push sales and tax revenue to other jurisdictions, and increase the illicit tobacco trade while failing to improve public health.

Case Studies: Massachusetts, Canadian Provinces, and the European Union

Massachusetts' ban on flavored tobacco products went into effect in June 2020. My colleague Jacob Rich, based out of the Center for Evidence-Based Care Research at the Cleveland Clinic, analyzed the ban's impact by comparing cigarette sales in Massachusetts before and after the ban was implemented. He found a net increase in cigarette sales of 7.2 million packs within Massachusetts and its bordering states in the twelve months to June 2021 compared to sales in the twelve months to June 2020.¹

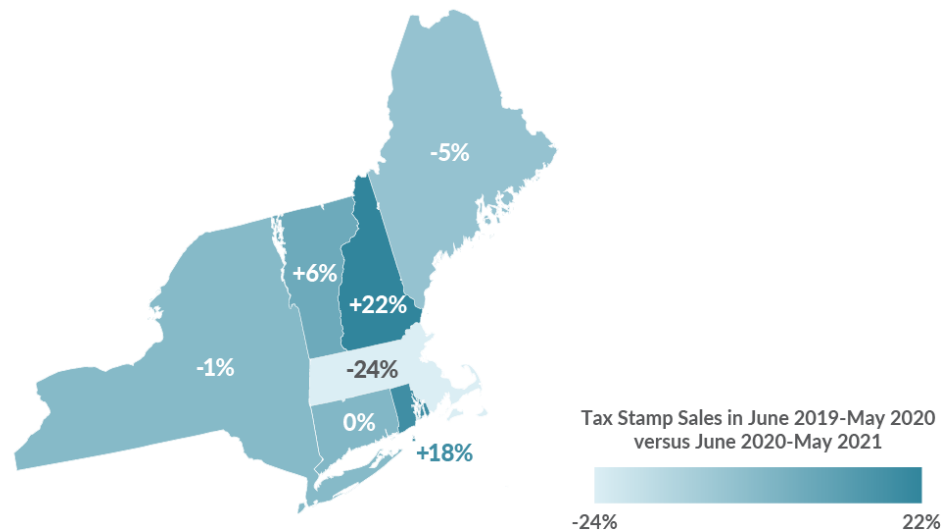
Massachusetts also saw a 15.6 million pack increase in non-menthol cigarette sales in 2021, likely due to consumers switching products after the flavored tobacco ban's implementation.

¹ Jacob Rich. "Estimates of Cross-Border Menthol Cigarette Sales Following the Comprehensive Tobacco Flavor Ban in Massachusetts." MedRxiv. April 27, 2022.
<https://www.medrxiv.org/content/10.1101/2022.04.24.22274236v1>

Additionally, with consumers turning to neighboring states and black markets, according to the Tax Foundation, Massachusetts lost \$125 million in tobacco tax revenue in its 2021 fiscal year.²

Tobacco Flavor Bans Move Sales to Neighboring States

Tax Stamp Sales in June 2019-May 2020 versus June 2020-May 2021



Source: Orzechowski & Walker Survey of State Departments of Revenue; Author's calculations.

TAX FOUNDATION

@TaxFoundation

Flavored tobacco bans in other countries have yielded similar unintended results. According to a study published by the *Journal of Law and Economics*, Canadian provinces' menthol prohibition implemented from 2015-17 significantly increased non-menthol cigarette smoking among youths, resulting in no overall net change in youth smoking as they substituted products rather than quit.³ "Difference-in-differences models using national survey data return no evidence that provincial menthol cigarette bans affected overall smoking rates for youths or adults," wrote the study's authors.

The world's largest experiment in menthol prohibition is the European Union, which includes 27 countries and had a population of 447 million people as of 2020. The EU menthol ban became effective in May 2020. Before the ban, Poland had the largest menthol cigarette market in the

² Ulrik Boesen. "Massachusetts Flavored Tobacco Ban: No Impact on New England Sales." Tax Foundation. February 3, 2022.

<https://taxfoundation.org/massachusetts-flavored-tobacco-ban-sales-jama-study/>

³ Christopher Carpenter, Hai V. Nguyen. "Intended and Unintended Effects of Banning Menthol Cigarettes." *The Journal of Law and Economics*. August 2021.

<https://www.journals.uchicago.edu/doi/abs/10.1086/713978>

EU, making up 28 percent of total menthol sales. An analysis of Poland funded by the Norwegian Cancer Society in partnership with the Polish Ministry of Health found no statistically significant decline in cigarette sales in Poland after the ban.⁴ “We find that menthol cigarette sales fell at least 97% after the menthol cigarette ban across Poland and standard cigarette sales replaced them,” write the study’s authors.

Food and Drug Administration Review and Tobacco Harm Reduction

The Food and Drug Administration (FDA) recognizes there is a “continuum of risk” when it comes to tobacco products, with cigarettes being the most dangerous and alternatives such as e-cigarettes, smokeless tobacco, nicotine pouches, and heated tobacco products being less dangerous.⁵ As such, when FDA authorizes a new tobacco product for sale, it must be evaluated as to whether it is “appropriate for the protection of public health,” meaning the product must provide a net benefit to public health.

HB 551 would ban the sale of several products that the FDA has deemed to be net beneficial to public health and authorized for sale. For example, Swedish Match’s General Snus Wintergreen Portion White Large, General Nordic Mint Portion White Large - 12ct, General Mint Portion White Large, and General Dry Mint Portion Original Mini have also obtained Modified Risk Grant Orders from FDA. These orders allow Swedish Match to inform the public about the benefits of switching from cigarettes to these reduced-risk products. According to the FDA, the claim “Using General Snus instead of cigarettes puts you at a lower risk of mouth cancer, heart disease, lung cancer, stroke, emphysema, and chronic bronchitis” is scientifically accurate.⁶

If Hawaii chooses to ban these products, it will ban products that reduce the harm and risk of tobacco-related diseases.

In 2021, the U.S. Food and Drug Administration authorized an e-cigarette as “appropriate for the protection of public health” for the first time. The FDA is also currently reviewing e-cigarette product applications that contain reams of data on safety, efficacy, and potential threats to youth. If the FDA finds that any product is a net harm to public health, it will be removed from the market. But if the product is deemed net beneficial, it will be authorized for sale as appropriate for the protection of public health.

⁴ Liber, Alex C. and Stoklosa, Michal J. and Levy, David and Sánchez-Romero, Luz María and Cadham, Christopher J. and Pesko, Michael. “A Bite-Style Model to Evaluate Poland’s Menthol Cigarette Ban.” Available at SSRN: <https://ssrn.com/abstract=3946277>

⁵ U.S. Food and Drug Administration. “FDA Authorizes Modified Risk Tobacco Products.” May 2020.

⁶ U.S. Food and Drug Administration. “Scientific Review of Modified Risk Tobacco Application (MRTPA) Under Section 911 (d) of the FD&C Act - Technical Project Lead.” <https://www.fda.gov/media/131923/download>

If Hawaii passes House Bill 551 into law and bans these products prior to the FDA concluding its review, it would limit consumer access to products the FDA may deem as positive for public health. According to a survey conducted by the International Tobacco Control Policy Evaluation Project, 57 percent of vapers said they would continue vaping if flavors were banned while half said they would find a way to get their preferred flavor. Of most concern to public health officials and lawmakers should be the finding that close to one in five vapers said if their preferred flavor was banned they would stop vaping and smoke traditional cigarettes instead.⁷

While prohibiting e-cigarette flavors other than tobacco may seem an attractive solution to reduce youth vaping, policymakers should recognize that, according to the 2022 National Youth Tobacco Survey (NYTS) by the Centers for Disease Control and Prevention (CDC), 86 percent of high schoolers are not using e-cigarettes at all and 98 percent are not smoking combustible cigarettes. Data released by the CDC also shows flavors are not the leading reason why youth initiate vaping. According to the CDC, the primary reason why young people say they start vaping is curiosity, followed by peer influence or family members. Availability in flavors, such as mint, candy, fruit, or chocolate, comes as a very distant third in the survey.⁸

Research suggests banning flavored tobacco products may also induce perverse outcomes contrary to the promotion of public health among adolescents. In 2018, San Francisco banned the sale of all flavored tobacco products, including e-cigarettes with flavors other than tobacco. Yale University's Abigail Friedman found that after the flavored tobacco ban was enacted, San Francisco area youth were twice as likely to smoke compared to young people in similar jurisdictions that had not enacted tobacco flavor bans.⁹ "While neither smoking cigarettes nor vaping nicotine are safe per se, the bulk of current evidence indicates substantially greater harms from smoking, which is responsible for nearly one in five adult deaths annually. Even if it is well-intentioned, a law that increases youth smoking could pose a threat to public health," found Friedman.

⁷ Gravely, Shannon et al. "Responses to potential nicotine vaping product flavor restrictions among regular vapers using non-tobacco flavors: Findings from the 2020 ITC Smoking and Vaping Survey in Canada, England and the United States." *Addictive Behaviors*. Volume 125. February 2022.

<https://www.sciencedirect.com/science/article/pii/S0306460321003373?via%3Dihub>

⁸ 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

⁹ Friedman AS. "A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California." *JAMA Pediatr*. Published online May 24, 2021. doi:10.1001/jamapediatrics.2021.0922

<https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248>

According to a 2020 study by Yale School of Public Health researchers, e-cigarette flavors are positively associated with smoking cessation outcomes for adults but not associated with increased youth smoking.¹⁰ The prestigious Cochrane Review concluded e-cigarettes are more effective than traditional nicotine replacement therapies in helping smokers quit smoking cigarettes.¹¹ Prohibition of flavored e-cigarettes, which are overwhelmingly the preferred choice for adult vapers, risks worsening public health by driving vapers to smoke while also fueling illicit markets and hurting local economies by forcing the closure of Hawaii vape shops.

The proposed ban on flavored e-cigarettes carries potential negative consequences for the health of Hawaii's citizens. It would also hurt the state's economy.

Thank you for your time. I would be happy to answer any questions.

Guy Bentley, Director of Consumer Freedom, Reason Foundation
guy.bentley@reason.org

¹⁰ 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>

¹¹ Cochrane Review. "Updated Cochrane Review shows electronic cigarettes can help people quit smoking." November 17, 2022.

<https://www.cochrane.org/news/latest-cochrane-review-finds-high-certainty-evidence-nicotine-e-cigarettes-are-more-effective>



Hearing on 2-15-23

Testimony in Strong Opposition to House Bill 551-HD1

Dear House CPC Committee,

The Hawaii Smokers Alliance STRONGLY OPPOSES HB 551) relating to the ridiculous prohibition of flavors for vaping and tobacco products on retailers, constituents, and visitors that enjoy these products.

The pernicious House Bill 551 is strongly opposed for the following reasons:

1. This flavor ban will place local retailers at a massive disadvantage when they now have to compete with online, smuggled, or person to person transactions. The vape products have a much higher value to volume ratio than most traditional tobacco products making them highly prone to smuggling, mailing, or in person transport from the mainland. Making the flavored products not available in stores will close many a retailers' door.
2. This bill is undoubtedly a companion bill to the unknown tax increase (HB537-HD-1). The anti-smoking lobbyists had to split it up because a prior unsuccessful bill covered too many topics at once. Combined with the flavor ban and this tax increase, local vape retailers as well as more of our rapidly disappearing civil liberties are doomed.
3. In addition HB551 will also be immediately countered by simply adding flavoring not intended for vaping into the product. This flavoring will not have been tested for compatibility and could certainly cause health risks that otherwise would not occur.
4. Simply put, this bill WILL NOT WORK because of the ease of subverting it. The only people that will "win" are anti-smoking lobbyists that get a performance bonus for passing HB551.
5. Additionally, the major of users of these products are Democrats. We simply can't understand **why the majority party would attack its' own voters** with a bill such as this and turn people away from their own party or to more reasonable Democrats wanting to gain office in the primaries.

Respectfully request that this divisive and shameful bill which is doomed to fail not leave the CPC committee. Thank you for your time.

Sincerely,

Michael Zehner, Co-chair of the Hawaii Smokers Alliance.

808-952-0275. Hawaiiismokersalliance.net

Opportunity Youth Action Hawai'i

House Committee on Consumer Protection & Commerce

Hearing Date & Time: February 15, 2023, 2:00 p.m.
Location: Conference Room 329, State Capitol
Re: HB 551, HD1 Relating to Health

Aloha e Chair Nakashima, Vie Chair Sayama, and members of the Committee:

We are writing in **strong support of HB 551, HD1 Relating to Health.**

This bill will prohibit the sale of flavored tobacco products and the mislabeling of e-liquids as nicotine free; authorize the department of health to appoint, commission, or contract for services of inspectors; establish two full-time equivalent program specialist positions and one full-time equivalent hearing officer position; and appropriate funds.

Research conducted by the Center for Disease Control (CDC) shows that flavored tobacco products are widely considered as “starter” products, and people who use them are more likely to become addicted than someone trying non-flavored tobacco products for the first time. The usually sweet flavoring masks the harshness of the tobacco, which makes them more addictive and harder to quit. According to the CDC, **flavored tobacco is more addictive than regular tobacco products.**

Furthermore, youth and young adults used flavored tobacco products more than any other age group. More than four out of five young adults ages 18 to 24 who have ever used tobacco reported that their first product was flavored (truth initiative). Flavored tobacco can be considered a gateway substance and should be regulated as such.

This issue should be addressed as soon as possible to safeguard the well being of Hawaii's youth by preventing their exposure to the harmful and addictive qualities of flavored tobacco products, and to promote public health within the state.

Opportunity Youth Action Hawai'i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth houselessness and housing market discrimination against young adults; and promote and fund more holistic and culturally-informed approaches among public/private agencies serving youth.

Please support HB 551, HD1.



February 13, 2023

From: Scott Rasak, VOLCANO Vape Shops
Chief Operating Officer

RE HB551 – oppose.

Thank you for the opportunity to submit testimony.

VOLCANO is the largest independent retailer & wholesaler of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 16 locations statewide and employ over 90 fulltime workers to support sales of our products in Hawaii. We service thousands of adult Hawaii consumers who legally purchase vaping products overwhelmingly in flavored variations. Roughly, 99% of all Hawaii based vapor sales to legal adult consumers are flavored vapor products.

While we stand in overwhelming support of the harsh restrictions measures and laws to restrict use of vapor products among youth, the suggestions put fourth for flavor prohibition sales **have not and will not** yield the results that lawmakers are proposing. We stand in opposition to HB551 for the following:

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 (“Vaping Up, Smoking Increasing Among Teens in San Francisco – Despite Bans,” *Tobacco Harm Reduction 101*, July 28, 2020, <https://www.thr101.org/research/2020/vapingup-smoking-increasing-among-teens-in-san-francisco-despite-bans>.).

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. (Centers for Disease Control and Prevention, “San Francisco, CA 2017 Results,” *High School Youth Risk Behavior Survey*, 2017, <https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=SF>)

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. (Yong Yang et al., “The Impact of a Comprehensive Tobacco Product Flavor Ban in San Francisco Among Young Adults,” *Addictive Behavior Reports*, April 1, 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7186365/#!po=0.961538>.) 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. (“Flavor Bans Do Not Reduce Youth E-Cigarette Use,” *Tobacco Harm Reduction* 101, 2019, <https://www.thr101.org/research/2019/flavor-bans-do-notreduce-youth-e-cigarette-use>) 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 ecigarettes. 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. Alternatively, 7.3 percent of Arkansas high school students reported borrowing them and 5.1 percent reported that someone else bought them. (Arkansas High School Survey, “2019 Youth Risk Behavior Survey Results,” 2019, http://dese.ade.arkansas.gov/public/userfiles/Learning_Services/School_Health_Services/YRBS/2019/2019ARH_Detail_Tables.pdf)

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. Further, 9.7 percent of Maryland high school students reported borrowing vapor products, and 4.3 percent reported that someone else bought them. (Maryland High School Survey, “2018 Youth Risk Behavior Survey Results,” 2018, <https://phpa.health.maryland.gov/ccdpc/Reports/Documents/2018%20YRBS%20YTS%20Reports/Maryland/2018MDH%20Detail%20Tables.pdf>)

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. 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.” (Montana Office of Public Instruction, “2019 Montana Youth Risk Behavior Survey High School Results,” 2019, http://opi.mt.gov/Portals/182/Page%20Files/YRBS/2019YRBS/2019_MT_YRBS_FullReport.pdf?ver=2019-08-23-



[083248-820](#))

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. Further, 13.9 percent of New Hampshire high school students reported borrowing vapor products, and 5.8 percent reported that someone else bought them. (New Hampshire High School Survey, “2019 Youth Risk Behavior Survey Results,” 2019, <https://www.education.nh.gov/sites/g/files/ehbemt326/files/files/inline-documents/2019nhdetailables.pdf>)

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.” (Vermont Department of Health, “2019 Vermont Youth Risk Behavior Survey Statewide Results,” March, 2020, https://www.healthvermont.gov/sites/default/files/documents/pdf/CHS_YRBS_statewide_report.pdf)

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. (Brad Rodu, “Who Smokes Menthol Cigarettes?” *Tobacco Truth*, December 4, 2018, <https://rodutobaccotruth.blogspot.com/2018/12/who-smokes-mentholcigarettes.html>)

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. (RJ O’Connor *et al.*, “What would menthol smokers do if menthol in cigarettes were banned?” *Addiction*, April 4, 2012, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3370153/>)

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. (Olivia A. Wackowski, PhD, MPH, *et al.*, “Switching to E-Cigarettes in the Event of a Menthol Cigarette Ban,” *Nicotine & Tobacco Research*, January 29, 2015, https://www.researchgate.net/publication/271592485_Switching_to_ECigarettes_in_the_Event_of_a_Menthol_Cigarette_Ban)

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. 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.” (Guy Bentley and J.J. Rich, “Does Menthol Cigarette Distribution Affect Child or Adult Cigarette Use?” Policy Study, Reason Foundation, January 30, 2020, <https://reason.org/policy-study/does-menthol-cigarette-distribution-affect-child-or-adult-cigarette-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. (D. Lawrence et al., “National patterns and correlates of mentholated cigarette use in the United States,” *Addiction*, December, 2010, <https://www.ncbi.nlm.nih.gov/pubmed/21059133>)

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. (National Research Council, “Understanding the U.S. Illicit Tobacco Market: Characteristics, Policy Context and Lessons from International Experiences,” *The National Academies Press*, 2015, <https://www.nap.edu/download/19016>)

The researchers found that although lower income persons were less likely to travel to purchase lowertaxed 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.” Both mothers noted that a menthol ban would “create a whole new market for loosies and reintroduce another version of stop and frisk in black, financially challenged communities.” (Carl Campanile, “Menthol cig ban will lead to more stop-and-frisk: Moms of Garner, Martin,” *New York Post*, October 16, 2019, <https://nypost.com/2019/10/16/menthol-cig-ban-will-lead-to-more-stop-and-frisk-moms-of-garner-martin/>)

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.
- 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.
- HB551 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, often times contain NO nicotine, and ultimately emit NO smoke when vaporized; yet HB551 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.

- HB551 states in its justification that the bill and its regulations are needed to curb youth usage. However, it fails to mention the latest available CDC report that shows youth use of all tobacco products, including e-cigarettes are at the lowest levels ever. Furthermore, a study done the following year at the University of Michigan found that the majority of youth who have reported using ecigarettes are not using e-liquids that contain nicotine - further suggesting that youth who do use ecigarettes are doing so to replace the use of traditional tobacco.

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



- The most Recent CDC report has shown e-cigarettes have supplanted all other traditional nicotine replacement therapies and are now the most commonly used product by consumers to quit using traditional tobacco cigarettes
o http://www.journalnow.com/business/business_news/local/cdc-report-shows-moresmokers-try-to-quit-with-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=S+entviaHootsuite
- Vapor Products are not the same as tobacco products, and thus, should not be regulated in the same fashion. Vapor products have not been demonstrated to have the same detrimental effects of combustible tobacco products and have otherwise been shown in recent studies to be as much as 95% less toxic than traditional Cigarettes. Creating extraneous regulations that aim to limit access only serves to protect deadly tobacco markets. o https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

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

Sincerely,

Scott Rasak
Chief Operating Officer
VOLCANO Vape Shops



330 Sand Island Access Rd. #400 Honolulu,
HI 96819 scott@volcanoecigs.com



February 14th, 2023

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

Dear Representative,

On behalf of Americans for Tax Reform (ATR), a non-profit organization which advocates in the interests of taxpayers and consumers throughout the United States, I urge you to reject HB 551, misguided legislation which seeks to restrict access to lifesaving reduced risk tobacco alternatives such as electronic cigarettes through banning flavors proven critical to the process of helping adults quit smoking. **The evidence clearly demonstrates that if enacted, this bill 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.**

ATR further submits that in addition to the public health disaster that reducing access to reduced risk tobacco alternatives will unleash, these proposals would also have devastating consequences on businesses, when they can afford it least at this time of high inflation. **It would kill countless jobs and would cost small business owners their livelihoods. HB 551's total economic cost would be devastating.**

Studies have repeatedly shown that flavors, which HB 551 would prohibit, are critical to helping adult smokers make the switch to vaping. Adults who use flavored vapor products are 43% more likely to quit smoking than an adult who uses un-flavored products, according to a recent [study](#) from ten of the world's top experts in cancer prevention and public health.

Further, bans on flavored vaping products are shown to cause increased youth cigarette smoking. A [study](#) from Dr. Abigail Friedman at the Yale School of Public Health found that when San Francisco imposed a flavor ban in 2018, youth smoking doubled. Before San Francisco's flavor ban, the city had lower youth smoking rates than comparable counties like New York and Los Angeles. After the flavor ban, San Francisco's youth smoking rate rose to 6.2% while comparable districts had an average rate of 2.8%.

Contrary to the claims of anti-vaping advocates, flavors play no role in youth uptake of vaping. 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 flavors that drew them to e-cigarettes. National Youth Tobacco Survey results have shown [no increase in nicotine dependency](#) among youths since flavored products entered the market.

Along with the flavor bans imposed on reduced risk tobacco alternatives, HB 551 extends flavor prohibition to menthol cigarettes and other conventional tobacco products. Like bans

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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.

Additionally, real world evidence from Massachusetts demonstrates that such bans are counterproductive and come at significant cost. Since Massachusetts implemented a ban on all flavored tobacco products in the middle of 2020, cross-border purchases and the creation of a booming black market have more than made up for a decline in sales in the Commonwealth. **This policy failure is costing Massachusetts more than \$10 million each month in excise tax revenue.**

While Hawaii may not have to worry about cross-border sales, criminal smugglers will bring illicit tobacco to Hawaii to meet the demand of the black market. These smugglers known to often be part of international 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”.** HB 551 would encourage illicit smuggling of tobacco into Hawaii, making the state a less safe place to live and work.

Paradoxically these bans may therefore increase youth smoking in the state: By definition, criminals and smugglers are unlikely to obey laws and would not follow rigorous age-verification requirements mandated at reputable outlets.

Prohibitions on menthol-flavored cigarettes will disproportionately impact minority populations and communities of color. Banning menthol cigarettes will also significantly increase the policing of minority communities and lead to a rise in negative interactions between law enforcement and people of color. This proposal prioritizes criminalization over harm reduction and public health and will ensure that people of color will disproportionately suffer from the enforcement of HB 551.

Civil liberty organizations such as the American Civil Liberties Union (ACLU), the Law Enforcement Action Partnership, and the Drug Policy Alliance are all opposed to bans on menthol and other flavored tobacco products for these same reasons. Further, law enforcement officials overwhelmingly oppose bans on menthol cigarettes because it will spur smuggling, counterfeit cigarettes, and increase organized crime.

HB 551’s ban on flavored tobacco includes flavored cigars. **There is zero evidence that flavored cigars impact youth smoking habits and therefore no justification for their prohibition under HB 551.** A report from the Population Assessment of Tobacco and Health (PATH), a long-term study of tobacco use published by FDA and the National Institute for Health, found that youth past-month usage of flavored cigars is approximately 0.3%. HB 551 would drive cigar businesses, including cigar lounges, out of business in Hawaii, costing jobs and livelihoods, with no benefit to public health.

About E-Cigarettes and Vapor Products:

- Traditional combustible tobacco remains one of the leading preventable causes of death in Hawaii. The negative health effects of combustible tobacco come from the chemicals produced in the combustion process, not nicotine. While highly addictive, nicotine is a relatively benign substance like caffeine and nicotine use “does not result in clinically significant short- or long-term harms”.
- Nicotine replacement therapies such as nicotine patches and gums have helped smokers quit for decades. In recent years, advancements in technology have created a more effective alternative: vapor products and e-cigarettes. These products deliver nicotine through water vapor, mimicking the habitual nature of smoking while removing the deadly carcinogens that exist in traditional cigarettes.
- The [CDC](#) has found that only 3.1% of youths use e-cigarettes daily, disproving the myth of an ongoing “youth vaping epidemic.”

Benefits of E-Cigarettes and Vapor Products:

- **Vapor products have been [proven to be at least 95% safer](#) than combustible cigarettes.** A comprehensive analysis of nicotine product harm estimates that e-cigarettes expose users to just 4% of the harm of combustible cigarettes.
- E-cigarettes are also more than [twice as effective](#) at helping smokers quit than traditional nicotine replacement therapies. According to one [study](#), someone who smoke and is attempting to quit with an e-cigarette has an estimated 323% higher chance of achieving complete cessation compared to someone using a traditional nicotine replacement therapy like nicotine-containing patches, gum, or mouth spray.
- Vaping has been endorsed by over 100 of the world’s leading [public health organizations](#) as safer than smoking and an effective way to help smokers quit.
- When e-cigarettes entered the market in 2003, the U.S. adult cigarette smoking rate was 21.6%. **Due to increased access to vaping, the U.S. adult smoking [rate](#) has plummeted to 13.7% as of 2018.**
- An [analysis](#) by Public Health England demonstrated just how effective vaping is in helping people quit smoking, noting that in just one year, over 50,000 British smokers, who would have continued smoking otherwise, quit smoking with vaping.
- A study from Value in Health Journal [found](#) that legislative actions banning flavored electronic cigarettes are **directly correlated** with increased traditional cigarette sales
- A University of Glasgow study showed that e-cigarettes particularly [help disadvantaged](#) people quit smoking. **HB 551 will have a tremendously negative impact on public health and would fail to decrease socioeconomic disparities by reducing adult access to products shown to improve public health.**

- Large-scale [analysis](#) from Georgetown University Medical Center estimates that 6.6 million American lives can be saved if most cigarette smokers switched to vaping. **This would amount to more than 28,000 lives saved in Hawaii.**

For the reasons outlined above, in the interests of public health, protecting the Hawaii economy, and fighting back against the spread of smuggling cartels, we call upon you to **accept the science and vote against HB 551**. Tens of thousands of lives quite literally depend upon it.

Sincerely,

Tim Andrews
Director of Consumer Issues
Americans for Tax Reform



Hawaii COPD Coalition
700 Richards St., Suite 2410
Honolulu, HI 96813
hicopd@gmail.com
(808)699-9839

February 14, 2023

Honorable Chair Representative Mark Nakashima
Honorable Vice-Chair Representative Jackson Sayama
Members of the House Consumer Protection & Commerce

RE: **Strong Support for HB551HD1, Relating to Health (ban flavored nicotine)**

Dear Chair Nakashima, Vice Chair Sayama, and members of the Consumer Protection & Commerce Committee,

This measure is extremely critical to the health of the children of our state and our entire state as well. **Please strongly support and vote in favor of HB551HD1**, which will ban the sale of flavored nicotine products and mislabeled e-liquid products.

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 and requiring support from society than they or any of us would like.

Sadly, our state is in the middle of a youth vaping epidemic! In Hawai'i one in three high school students and on in five middle school students reported "current use of e-cigarettes according to the Hawai'i YRBSS 2019! Of these youth, 8 in 10 youth currently using e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

- Flavors in tobacco products entice youth, while the nicotine keeps them **hooked for life**. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey).
- Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.
- Menthol is just as, if not more harmful than, any other flavored tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit.

- We aim to protect our keiki and reduce the burden of tobacco in our communities, and we must include menthol.
- Ending the sale of flavored tobacco will advance health equity - disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color.
- ***In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).***
- Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.

It is well-established that nicotine is 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! Studies have shown that using e-smoking devices result multiple harms to the lungs, as detailed on the John Hopkins website, [What Does Vaping Do to Your Lungs? | Johns Hopkins Medicine](http://www.hopkinsmedicine.org/health/wellness-and-prevention/what-does-vaping-do-to-your-lungs) at www.hopkinsmedicine.org/health/wellness-and-prevention/what-does-vaping-do-to-your-lungs.

Flavors in tobacco and nicotine products entice youth, while the nicotine keeps them hooked for life. ***Our organization is daily working to help those whose lungs have been ruined by exposure to smoke and we are trying to reduce our numbers, NOT increase them.***

Menthol is at least as harmful as other tobacco and nicotine flavors. It is known for its ability to mask the harshness of tobacco and makes using nicotine easier to start and harder to quit. If our aim is to protect our vulnerable keiki and reduce the burden of tobacco in our communities, menthol MUST be included. Ending the sale of all flavored tobacco and nicotine will advance health equity—disparities in tobacco use are due to the tobacco industry's history of marketing menthol tobacco products to youth and people of color.

The March 2021 Tobacconomics Fact Sheet estimates that more than 3,000 smokers (5.6% of menthol smokers) would quit when flavored and menthol products are banned. Additionally, the fact sheet estimates 700 premature smoking-caused deaths will be avoided. Additionally, fewer youth will be initiated into smoking because without menthol and other flavors, nicotine is harsh. Preventing kids in Hawaii from becoming addicted smokers would secure millions of dollars in future health cost savings.

Please help protect the lungs and lives of our children from these very harmful products that are spreading virally in our communities and schools, from elementary through high school and beyond. **We urge you to pass HB551HD1 and help it become law ASAP.** 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



TO: The Honorable Mark Nakashima, Chair
The Honorable Jackson Sayama, Vice Chair
House Committee on Consumer Protection & Commerce

FROM: Philip Bossert, Executive Director
Hawaii Association of Independent Schools

RE: **HB 551 HD1 – RELATING TO HEALTH
In Support**

DATE: Wednesday, February 15, 2023
2:00 p.m.; conference room 329 & videoconference

Aloha Chair Nakashima, Vice Chair Sayama and Members of the Committee:

My name is Philip Bossert, and I am the Executive Director of the Hawaii Association of Independent Schools.

The Hawaii Association of Independent Schools (HAIS) strongly supports HB 551 HD1.

HAIS is a membership organization that currently represents as members 100 of Hawaii's independent and private K-12 schools; and, through its subsidiary, the Hawaii Council of Private Schools (HCPS), licenses all 114 private K-12 schools in the State.

Approximately 33,000 students attend Hawaii's independent, private and parochial schools and all of them – especially those students of middle school and high school age – are endangered by the current vaping epidemic plaguing Hawaii. Vaping not only endangers the health of students in the present, but likely also for the rest of their lives.

HAIS and its member schools support HB 551 HD1 because, in creating effective regulations for the sale of e-cigarettes and flavored tobacco products to persons under the age of 21, it will make vaping both less attractive and more difficult to pursue by elementary and secondary school students and help to protect the current and future generations of Hawaii's citizens.

Thank you for the opportunity to submit testimony in support.

February 13, 2023

HB551, HD1

Title: Relating to Health

Report Title: Prohibition; Sale; Flavored Tobacco Products; Appropriation

The **Pioneering Healthier Communities Initiative** brings together local, diverse leaders to discuss and support strategies, policies and programs that we can accomplish together to build healthier communities in our island home. The members of PHC Honolulu are involved in supporting efforts that enable children and families to become healthier through schools, afterschool programs, healthcare and more.

*As such, the members of PHC are in **full support** of HB551, HD1*

- **1/3 of Hawaii's high school students and 1/5 middle school students report current use of electronic cigarettes!**
- 8/10 kids start vaping with flavored products, including flavors such as bubble gum, lemon twist, and pink lemonade. Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.
- Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.
- Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth.

Thank you for allowing us to provide this testimony,

May Okihiro

Paula Adams

Ray L'Heureux

Diane Tabangay

Tina Tamai

John Mai

Michael Libertini

The Role of Flavors

Analysis on tobacco and vaping from the TPA Consumer Center

A vitally important aspect of vaping is that, in addition to having a fraction of the risk of smoking combustible tobacco, the act of vaping is more pleasing for adults. Flavors are essential to help transition adults away from smoking and help them remain smoke-free.

Flavors are appealing to adults in a wide variety of consumer goods, and it is no different with vaping. Importantly, flavored vapes create a disassociation between smoking and vaping which is instrumental in preventing relapse for former smokers who found it difficult to quit by other means. While some vapers stick to a tobacco flavor, the vast majority do not.

A wide choice of devices, nicotine strengths, and flavored liquids are integral to the success of vaping as an alternative to smoking because it enables individuals to tailor the vaping experience to suit their particular needs.

Flavors are also important in distinguishing combustible tobacco from vaping. There is no comparison between an attractive fruit flavor and the flavor of burned tobacco. Vaping is effectively a means of denormalizing tobacco and normalizing the use of a far safer alternative.

The Research

A 2018 survey of nearly **70,000 American adult vapers** “found **flavors play a vital role** in the use of electronic cigarettes and vaping devices.”[1] In fact, **83.2 percent** and **72.3 percent** of survey respondents reported **vaping fruit** and **dessert flavors**, respectively. Most respondents indicated restricting flavors would make vaping “less enjoyable.”

Analysis of EcigIntelligence’s 2019 user survey found that **fruits, sweets and candy, and desserts and bakery flavors “are among the most preferred flavors across all age groups.”**[2] Use of tobacco flavor was preferred by less than 5 percent of those who vape. **In the event that legal sales were restricted to tobacco flavor only, 69 percent of respondents said they would try to acquire their flavors from alternative methods and 25 percent stated that they would be willing to drive over 100 miles to obtain supply.** This illustrates that flavors are important to the appeal of vaping over smoking and that proposals to ban flavored vaping products are more an attempt at prohibition by stealth than a serious public health measure.

A 2020 study found an association between flavors and smoking cessation. In a cohort study of more than 17,900 participants, the authors found that **“adults who began vaping nontobacco-flavored e-cigarettes were more likely to quit smoking than those who vaped tobacco flavors.”**[3]

Restricting Vape Flavors Perpetuates Smoking

Many lawmakers are being convinced into proposing a ban on vape flavors in the mistaken belief that they are the only driver of youth vaping. It seems to have been forgotten that youth experimentation with much more harmful combustible tobacco was at very high levels in the past when there was only tobacco flavor to offer.

Since vaping is a substitute for smoking in those who want to use nicotine, restricting vaping increases the appeal of combustible tobacco.

A July, 2021 survey in *Nicotine & Tobacco Research* found that **one-third (33.2 percent)** of survey respondents would **“likely switch to [combustible] cigarettes” if flavors were banned** in e-cigarettes.[4]

More alarmingly, a 2021 Yale University study found that **“San Francisco’s ban on flavored tobacco product sales was associated with increased smoking among minor high school students”** and that “reducing access to flavored electronic

nicotine delivery systems may motivate youths who would otherwise vape to substitute smoking.”[5]

This should not come as a surprise because of the substitution effect of competing nicotine delivery products. Nicotine use has been prevalent for many hundreds of years, restricting less harmful nicotine-containing products effectively protects sales of harmful, combustible cigarettes.

A variety of vape flavors are beneficial to public health for several reasons:

- They provide intense competition for the cigarette trade by presenting an **attraction that combustible tobacco cannot match.**
- Flavors provide a **more appealing alternative** to smoking and lead to population level reduced harm from nicotine use if uptake and initiation of vaping instead of smoking is widespread.
- **Most people who smoke do so as a result of peer pressure,** whether as adolescents or adults.
- **Flavors help more people to enjoy vaping instead of smoking** and therefore optimize the chance that future nicotine users will be more likely to initiate with a vape than with a combustible cigarette.

Lawmakers should recognize the crucial role that flavors play in reducing combustible tobacco use and put forth policies that inform consumers of the wide variety of less harmful products on the market.

References

1. Konstantinos Farsalinos, “Submitting to the FDA the findings of the largest ever survey on e-cigarette flavors use by US vapers,” *E-Cigarette Research*, August 11, 2018, <http://www.ecigarette-research.org/research/index.php/whats-new/2018-2/266-us-flav>
2. Consumer Advocates for Smoke-free Alternatives Association, “ECigIntelligence User Survey 2019,” August 25, 2020, <https://casaa.org/ecigintelligence-user-survey-2019/>
3. Abigail S. Friedman and SiQing Xu, “Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation,” *JAMA Network Open*, June 5, 2020, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7275248/#_ffn_sec_title
4. Heather Posner et al., “Reactions to Sales Restrictions on Flavored Vape Products or All Vape Products Among Young Adults in the United States,” *Nicotine & Tobacco Research*, July 31, 2021, <https://academic.oup.com/ntr/advance-article-abstract/doi/10.1093/ntr/ntab154/6332852?redirectedFrom=fulltext>
5. Abigail S. Friedman, “A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California,” *JAMA Pediatrics*, July 18, 2022, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8145156/>.



The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair
House Committee on Consumer Protection & Commerce

HOUSE BILL 551, HOUSE DRAFT 1, RELATING TO HEALTH - OPPOSE

Wednesday, February 15, 2023 @ 2:00 PM
Conference Room 329 & Videoconference

Aloha Chair Nakashima, Vice Chair Sayama and Members of the Committee,

Aloha Petroleum, Minit Stop, and Par Hawaii support strict enforcement of laws that prohibit the sale and distribution of tobacco products to underage persons. However, we respectfully oppose HB 551, HD 1 and its impact to consumers of legal age.

We take our role in enforcement seriously through tobacco control measures such as: checking IDs at the point of sale, posting legal age notices in retail stores, placing products in secure areas, and other compliance measures designed to close the on-ramp for youths.

On February 10, 2023, the U.S. Food and Drug Administration's (FDA) Center for Tobacco Products (CTP) held a public webinar titled "FDA's Rulemaking Process and Planned Tobacco Product Standards to Prohibit Menthol as a Characterizing Flavor in Cigarettes and Flavors in Cigars¹."

It is the intention of the FDA to advance two tobacco product standards within the next year:

1. Prohibit menthol as a characterizing flavor in cigarettes; and
2. Prohibit all characterizing flavors, except tobacco, in cigars.

Thank you for the opportunity to testify in opposition and ask that the committee allow the FDA to continue to advance their agenda on regulating tobacco products.

¹ February 10, 2023 Webinar: FDA's Rulemaking Process and Planned Tobacco Product Standards to Prohibit Menthol as a Characterizing Flavor in Cigarettes and Flavors in Cigars
<https://www.fda.gov/tobacco-products/ctp-newsroom/webinar-fdas-rulemaking-process-and-planned-tobacco-product-standards-prohibit-menthol>



Hawaii Dental Association

Committee: House Committee on Consumer Protection & Commerce
Time/Date: 2:00 p.m., February 15, 2023
Location: State Capitol and via Videoconference
Re: HB 551, HD1, Relating to Health

Aloha Chair Nakashima, Vice Chair Sayama, and members of the committee!

The Hawaii Dental Association (HDA) is a professional association comprised of approximately 950-member dentists. **We are in support of HB 551, HD1**, relating to health. This bill prohibits the sale of flavored tobacco products and the mislabeling of e-liquids as nicotine free. It authorizes the Department of Health to appoint, commission, or contract for services of inspectors.

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, jawbone loss and more. That is why the Hawaii Dental Association, like the American Dental Association, is working with dentists, educators, public health officials, lawmakers, and the public to prevent and, hopefully, eliminate the use of all tobacco products. HDA supports regulatory and legislative action to ban the sale and distribution of all e-cigarette and vaping products, with the exception of those approved by the FDA for tobacco cessation purposes and made available by prescription only. We will continue to support legislation aimed at enhancing and promoting oral health.

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

Mahalo for the opportunity to testify in support of HB 551, HD1.

February 9, 2023

Re: HB551 HD1

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair

The Coalition for a Drug-Free Hawaii strongly supports HB551 HD1

Aloha, my name is Greg Tjapkes, and I am the Executive Director of the Coalition for a Drug-Free Hawaii (CDFH), and we strongly support HB551 HD1. We are in the midst of a youth vaping epidemic, and I encourage you to support this bill for our youth.

Vaping flavors attract youth, the nicotine hooks them. In 2020, 8 of 10 youth who vape use a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey).

Additionally, it is well known that menthol flavorings are targeted at minority populations. 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008). Mint and menthol flavored e-cigarettes are among the most popular flavors for kids.

Ending the sale of flavored vape and menthol tobacco products will reduce the appeal of these products and protect our kids from a lifetime of addiction.

Thank you for the appreciate the opportunity to provide this testimony.

Sincerely,

Greg Tjapkes
Executive Director
Coalition for a Drug-Free Hawaii

HB-551-HD-1

Submitted on: 2/13/2023 1:54:05 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shani Carvalho	Individual	Support	Remotely Via Zoom

Comments:

I, Shani Carvalho, mother of 4 children, ages (15, 13, 10, and 5) strongly support HB551 relating to ending the sale of flavored tobacco products including Menthol. Both my 10th grader and 6th grader are exposed to vaping in their schools everyday where they state that their peers began vaping because of the candy and fruit flavors. By excluding candy and fruit flavors including menthol in tobacco products such as electronic smoking devices, we can save the lives of our keiki living today from a lifetime of addiction or premature death caused by tobacco related illness and diseases.

HB-551-HD-1

Submitted on: 2/13/2023 2:37:44 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shelly Ogata	Individual	Support	Written Testimony Only

Comments:

Rep Mark Nakashima, Chair, Rep Jackson Sayama, Vice-Chair, and the members of the Committee on Consumer Protection & Commerce:

HB 551 will end the sale of all flavored tobacco products, including menthol cigarettes and synthetic nicotine products, in Hawai‘i. It also subjects synthetic nicotine and heated tobacco products to age restriction regulations.

As a graduate of the University of Hawai‘i School of Public Health and a lifelong resident of the State of Hawai‘i, I am expressing my **STRONG SUPPORT** of this bill.

Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.

Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth.

Please support HB551. You don’t want to “be the one” to leave a legacy of another generation addicted to nicotine.

Shelly Ogata, RN, MPH

Hilo, HI

HB-551-HD-1

Submitted on: 2/13/2023 2:35:29 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Hauoli Kahaleuahi	Individual	Support	Written Testimony Only

Comments:

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.

With 8 in 10 kids starting with a flavored tobacco product, a major way to address young people’s use of tobacco products, including e-cigarettes, is to prohibit the sale of flavors that attract youth in the first place and discourage them from trying these products. This legislation will remove the thousands of fruit and candy-flavored tobacco products, as well as menthol cigarettes, that are addicting our keiki.

I live in Hāna on the eastside of Maui and we’ve seen youth as young as 4th grade vaping. We know they are attracted to the flavors, like lychee, guava, etc. We have to address this and take action.

Mahalo.

HB-551-HD-1

Submitted on: 2/13/2023 2:53:54 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

The marketing of flavored tobacco products to hook juveniles on nicotine is an abomination that should not be sanctioned with legal approval in an enlightened society.

HB-551-HD-1

Submitted on: 2/13/2023 3:02:20 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Samonte	Individual	Support	Written Testimony Only

Comments:

I support this bill

HB-551-HD-1

Submitted on: 2/13/2023 3:18:47 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anthony S. Kim, DMD	Individual	Support	Written Testimony Only

Comments:

Strong Support for HB551

Honorable Chair and Committee Members,

Please support this bill to help protect our keiki from the harm of vaping and tobacco products. This is an area where taking a stand now can prevent the explosion of disease and health costs later. Support this bill and support the health of Hawaii's future.

Mahalo,

Anthony S. Kim, DMD

TESTIMONY HB551 HD1

I am a long-time Kauai pediatrician, and I am writing in that role to support HB551 HD1 banning flavored tobacco products and mislabeling e-liquids as nicotine-free. We are in the midst of a vaping epidemic in Hawaii, with startling statistics – 1/3 of high school students and about 1/5 of middle school students are regular vapers. E-cigarettes and other flavored products are purposely made attractive to our keiki by their fruit, candy, and menthol flavors. They are, in effect, attractive starter drugs for nicotine inhalation. Nicotine is one of the most addictive substances, especially for children, and by exposing young people early, they are easily hooked for life. Vaping products contain much higher nicotine concentrations than individual cigarettes, which is a strategy put forth by tobacco manufacturers to hook vulnerable teens and preteens and maintain nicotine dependence. Menthol is particularly harmful in vaping liquids and cigarettes because of its ability to mask the harshness of tobacco, thereby making it more palatable. This is a recipe for ever increasing medical costs to treat the long-term consequences of nicotine addiction long into the future. The most practical and expeditious way to prevent introducing vaping liquids to children is to prevent the sale of flavored tobacco products in the first place.

Menthol is also a health equity issue. In Hawaii, 78% of native Hawaiians and Pacific Island smokers use menthol cigarettes. Tobacco companies particularly target specific ethnic groups and children in advertising menthol. Shockingly, 42% of Native Hawaiian students use e-cigarettes.

There is a clear-cut way to greatly reduce flavored tobacco use by our most precious resource – our keiki. That is to eliminate access to all flavored vaping liquids and menthol by legislation. There is absolutely no reason to avoid this responsibility. We owe it to our children

Linda Weiner, MD
Kauai Pediatrician

To: Rep. Mark Nakashima, Chair
Rep. Jackson Sayama, Vice Chair
Senate Committee on Consumer Protection & Commerce

RE: Strong Support to HB 551, Relating to Health

Hrg: February 15, 2023 at 2:00 pm via Videoconference

As a concerned parent and public health researcher, I am submitting testimony in **STRONG SUPPORT to HB 551.**

Ending the sale of all flavored tobacco will advance health equity. Health disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008). In addition, Filipinos are also disproportionately impacted by e-cigarettes. Filipinos are the second largest population in Hawai'i and have high rates of diabetes (13%), hypertension (28.7%) and respiratory disease (13% adults, 21% children).

In a study that I published on tobacco and electronic smoking device use (ESDs) among **Filipinos in Hawai'i, we found that 43% of respondents started using ESDs because of the different flavors, 38% were curious about vaping, and 30% viewed vaping as healthier than cigarettes.** Smokers reported that they preferred menthol (67%). The study comprised of adults, including those who were under 21 years old (underage) (Corpuz & Dela Cruz, 2019). There is a cause for concern that Filipino youth vape users become adult vape users who have no knowledge of tobacco cessation programs and have no desire to quit. Tobacco-free lifestyles for Filipinos will reduce their risk of coronary heart disease, lung cancer, and other chronic diseases which disproportionately impact Filipinos.

Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki/ mga bata / children from a lifetime of addiction.

Please vote YES on HB 551 and protect our children and the health of our community now and for future generations.

Mahalo for allowing me to submit my testimony.

Aloha,
May Rose Dela Cruz, DrPH

HB-551-HD-1

Submitted on: 2/13/2023 3:34:11 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gerraine Hignite	Individual	Support	Written Testimony Only

Comments:

I strongly support HB 551.

Mahalo,

Gerraine Hignite BS RDH

HB-551-HD-1

Submitted on: 2/13/2023 3:46:32 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cheryl Reeser	Individual	Support	Written Testimony Only

Comments:

Aloha,

Flavored tobacco products, such as E-Cigarettes, have created an urgent health epidemic for our youth. After everything we now know of the dangers of tobacco use, we've got to do everything within our power to curb this crisis immediately and HB551 is one of the tools we can use to do this. I urge you to support HB551.

Mahalo.

HB-551-HD-1

Submitted on: 2/13/2023 4:12:56 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

Strong support. Thank you.

HB-551-HD-1

Submitted on: 2/13/2023 3:58:02 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Loren Lindborg	Individual	Support	Written Testimony Only

Comments:

Ending the sale of flavored tobacco will promote health equity. In Hawaii, majority of Native Hawaiians and Pacific Islanders use menthol cigarettes. By preventing the sale of menthol and other flavors, we can reduce the risk of enticing our at-risk island youth to E-cigarettes and other flavored tobacco products.

HB-551-HD-1

Submitted on: 2/13/2023 4:21:31 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
David Ball	Individual	Support	Written Testimony Only

Comments:

To the members of the Committee,

I am writing to voice my full support for HB551, which is one necessary step to protect Hawaii's keiki from the public health plague of electronic smoking devices. As a teacher of teenagers, I have heard too many stories of parents' distress at the explicit marketing tactics used by tobacco companies to hook kids on these devices. I am inspired that this is a bill for kids written and advanced by kids. The time is always right to do what is right; please do not allow tobacco lobbyists to make the public health decisions for our community. I urge the Committee to advance this necessary bill.

With aloha,

Dave Ball, Honolulu

HB-551-HD-1

Submitted on: 2/13/2023 4:38:12 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anthony Orozco	Individual	Oppose	Written Testimony Only

Comments:

This bill will cause massive hardship to small retailers of vape products. It will also cause more people to use burnable tobacco. Please keep it in committee. Mahalo.

HB-551-HD-1

Submitted on: 2/13/2023 4:27:31 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kathy Kim	Individual	Oppose	Written Testimony Only

Comments:

I have strong opposition to this bill. The bill will take away the rights of people over 21 to enjoy these products. It also will damage small businesses. I'll be watching this bill closely and sharing the results with my circle of friends so we know who to vote for and against in 2024.

HB-551-HD-1

Submitted on: 2/13/2023 4:53:16 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bryan Mih	Individual	Support	Written Testimony Only

Comments:

Aloha,

As a parent, pediatrician, and medical director of the Kapi’olani Smokefree Families Program, I strongly support this bill, which prohibits the sale or distribution of flavored tobacco products, including flavored e-liquids and menthol cigarettes.

The American Academy of Pediatrics has strongly supported elimination of flavored tobacco products, including menthol. These products have been shown to be disproportionately used by young people, especially teenagers, as the menthol and other flavors make it easier to start using tobacco and nicotine.

These products are targeted towards our keiki with flavors such as mango, bubblegum, gummy bear, and pineapple. The tobacco corporations have intentionally included menthol, which provides a soothing, cooling effect similar to that in cough drops. Menthol reduces the harsh irritation to the lining of the nose, mouth, and airways, which allows smokers and vapers to inhale more easily. This makes it much easier for young people to initiate tobacco use. The tobacco industry has a long history of marketing menthol cigarettes to youth and vulnerable groups. In Hawaii, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes.

Hawaii has one of the highest rates of middle schoolers (16%) and high schoolers (26%) currently using e-cigarettes—it is twice the national average. Nicotine is a highly addictive drug that impacts the adolescent brain, reducing impulse control and affecting mood. Those who use e-cigarettes are four times more likely to smoke regular cigarettes later on. The e-cigarette industry claims these are cessation devices, but a recent study has shown that even if one adult can quit with these devices, the trade-off is 81 young people who will start the habit in their place. This is completely unacceptable.

Once young people are addicted to nicotine, it is extremely difficult to quit. By eliminating these products from Hawaii, we have the chance to improve the health of many, especially of our keiki.

On behalf of the keiki and young people of Hawaii, I urge you to support this bill.

Mahalo for your consideration and support of this important measure.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

HB-551-HD-1

Submitted on: 2/13/2023 5:07:36 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alex Abe	Individual	Oppose	Written Testimony Only

Comments:

I'm Alex and I oppose this oppressive bill.

HB-551-HD-1

Submitted on: 2/13/2023 5:16:38 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nancy Manali-Leonardo	Individual	Support	Written Testimony Only

Comments:

I am a retired RN, and full-time grandma of a 10th grade high school student in Honolulu.

I asked my granddaughter if anyone smokes flavored vaping? She replied: "Plenty kids do. Also, cigarettes and pot too."

This is not healthy or acceptable.

Please support HB 551 because our children need you to.

Mahalo,

Nancy Manali-Leonardo 96815, 808-542-1556.

HB-551-HD-1

Submitted on: 2/13/2023 5:31:38 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Chang	Individual	Oppose	Written Testimony Only

Comments:

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HB-551-HD-1

Submitted on: 2/13/2023 5:32:20 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lynn Murakami Akatsuka	Individual	Support	Written Testimony Only

Comments:

I strongly support the passage of HB 551, HD1 for the health of our residents, especially our children and youth. Let this legislative session make this bill become a landmark law.

Thank you for the opportunity for testifying in strong support of HB 551, HD 1.

HB-551-HD-1

Submitted on: 2/13/2023 5:39:11 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tim Lemke	Individual	Oppose	Written Testimony Only

Comments:

Dear CPC Committee,

I don't smoke and I don't vape.

I am opposed to this bill because it is part of a growing trend to take away one civil liberty after another. From straws, to wet wipes, to affordable electricity, to gasoline powered cars, to gas stoves, sugar drinks, and on and on. The legislative insanity in Hawaii needs to stop.

PLEASE LET YOUR CONSTITUENTS CHOOSE FOR THEMSELVES!

HB-551-HD-1

Submitted on: 2/13/2023 5:46:20 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dorian Aoki	Individual	Support	Written Testimony Only

Comments:

I am in support of HB551, with hopes that this stops tobacco and nicotine addictions once and for all. Looking at how many nicotine products fail to fully promote it's contents it is no wonder that this has become a rising issue in Hawaii's youth. With the detrimental affects that it has both on our keiki and our Naitve Hawaiian citiziens the sale and promotion of fruit flavored and menthol e-cigarettes needs to be halted.

HB-551-HD-1

Submitted on: 2/13/2023 5:47:42 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dallas Nelson	Individual	Oppose	Written Testimony Only

Comments:

State Lawmakers in office that take away the things people like are setting a very dangerous example. Remember, that we have a constitutional right to enjoy the flavored products which is protected under the right to privacy, just like abortion is.

HB-551-HD-1

Submitted on: 2/13/2023 7:23:53 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Misty Cruden	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

My name is Misty Cruden, a senior at Waiākea High School and the Sergeant-at-arms for the Hawai'i State Student Council and I am speaking in support of House Bill 551. HB551 prohibits the sale of flavored tobacco products and the mislabeling of "nicotine-free products". As a public high school student, I see first-hand experience of vaping in our youth. Many of our students are continuously unfocused and unmotivated because they are so addicted to vaping and e-cigarettes. They use their class time to vape in bathrooms and stairwells, not only disrupting their education but their peers around them. There have also been many stories of vapes blowing up in people's faces and putting our youth in this dangerous situation is inconsiderate and irresponsible. It is time for us to truly take the vaping epidemic into our own hands and end it now.

Mahalo for your time and consideration.

HB-551-HD-1

Submitted on: 2/13/2023 7:50:48 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.

Ending the sale of all flavored tobacco will advance health equity—disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth. Please support HB551 HD1.

HB-551-HD-1

Submitted on: 2/13/2023 8:23:52 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shanna Dean	Individual	Support	Written Testimony Only

Comments:

Please stop allowing all flavored tobacco in Hawaii. The health of young people is more important than tobacco corporations.

H.B.551, HD 1
February 15, 2023

Committee on Consumer Protection & Commerce

Rep. Nakashima, Chair
Rep. Sayama, Vice Chair

TESTIMONY IN SUPPORT OF HB 551, HD 1, RELATING TO HEALTH

My name is Julian Lipsher, testifying as an individual in support of HB 551. I currently serve as Chair of the Coalition For a Tobacco Free Hawaii's Policy Committee a part of the Hawaii Public Health Institute and formerly was with the Hawaii State Department of Health, focusing on tobacco prevention and control and chronic disease.

Despite decades of progress in tobacco control, Hawaii and the nation is still confronted with smoking and tobacco use being the leading cause of death and disease. Hawaii has some of the strictest and most comprehensive protections regarding the sale of traditional tobacco products and exposure to secondhand smoke. Yet currently the practice of vaping most often with flavored products has resulted in significant rates of delivery of nicotine to our youth, potentially addicting a new generation of smokers.

As the tobacco industry attempted more than a decade before, the introduction of flavored tobacco products entice youth, as evidenced in the CDC's Youth Tobacco Survey. Hawaii's middle and high school students report vaping rates above national averages, with disproportionate use among Native Hawaiian and Pacific Islanders. In 2020, 8 in 10 youth currently using e-cigarettes report using flavored products.

Menthol, the predominate flavor choice is just as, if not more, harmful than other flavors added to tobacco. Menthol has the ability to disguise the harshness of tobacco making it easier to start and once addicted, harder to quit.

Ending the sale of flavored tobacco products is a matter of health equity. The industry has long marketed menthol products to low income communities, especially people of color. According to the Hawaii data, 78% of Native Hawaiians and Pacific Islanders use menthol flavoring, with mint and menthol being the most popular flavors among youth.

If our objective is to protect Hawaii's children and reverse the current trends in youth vaping, we need to eliminate flavored tobacco products, including menthol.

Thank you for the opportunity to testify on this measure.

Julian Lipsher
Email: jdlipsher@hawaii.rr.com

HB-551-HD-1

Submitted on: 2/13/2023 8:14:53 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Peggy Brandt	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill. Elimination of access to flavored tobacco products is essential for the protection of the health of our keiki. 8/10 children begin tobacco this way. We will reduce the acquisition of expensive addictions in our state by outlawing these products. Please vote in favor.

HB-551-HD-1

Submitted on: 2/13/2023 8:51:00 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jake Ishikawa	Individual	Support	Written Testimony Only

Comments:

Honorable Chair, Honorable Vice Chair, and members of the Consumer Protection and Commerce Committee

My name is Jake Ishikawa and I am a junior at Kapolei High School. I am testifying in support of House Bill 551. As a student leader and as someone who attended the 2023 Secondary Student Conference, it is disheartening to me to see my fellow peers vape in our school's bathrooms and around school campus. My peers are damaging their lives when they decide to vape. One in three of Hawaii high school students vape regularly. That is 33% of all high school students; 33% too many. The risks to vaping are not unknown. The nicotine in vapes is highly addictive and can damage the brain of a teenager, whose brain does not fully develop until their twenties. Vaping damages the cells in a child's lungs and makes them more prone to an infection. Additionally, high schoolers who vape are more likely to struggle with mental health disorders and depression. Teenagers who vape are three times more likely to smoke cigarettes or use other addictive drugs during adulthood. Flavored tobacco products hook teenagers and are marketed specifically towards youth. Flavored products are what get teenagers addicted. This is why these along with misleading labels must be banned to protect the health of our youth. During the Secondary Student Conference, the Hawaii State Student Council only supported three bills; however, House Bill 551 was in the top nine bills that were debated, and therefore received large support from student leaders from all four counties in Hawaii. Before I conclude, I want to leave you with one final thought: it is up to you to move this bill forward or let it die, but as you decide, is the health and life of a teenager, my fellow peers and classmates, less important than flavored tobacco products?

Once again, I strongly support House Bill 551, and it is my hope that this bill will pass out of this committee and move forward, for the betterment of Hawaii's future and our youth.

With gratitude,

Jake Ishikawa

HB-551-HD-1

Submitted on: 2/13/2023 9:54:32 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Caroline Kunitake	Individual	Support	Written Testimony Only

Comments:

Please support HB551

Chair Nakashima of the House Committee for Consumer Protection and Commerce

Subject: House Bill 551 Relating to Health

Hearing Date: February 15th, 2023

My name is Bransen Hatakenaka, and I am a junior from Hilo High testifying in support of HB551. I stand by my written testimony but I'd like to make a few other remarks that I feel are important.

This bill is one that I and many other community members strongly feel is long overdue. A bill whose continual delay has allowed for the proliferation and normalization of vaping among youth.

As a result, it has become the case that no matter where you go, students will tell you of how normal it is to see groups of students huddled around and passing vapes to each other. This is despite laws banning the use of such products under 21, because corporations are still allowed to conduct predatory marketing towards youth, and the ease of which they can be obtained from an older friend or family. This isn't an issue of enforcement, but the overwhelming ease of which youth can obtain such products from it's a matter of normalizing the practice of corporations trapping youth in addiction, and making profits off their deteriorating health.

Taking such actions will impact businesses, but when those profits are coming at the expense of the health and livelihoods of our youth, who are the future of Hawaii, we must take a stand. We can and should work together with them to ensure these businesses stay afloat, but we will not and cannot compromise over flavored, menthol, and misleading tobacco products for the health of our youth.

And while I am not naive enough to believe that this will completely end vaping among youth, it is the obvious first step of many that we must take to protect our youth. This is why I, and many other students, family, and community members are testifying in strong support of HB 551. And why this bill should have the unified support of legislators to end the corrupting influence of vaping companies on our youth. Thank you for this invaluable opportunity to testify in support of this bill, and for the chance to help protect my peers and community.

Bransen Hatakenaka
Hilo, Hawaii 96720

HB-551-HD-1

Submitted on: 2/13/2023 11:45:52 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanani Higbee	Individual	Support	Written Testimony Only

Comments:

Aloha Consumer Protection and Commerce Chair Nakashima, Vice Chairs Sayama, and Representatives Amato, Belatti, Asuega Gates, Hashem, Hussey-Burdick, Lowen, Onishi, Tam, and Pierick,

I support banning flavored tobacco for the protection of our children so they do not develop a lifelong addiction to tobacco and their lives must be cut short.

Mahalo,

Kanani Higbee

HB-551-HD-1

Submitted on: 2/13/2023 11:47:30 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Erica Yamauchi	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Nakashima, Vice Chair Sayama, and Committee Members:

I am writing in strong support of this legislation as a mother of two young children.

We know that flavors in tobacco products are highly enticing to youth, while nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). And youth are trying these products earlier and earlier.

Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its cooling ability, which masks the harshness of straight tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol as a flavored tobacco product.

Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In fact, in Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.

Thank you for the opportunity to submit testimony.

Erica Yamauchi, Kaimukī/Wilhelmina Rise

HB-551-HD-1

Submitted on: 2/14/2023 1:19:29 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Christine Lim	Individual	Support	Remotely Via Zoom

Comments:

Committee on Consumer Protection and Commerce

Rep. Mark Nakashima, Chair

Rep. Jackson Sayama, Vice Chair

Members: Rep. Terez Amato, Rep. Della Au Belatti, Rep. Mark J. Hashem, Rep. Natalia Hussey-Burdick, Rep. Cedric Asuega Gates, Rep. Nicole E. Lowen, Rep. Richard H.K. Onishi, Rep. Adrian K. Tam and Rep. Elijah Pierick

Support for HB551 HD1

The availability of flavored tobacco products negatively impacts youth through enticing them with their seemingly harmless advertisements, hooking them on nicotine for life. According to the National Youth Tobacco Survey, in 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019. These statistics show that the availability of flavored tobacco products are a primary cause of youth e-cigarette and tobacco use. By ending the sale of flavored tobacco products, we can reduce the appeal of these products, protecting our keiki from a lifetime of addiction. Furthermore, ending the sale of flavored tobacco will advance health equity, as disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color.

It is important that menthol flavors are included in the ban for both e-cigarettes and other tobacco products because in Hawaii, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes, showing that a ban on menthol flavors will significantly decrease disproportionate effects of cigarette use in minority communities. Mint and menthol flavors give a cooling feeling, making the nicotine go down easier, thereby making it easier for more and more teens to get addicted to nicotine products for a lifetime. Significantly, mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.

End the cycle of addiction, by ending the sale of all flavored tobacco in Hawaii.

Christine Lim

Honolulu

HB-551-HD-1

Submitted on: 2/14/2023 5:55:33 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Amy Lau	Individual	Oppose	Written Testimony Only

Comments:

Don't ban it for adults. You guys are off course on the intent of the bill. The intent was to target under 21,

Committee on Consumer Protection & Commerce

Rep. Mark Nakashima, Chair

Rep. Jackson Sayama, Vice Chair

Members Rep. Terez Amato, Rep. Della Au Belatti, Rep. Mark J. Hashem, Rep. Natalia Hussey-Burdick, Rep. Cedric Asuega Gates, Rep. Nicole E. Lowen, Rep. Richard H.K. Onishi, Rep. Adrian K. Tam and Rep. Elijah Pierick

Support for HB551 HD1

I am an individual from Mililani, Hawaii writing this testimony in support of the flavor ban bill HB551.

Flavored tobacco is what is responsible for getting a lot of teens addicted to tobacco products, which cause health problems and death. Flavor (especially menthol) masks the harsh taste of tobacco, which makes it appealing to teens. In 2020, 8 in 10 teens reported using a flavored product.

Menthol is the most popular tobacco flavoring among teens. Due to its effectiveness in masking tobacco's harsh flavor, it makes it easier to start using tobacco products (and harder to quit). We must protect Hawaii's youth from the health problems tobacco causes, and this includes banning menthol flavors.

A lot of adults might say that menthol and other tobacco flavors have helped them to quit using tobacco, but more youth have used it to start using tobacco than adults that have used it to quit. It is in the best interest of Hawaii's youth to ban tobacco flavoring.

Thank you for hearing me out.

Karena Meyermann

To: Rep. Mark M. Nakashima, Chair and Members of the Committee on Consumer Protection & Commerce

From: Jaelyn Natividad

Re: Support of HB 551

In society, youth and adults tend to quickly get hooked on tobacco products mostly due to the flavoring. The availability of flavored tobacco products has a major impact on our youth according to statistics. It is known that 8 of 10 students started with flavors. Flavors including POG, rainbow candy, li-hing mui and so much more that are attractive to kids.

We need to take action on flavored tobacco to stop these flavors from being sold and used to target our keiki. They use flavors to entice kids to try their addictive products until it's too late to escape.

Personally, I believe that we need to regulate e-cigarettes the same as other tobacco products because it includes one unsafe component, nicotine. Nicotine is known to quickly reach one's brain within a span of 10 seconds. Once your brain is impacted, the nicotine causes your brain to release adrenaline resulting in creating pleasure and energy. Thus is the reason as to why people get quickly hooked and affected.

Within my community, there are many students that use e-cigarette. This does not only impact their bodies or health but it impacts the environment and community around them. The reason being is because it increases the air and earth's rates of being trashed. Once one student has an e-cigarette, others will soon follow and soon you have a classroom of addicted students.

My athletically and academically gifted cousin started vaping. It hurts to see my cousin throwing away his future. The reason being is because e-cigarettes provide detrimental effects to one's body, mentally and physically. My cousin may not show the effects just yet, but in the future my cousin will experience negative impacts. As a blood cousin, it hurts to see him do this to himself. I love my cousin too much to see him throw his life away! If tobacco didn't come in flavors he never would have started down this dangerous path. Please help him and others like him and end the sale of all flavored tobacco in Hawaii!

Chair Mark M. Nakashima and Members of the Committee on Consumer Protection & Commerce

I support HB551 to end the sale of flavored tobacco in Hawaii. My name is Kinohi and I am from Hau'ula O'ahu and a member of the Coalition for a Tobacco-Free Hawaii Youth CCouncil.

I support this bill because I see the effects tobacco and e-cigarettes have on the world around me. E-cigarettes are highly addictive products that contain nicotine. Nicotine is a highly addictive chemical that can have bad bad effects on your brain in several ways. I support this bill because the tobacco industry targets people like me and people in my community with flavors.

My community is mostly made up of native Hawaiians and Pacific Islanders. These companies are targeting people like me, people in my community, low-income native Hawaiians, and Pacific Islanders. Not only are these companies targeting certain people by their ethnicity and social class but they are also targeting people my age. I am 17 years old and I see kids as young as 10 years old vaping. I have learned that flavors hook kids and a Philip Morris executive once said "Students are tremendously loyal. If you catch them, they'll stick with you like glue." and this is true. Hawaii is known for having the highest rates of youth vaping with 1 in 3 Hawai'i high school students report using e-cigarettes on a regular basis. What pulls people towards these products is the candy-like looks and flavors of the vapes. In Hawai'i, we have some creative and local-style vape flavors like li hing mui, Hawaiian POG, and many flavors from local drink companies like Guava Nectar, Lilikoi Lychee, Strawberry Mango, and Passion Orange. Most teens today vape because they want to know if the flavors taste like their favorite candy and drink and from that they, later on, get addicted, this is why we need to make a change to end the sale of tobacco products in Hawai'i, to protect the keiki now and the future generations to come.

I strongly agree with this bill because this would help to end the youth vaping epidemic. Vaping doesn't only affect people now it can affect generations to come from the time that vaping became popular to now the number of teen vaping has increased and over 2.5 million high school and middle school students vape on a regular basis, passing HB551 would be a step in the right direction to change this.

Kinohi
Hau'ula, O'ahu

To: Mark Nakashima, Chair and Members of the Committee on Consumer Protection & Commerce

From: Kanani Wond

Date: Feb 6, 2023

Re: Support for HB 551 HD1

I am the Vaping Education Program Coordinator at Kahuku High and Intermediate testifying as an individual. Students report that it's the flavor in the E-cigs that keeps them coming back for more.

Why are we making it so easy to access these products when we know it's so bad for our health? Menthol flavors should be included and banned from both e-cigs and other tobacco products because we have more information and research than we did a decade ago. Tobacco has the power to kill people and families. Everyone around us is impacted by the negative effects of nicotine and tobacco. We all have grandparents, parents, aunts, uncles, siblings, cousins or co-workers that may have died from or are struggling with cancer or a respiratory illness. We hear that dreadful smokers cough. My Nana was a cigarette smoker. We lost her, at age 50 to Lung Cancer. In fact I lost both of my grandmothers when I was a teen to Lung Cancer caused by smoking cigarettes. Had menthol not been available maybe they would have never started or they would have been able to quit, we will never know.

My own children see flavored products being advertised online and know how to access it if they want to. They are 20, 17, and 12! Please help protect them from a similar fate as my grandmothers, and a lifetime of addiction and support HB 551.

Mark Nakashima, Chair and Members of the Committee on Consumer Protection & Commerce

HB551 HD1 Related to Health

Wednesday Feb 15, 2023

2:00 PM Conference Room 329 - State Capitol, 415 South Beretania Street

IN Support

I am testifying in support of HB551 HD1. Flavored tobacco products entice youth, as these flavors are very appealing. Furthermore, these flavors paint tobacco products as harmless, as they are often based on popular food items and flavors among our age group (or any age group). A common flavor I have seen is li hing mui, which is clearly attractive to Hawaii youth.

Menthol flavors must be included in the ban because it will provide a large loophole otherwise. If all flavors but menthol are banned, youth can just switch over to menthol which completely defeats the purpose of a flavor ban on tobacco products.

I used to vape e-cigarettes and I know that there are entirely no benefits. Some people say that it helps to relieve stress but I know firsthand that e-cigarettes end up increasing your anxiety. You end up relying on e-cigarettes for any small uncomfortable situation, and because these products have nicotine, you end up falling into a cycle of being more and more dependent on it.

Please help end the cycle of addiction, end the sale of all flavored tobacco products in Hawaii.

Theresa Ng
Kaimuki

Mark N. Nakashima, Chair and Members of the Committee on Consumer Protection and Commerce

In Support HB 511 HD1

I'm Samantha Lay, a junior at Roosevelt High School and member of the Coalition For A Tobacco-Free Hawai'i Youth Council. I greatly support HB 551 as it calls for a transformative change in tobacco regulation in Hawaii.

The alarming issue facing youth today is one worth addressing and putting forth the effort to lessen the negative impacts. I may not have personally experienced negative health effects from vaping myself, but have observed one of my good friends succumb to the faults of peer pressure and start vaping.

Learning she suffered from heart/lung complications as a result, and as the extensiveness of the harm that was done came to light, it was challenging to see her have a difficult time breathing, especially when confronted with mask restrictions during COVID.

The health disparities are definitely important to emphasize. With certain marginalized groups being more impacted than others. It's deplorable that the tobacco industry considers race and socioeconomic status when targeting specific markets for their deadly products. With the rates of cancer being higher in some of these groups, it makes it even worse.

Additionally, they systematically target youth with flavors like Rainbow Candy , Aloha Sun Fruit Punch and POG to entice kids at such early stages of their lives. This has resulted in a rapid increase in addiction and demand for these products amongst my classmates and even as young as elementary school.

With this bill, the objectives to reduce tobacco use will be ensured, putting youths lives in the forefront of it all. Please support this bill as this issue needs to be further acknowledged and improved upon to ensure the safety of new generations.

Committee on Consumer Protection & Commerce

Rep. Mark Nakashima, Chair

Rep. Jackson Sayama, Vice Chair

Members Rep. Terez Amato, Rep. Della Au Belatti, Rep. Mark J. Hashem, Rep. Natalia Hussey-Burdick, Rep. Cedric Asuega Gates, Rep. Nicole E. Lowen, Rep. Richard H.K. Onishi, Rep. Adrian K. Tam and Rep. Elijah Pierick

I am testifying in support of HB 551 HD1

The availability of flavored vapes in my community has had a negative impact on our youth because it's very addictive and for our generation easy to get our hands on. Flavored tobacco products including menthol should be banned because they are helping smokers and vapers inhale the smoke with ease without causing irritation to their throat. Making it easier to start and harder to quit.

I'm a junior in high school, and my first encounter with a vape was freshman year, In my head they smelt better, looked cooler and everyone did it. So most of the people I hang with do it. But it never crossed my mind to try it because I know it's wrong. Yet every day I'm pressured to try.

Vaping heavily impacts my community, we have a vape shop 4 minutes away from our school and over 100 kids walk by it every day on their way home. By ending the sale of flavored tobacco products fewer would stop and try to buy them.

Carmine

Kealakekua, Hawaii

Committee on Consumer Protection & Commerce
Rep. Mark Nakashima, Chair
Rep. Jackson Sayama, Vice Chair
Members of the Committee

Support for HB551

As a parent I don't think I was aware as to how much vaping impacted my community until recently. My now-19 year old just shared that he has been vaping since the 7th grade. How can a parent not be aware?! I never imagined I would be THAT parent!! He found ways to hide it, and I was none the wiser for more than five years! He is now addicted, and had I known earlier I may have been able to prevent it. And had the vape products not been attractively flavored, my son may not have been as interested in trying it out as a 12 year old. The flavors are deceiving, for both the user as well as those around who are unaware of what they might be smelling. I am sad, angry and frustrated that these products are geared towards hooking kids! It's a shame, and should be a crime. Please ban all flavored tobacco/vape products.

Erin Keil
Kahuku

To: Committee on Consumer Protection & Commerce
Rep. Mark Nakashima, Chair
Rep. Jackson Sayama, Vice Chair
Members Rep. Terez Amato, Rep. Della Au Belatti, Rep. Mark J. Hashem,
Rep. Natalia Hussey-Burdick, Rep. Cedric Asuega Gates, Rep. Nicole E.
Lowen, Rep. Richard H.K. Onishi, Rep. Adrian K. Tam and Rep. Elijah
Pierick

I support HB551 because flavor tobacco products are getting the youth hooked on Nicotine. It is confusing to kids because it looks and tastes like candy and fruits they are used to eating. It's important that menthol be included in the ban as it is a flavor that kids enjoy vaping.

One of my uncles recently passed away from lung cancer because he smoked cigarettes all his life. My peers are addicted and constantly needing to leave class to get a hit. Kids are constantly going up to each other and asking if they have a vape like it's a normal thing. Getting rid of flavors which attract kids will help reduce youth use.

Maybe if cigarettes hadn't been flavored with menthol when my uncle was a kid it would have stopped him from starting, and he would still be here.

Daniel Valera
Kamuela

Rep. Mark Nakashima, Chair

Rep. Jackson Sayama, Vice Chair

Members of the Committee on Consumer Protection and Commerce

I support HB 551. The availability of flavored tobacco products negatively impacts youth and other targeted groups because it makes you blind to the dangers and makes you want to try them without knowing the harm it can do to your body. Flavored tobacco makes kids get hooked easily because they taste good.

It's important for me to ban flavored e-cigarettes and other tobacco products because I see it is a big problem for my generation and younger generation. Young kids are getting hooked on flavors and I have friends and family who I really care about that are using these products. I would like to see them stop killing off their bodies and see the harmful effects it is having on them.

I myself was pulled into the flavors trap but I've learned the harmful effects and I want my friends and family and others to know what vaping and smoking can really do to their bodies. I was influenced into vaping by a bad group of friends. I instantly got hooked. I loved the flavors but when I saw the effect it had on my body, I could barely hold my breath when I swam, when I ran I would go out of breath very quickly, I told my boyfriend, who was in the youth council group, the effects I was having and he helped and showed me what vaping can really do. He helped me quit vaping and now I'm trying to have the same impact on others.

Please support HB 551

Maui E.

Hilo, HI

Chair Mark Nakashima, Vice Chair Jackson Sayama and members of the Committee on Consumer Protection and Commerce

In Support of HB551

I am testifying in support of HB551 to end the sale of all flavored tobacco products because our youth's health is being affected by ALL tobacco products. Besides, their physical health, vaping redirects their focus away from what matters most, which is to get a good education in order to get out of poverty. Having flavored tobacco products so easily accessible to them just ruins their lives.. It negatively affects their health, development, and finances.

ALL tobacco products need to be banned because they only benefit big corporations. All residual and consequences negatively impact people's lives. Families struggle to have decent living conditions here. They don't always have food or health care. Once people get hooked on tobacco usage, they no longer have the ability to make the best choices for themselves so imagine what it would do to our youth? I saw family members choosing to buy a pack of cigarettes over food and becoming homeless.

Margaret J Vanaman
Kahuku

To: Rep. Mark Nakashima, Chair
Rep. Jackson Sayama, Vice Chair
Members of the Committee on Consumer Protection and Commerce

From: Destin Martines, Pa'auilo, Hawaii

Re: Support for HB551

Flavored tobacco products negatively impact youth or other targeted groups by advertising and marketing their products to look and sound like safe candy and fruits. Menthol flavors like Ice and Chill must be included in the ban for both e-cigarettes and other tobacco products because Menthol flavors are just as addictive, and include Nicotine.

I have a fear of going to the bathroom at school because most people that go to the bathroom use it as an excuse and vape in there. I sometimes have to go and risk it and go and use the bathroom. I also got in trouble multiple times because I had the scent of the product cuz of people vaping in there. It has endangered my community to the point where some parents don't trust their kids with others in fear of their kids being peer pressured to use flavored tobacco products.

Please protect Hawaii keiki and end the sale of all flavored tobacco.

Committee on Consumer Protection & Commerce

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Members of the Committee

HB551

In Support

The availability of flavored tobacco products negatively impacts the youth because they are more likely to buy flavored products because it is easy to acquire and more likely to get more people hooked. It's important that menthol cigarettes be included so children don't switch.

It's not the youths fault that they don't know how the chemicals in the vapes can damage their bodies. They need to be protected, please support HB551 to end the sale of all flavored tobacco in Hawaii.

Donovan Valera

Kamuela

Committee on Consumer Protection and Commerce

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Members of the Committee

My name is Moani and I'm from Mountain View. I am testifying **in support of HB551 HD1** that would end the sale of flavored tobacco products. Flavored tobacco can cause addiction at a young age and lead to serious health issues in the future. The cool fresh taste and smell of menthol make it easier to start and harder to quit.

When my grandparents lived on Oahu, my Grandpa used to smoke all the time. He smoked about 3-6 times a day. He never really had a relationship with me because he was half blind, deaf, and couldn't remember all that well. I know that the pipe really messed up his speech too, because he could only make out a couple of words. He smoked because he was trying to get rid of stress. I felt bad for him because I know that smoking really took over his life and hurt him a lot but I couldn't say anything. He and my Grandma live in the mainland now and he has stopped smoking but the smoking got to him and hurt him a lot. I don't want others to feel like that with their family, friends, or even people we don't know because we should be able to speak up about these topics.

Youth get addicted because they don't know any better. They think it's cool, they get pressured, or they are just trying to let off stress. We need to help protect them from a lifelong addiction by ending the sale of flavored tobacco in Hawaii.

Chair Mark Nakashima, Vice Chair Jackson Sayama and members of the Committee on Consumer Protection and Commerce

I am testifying in support of HB551. Flavored tobacco products, in particular vapes, makes people think that it is different from cigarettes because of the taste making it more appealing to the younger population. I think all flavors should be banned.

Mary Llaguno
Waikoloa

Mark N. Nakashima, Chair and Members of the Committee on
Consumer Protection and Commerce

My name is Noel Nichols, I am testifying today in support of HB
551 HD1

I see kids vaping all the time like it's candy! It is harmful to them
and they are using excessive amounts of nicotine earlier and
earlier in life. :(

The tobacco companies use menthol flavors to entice them. It is
even in the elementary schools! Please help them by making
e-cigarettes harder for them to get and getting rid of all flavored
tobacco in Hawaii.

To: Chair Mark Nakashima, Vice Chair Jackson Sayama, and members of the Committee on Consumer Protection and Commerce

From: Sydnee Yokota

Re: Support for HB551

Flavored tobacco products significantly impact our youth by prematurely introducing nicotine to them, which can lead to health complications or early mortality. Furthermore, since nicotine is an addictive component, and could be used as a gateway to using other substances, such as cigarettes, marijuana, and other illicit drugs. Nicotine can also alter a growing individual's brain development and function. Also, the aerosol inhaled from vaping can cause an increased risk of respiratory and cardiovascular problems in our youth. Vaping can also lead to a newly severe medical disease known as e-cigarette or vaping use-associated lung injury (EVALI), dramatically impairing normal lung functioning.

Menthol flavors should also be banned for e-cigarettes and other tobacco-related products because menthol is a popular commodity currently attracting the youth. Therefore, including it in the ban will prevent e-cigarettes and other products from damaging our child's health.

Personally, I know many individuals who are users of flavored e-cigarettes. They never smoked an actual tobacco cigarette in their life, but today they are addicted to e-cigarettes/vaping. I think that proves how addicting e-cigarettes or even nicotine can be in this modern day. Additionally, the individuals I know usually have more than one vaping product; therefore, they are consistently next to one and constantly vape whenever convenient for them. This not only impacts their health but also impacts the health around them due to secondhand vaping aerosol.

E-cigarettes are found in practically all convenience stores here on the Big Island. They have appealing colors and exciting flavors that are compelling to buyers and users. However, how e-cigarettes are advertised impacts the community the most; it's always displayed at the front of the store, becoming a massive consumer attraction, especially to the youth with their bright colors and attractive flavors.

It's time to end the sale of all flavored tobacco products in Hawaii!

To: Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair
Members of the Committee on Consumer Protection and Commerce

Re: Support for HB 551 HD1

Our youth's health is being affected by ALL tobacco products. Besides, their physical health, vaping redirect their focus away from what matters most, which is to get a good education in order to get out of poverty. Having flavored tobacco products so easily accessible to them just ruins their lives.. It negatively affects their health, development, and finances.

ALL tobacco products need to be banned because they only benefit big corporations. All residual and consequences negatively impact people's lives. Families struggle to have decent living conditions here. They don't always have food or health care. Once people get hooked on tobacco usage, they no longer have the ability to make the best choices for themselves so imagine what it would do to our youth? I saw family members choosing to buy a pack of cigarettes over food and becoming homeless.

This is not what we want for our kids. Help protect them by ending the sale of all flavored tobacco products.

Leilani Lauaki
Kahuku

Representative Mark Nakashima, Chair and members of the Committee on Consumer Protection and Commerce

I am testifying in support of HB 551.

The Vape companies are targeting kids with their products through their flavors, such as Rainbow Candy, Strawberry Mango and Blue Razz Ice. 8 in 10 youth that vape try vape for the first time because of the flavor of the product. Having flavored tobacco available to children is dangerous because they are enticing us to a deadly addiction. All flavors are dangerous, fruit flavored or candy flavors like menthol. The flavors mask the dangers of e-cigarettes and other tobacco products making it seem safe.

We need to recognise e-cigarettes the same as any and every tobacco product because they all do the same thing; kill. Just because they "seem safer" doesn't make the outcome any different. Personally, e-cigarettes have been in my life for as long as I can remember. My 3 older sisters all vape. One even works at a vape shop. I tried telling them how harmful it is but then I realized my targeted audience is those youth that are not yet addicted.

During school last year, vaping rates were so high that they decided to close down all bathrooms on our campus. This way no kids could go in there and vape. But this affected everyone. No available bathrooms throughout our whole campus. Cameras were installed outside of each bathroom and hallway, to identify who went where and at what time. We had to ask to use the bathroom electronically. Through E-Hallpass. We have to choose which teacher, which building, which bathroom, then they time how long we've been in there. One person in the bathroom at a time. Each class had a set amount of time everyone had in the bathroom. Most classes were 5 minutes. So if someone used the bathroom for 4 minutes then that leaves the rest of the class with 1 minute to spare. For the entire class.

Punishing youth by limiting bathroom time, fines or suspension is not the answer, what they need is help. As part of the Youth Council I'm trying to help by talking to younger students. That's who I hope to impact. We need you to target the companies profiting from addicting kids to vapes and other tobacco, ending the sale of all flavored tobacco products is one of the first steps.

Zoe Gacayan
Paauilo

To: Rep. Mark Nakashima, Chair, Rep. Jackson Sayama, Vice Chair
Members of the Committee on Consumer Protection and Commerce

From: Danica Valera, Kamuela

Re: Support for HB 551 HD1

The availability of flavored tobacco products negatively impacts youth and other targeted groups because they will be more willing to try a tobacco product if they know what it will taste like.

It's important to me that menthol flavors be included in the ban for both e-cigarettes and other tobacco products because it is often the first flavor that youth and young adults try so if it's not an option hopefully more youth won't start.

I was not able to meet my great grandparents because they both passed away from lung cancer within a year of each other due to being heavy smokers. If flavors like menthol hadn't been around maybe they would have never started or would have been able to quit and they would have been around for me.

Help protect the next generation and end the sale of flavored tobacco in Hawaii.

Rep. Mark Nakashima, Chair and members of the Committee on Consumer Protection and Commerce.

I, Caleh Carvalho want to see and help end the youth vaping epidemic. Everyday I see kids in my school who are addicted to vaping. At first they started because they liked the candy flavors, some were peer pressured but all of them probably didn't know how addicted they would become to their vape devices. I am the oldest of 4 kids and I want to protect my younger sisters and brother by helping to change the law so they won't be targeted by vaping companies like kids my age.

Please end the sale of all flavored tobacco products in Hawaii

Caleh Carvalho

Paauilo

To: Representative Mark M. Nakashima, Chair and members of the Committee on Consumer Protection and Commerce.

From: Jaedyn Pavao, Kalaheo Hawaii

I am writing in support of HB551. The availability of flavored tobacco products negatively impacts youth or other targeted groups because they have become the "cool" thing to do, although many users are not aware of the effects that it has on the body.

I know many people in my life that use tobacco and smoke e-cigarettes with no real reason for doing so. I see the kids learn from watching and end up doing the same thing. One of my uncles has a major cough that hasn't gone away. Is that from smoking electronic cigarettes? The consequences of vaping are starting to be seen in some of the people I know that utilize these products.

The use of e-cigarettes has increased so much and I am now hearing stories of elementary kids bringing and using these devices at school. How are these kids getting these items? Do they see their parents using them and think it is acceptable? Children in my community could be putting their health and body at risk without even knowing it. Kids are easily influenced by the people around them and may be just doing what they see the adults doing around them or what kids may consider cool. By ending the sale of flavored tobacco we send a message that it's not ok, and hopefully fewer kids will state down the road to addiction from flavored tobacco.

Rep. Mark Nakashima, Chair, Rep. Jackson Sayama, Vice Chair and members of the Committee on Consumer Protection and Commerce.

I am testifying in support of HB 551.

My son started vaping in 10th grade. He got the idea and supplies from kids who were not even his friends at Kahuku. He has tried to quit several times since leaving high school 2 years ago, but he just can't. He started before he knew what the impact and cost would be...his rough, scratchy voice and cough, his need to hide what is now a shameful habit, his dependence on substances. He and I both wish it had been more difficult to get or that he understood better what he was getting into. I hope other teens will be empowered to choose a vape-free life.

Emily Bradshaw
Hauula

Representative Mark Nakashima, Chair
Representative Jackson Sayama, Vice Chair
Members of the Committee on Consumer Protection & Commerce

I am writing in Strong Support of HB551 HD1

Flavored Tobacco has become a desirable product that adolescents think are "cool", in particular in e-cigarettes. It's important that menthol flavors and cigarettes are included so kids are not tempted to just move to smoking if only e-cigarette flavors are banned.

My aunty has been a cigarette smoker for over 20 years and now she has a hard time breathing or participating in any physical activities. She has also lost many of her teeth. It's important to me to protect our youth and the wellbeing of future generations so they don't meet a similar fate.

Lokella Medeiros
Hilo

Rep. Mark Nakashima, Chair, Rep. Jackson Sayama, Vice Chair and members of the Committee on Consumer Protection and Commerce.

My name is Summer Helms, I'm from Haleiwa and I'm writing in support of HB551 HD1.

It is shocking that the tobacco industry has been allowed to create, market and sell flavored tobacco products which are clearly intended to target youth. Moreover, the ingredients are designed to hook young people very quickly.

Menthol flavors are equally attractive to youth who possibly associate menthol flavor with fresh breath and a refreshing experience. It's all part of the allure, and it's scandalous.

My son Nainoa got hooked on vaping when he was 14 years old. Vapes can be used in very public places (unlike regular cigarettes) so he and his friends could get away with using them, on the bus, at school, anywhere, really. Vaping caused so many problems in our family. He developed a chronic cough and would steal money from my purse to buy them. He started to lie when I confronted him and started stealing vapes from his friends. It was terrible! Several times, he reached out to me to help him quit. So did his friends. They are all surfers and hated being hooked. I bought them patches and healthy vapes (with melatonin but no tobacco) but nothing worked. We went on a family vacation and his withdrawals were unbearable. He was suffering and so were we! He is finally at a military school and told me it took him about 2 weeks to detox but he is clean now.

He writes me letters about how sorry he is that he started in the first place and how bad he feels about causing our family so much trouble. I would never wish this on any other family. And I wish that youth could be educated enough - through their peers and well designed advertising - to never start to begin with. Mahalo for your time.

HB-551-HD-1

Submitted on: 2/14/2023 8:42:55 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Valerie Smalley	Individual	Support	Written Testimony Only

Comments:

I am in support of HB 551 HD1 as an individual, parent and tobacco treatment specialist who has helped Hawaii's residents quit tobacco and now e-cigarettes for the last 20 years.

Ending the sale of all flavored tobacco will advance health equity-disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color . In Hawaii , 78% of Native Hawaiians and Pacific Islander smokers use menthol cigarettes (Hawaii BRFSS,2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth.

Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product , up from 7 in 10 in 2019 . (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Thank you for your time.

HB-551-HD-1

Submitted on: 2/14/2023 8:43:32 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Helen Barrow	Individual	Support	Written Testimony Only

Comments:

Mahalo for the opportunity to provide testimony on this important health measure for Hawaii's keiki.

Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.

Thank you for your consideration in supporting this vital measure for all of our ohana!

HB-551-HD-1

Submitted on: 2/14/2023 8:49:07 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Erin ODonnell	Individual	Support	Written Testimony Only

Comments:

- Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.
- Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.
- Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth.

HB-551-HD-1

Submitted on: 2/14/2023 9:02:27 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Beldon Gacayan	Individual	Support	Written Testimony Only

Comments:

The sale of vape flavored products have been directly focused to children/ teenagers due to the fact that they mimick flavors of foods most children/teenagers eat. For example fruity pebbles, strawberry shortcake etc., if these types of products were not flavored most children/teenagers would be more against not trying them and preventing them from continuing with this addicting habit.

HB-551-HD-1

Submitted on: 2/14/2023 9:06:02 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alexis Loo	Individual	Support	Written Testimony Only

Comments:

Our keiki deserve better than what we are doing for them now. It is proven that these tobacco companies are trying to target the keiki by making flavors that would be enticing for them. They are targeting them as a vulnerable, curious child. We need to do ALL we can, MORE than we are doing now to protect them. Nothing good comes from vaping or E cigarettes. protecting the keiki is setting them up for a brighter future. a future with clearer lungs.

HB-551-HD-1

Submitted on: 2/14/2023 9:07:19 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
KATHIE TEXEIRA	Individual	Support	Written Testimony Only

Comments:

I AM A SMOKER. REGRET THE DAY I EVER PICKED IT UP. WE NEED TO STOP THIS NOW AND SAVE OUR CHILDREN FROM FURTHER HARM.

HB-551-HD-1

Submitted on: 2/14/2023 9:09:08 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sierra Ka'aekuahiwi	Individual	Support	Written Testimony Only

Comments:

I support HB551/HD1 - STOP THE SALES OF FLAVORED TOBACCO, PROTECT OUR KEIKI!!

HB-551-HD-1

Submitted on: 2/14/2023 9:17:56 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cindy Anne Gines	Individual	Support	Written Testimony Only

Comments:

I support HB551 because I do not want the health of our keiki to be in jeopardy due to the appeal of these flavored tobacco devices. Advertisements make these products seem so cool and teens these days will do what they think is "cool" such as vaping to fit in. This was never an issue when I was growing up as a child and I do not want this to be an issue for my children as they grow older.

HB-551-HD-1

Submitted on: 2/14/2023 9:23:36 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kealoha Madriaga	Individual	Support	Written Testimony Only

Comments:

I believe they should put an end to this sale of flavored tobacco to help protect our keiki. Our keiki is our future. I believe they are all full of potential and have a bright future ahead. In order to be able to grow to their full potential they need to avoid the toxic chemicals that are sold in these vaping products. As a tobacco educator I see how flavored tobacco effects our youth in our community. It is much harder for our youth to quit after they become so addicted to the different flavoring. I believe you should take into consideration all the health effects that these products do to our bodies. Our youth should not be the target in this marketing scheme. They deserve much better.

HB-551-HD-1

Submitted on: 2/14/2023 9:35:25 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kristin Mills	Individual	Support	Written Testimony Only

Comments:

I am in strong support of HB551. Hawaii has among the highest rates of middle school and high school e-cigarette (ESD) use in the nation and youth vaping has been declared an epidemic by the U.S. Surgeon General.

As a parent and public health educator for the State Health Department, this is extremely concerning as there are numerous health impacts from e-cigarettes. Nicotine addiction affects kids' ability to focus and learn at school, it affects their physical and mental/emotional health, it affects their relationships, and it affects their self-confidence. The list goes on. Further, once teens become addicted to nicotine, it's very difficult to quit. Teens are also particularly vulnerable to nicotine, which permanently impacts their still developing brain.

It's no coincidence that the rise in youth e-cigarette use has coincided with an explosion of sweet and minty e-liquid flavors used to hook kids. Tobacco companies are making and marketing deadly and addictive products right here in Hawaii that look and taste like our favorite childhood flavors (Hawaiian POG, Ono Orange Cream, Hawaiian Sweet Rolls, and Halawa Guava). They make these flavors to "hook" their next customers... Our youth! And it's not OK. Data has shown that 8 out of 10 youth who ever used tobacco products started with a flavored product, and more than half of youth tobacco users use menthol products.

I ask the committee to please support HB551 and prohibit the sale of **ALL** flavored tobacco and electronic smoking devices, including menthol, mint, and wintergreen in the wording of this bill. This is vital to the health of our youth! Menthol, mint, and wintergreen flavors are particularly enticing, as they mask the harshness, allowing for deeper and longer inhalations, making menthol cigarettes and e-cigarettes another popular starter product and harder to quit. The tobacco industry has a long history of marketing menthol cigarettes to youth and vulnerable groups. In Hawaii, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes.

This bill also requires tobacco and vaping companies to use transparent and clear wording that these products indeed do contain nicotine. Currently, youth get confused and think they are using products that are nicotine-free, which is in fact not true.

We need to protect our keiki. The scientific evidence is clear, flavored tobacco and electronic smoking devices (including menthol, mint, and wintergreen) have the greatest appeal to youth. We must end the sale of these products and create better transparency that these products include a great amount of addictive nicotine.

Sincerely, Kristin Mills, M.S., M.A.

Epidemiologist and Public Health Educator

HB-551-HD-1

Submitted on: 2/14/2023 9:39:08 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shaleigh Reed	Individual	Support	Written Testimony Only

Comments:

I support this bill to Ban all vape products.

HB-551-HD-1

Submitted on: 2/14/2023 11:17:00 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Valdez	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nakashima, Vice-Chair Sayama, and Members of the Committee on Consumer Protection & Commerce:

HB551 D1 will end the sale of all flavored tobacco products, including menthol cigarettes and synthetic nicotine products, in Hawai‘i. It also subjects synthetic nicotine and heated tobacco products to age restriction regulations.

As a young adult and lifelong resident of the State of Hawai‘i, I have witnessed first-hand the rise of Hawai‘i’s youth vaping epidemic throughout my academic and professional careers. Therefore, I am expressing my **STRONG SUPPORT** of this bill.

Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. Therefore, if our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.

Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.

Please support HB551 HD1. You don’t want to “be the one” to leave a legacy of another generation addicted to nicotine.

Mahalo nui loa,

Jessica Valdez

HB-551-HD-1

Submitted on: 2/14/2023 11:30:41 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sabrina Spencer	Individual	Oppose	Written Testimony Only

Comments:

Enough Already. I'm opposed to this unfair discrimination against adults the vape.

Testimony in Strong Support of HB551 HD1

February 14, 2023

Bonnie Halpern-Felsher, PhD, FSAHM

Marron and Mary Elizabeth Kendrick Professor in Pediatrics II

Taube Endowed Research Faculty Scholar

Founder and Executive Director, [Tobacco Prevention Toolkit](#), [Cannabis Awareness and Prevention Toolkit](#), and [Vaping Information, Solutions, and Interventions Toolkit](#)

Division of Adolescent Medicine, Department of Pediatrics, Stanford University

My name is Dr. Bonnie Halpern-Felsher. I am the Marron and Mary Elizabeth Kendrick Professor in Pediatrics II and Director of Research in the Division of Adolescent Medicine, Department of Pediatrics, at Stanford University. I am a developmental psychologist with additional training in adolescent and young adult health. I am also the Founder and Executive Director of the Stanford Tobacco Prevention Toolkit, an online educational toolkit and set of curriculums design to support learning about tobacco products including e-cigarettes, with the ultimate goal to prevent and reduce tobacco use. I have over 25 years researching why youth use tobacco, with over 200 academic publications.

I write to provide strong support of HB551 HD1 and to provide evidence for the importance and effects of prohibiting the sale of all flavored tobacco products.

I will talk about several reasons why we need legislation to prohibit all flavored tobacco products and why **we must support HB 551 HD1**. Specifically, I discuss:

- 1) Flavored tobacco and related marketing hooks kids
- 2) Flavors mask tobacco-related risks
- 3) Menthol flavors also attract youth, and are used to market to vulnerable populations, resulting in health disparities
- 4) Eliminating flavored tobacco is an effective way to reduce and prevent tobacco use including amongst youth

All flavors, including mint and menthol, in all tobacco products, not just e-cigarettes, should be prohibited

In order to attract young and new users, the tobacco industry adds characterizing flavors like mint, menthol, fruit, and candy to tobacco, often using the same flavorants

that are in fruit-flavored candy, and sometimes at higher doses.^{1,2} These flavors appeal to new users by masking the harsh taste of tobacco. For e-cigarettes, flavors result in a more pleasant smell than that found with tobacco alone.

Flavor or “taste” is one of the most common persuasive marketing techniques used to promote food (mostly candy and snacks) to children on TV.³ Exposure to ads for flavored products is positively associated with youth consumption,⁴ and most money spent by youth is on food or beverages, particularly sweets.⁵ Research on e-cigarettes is consistent with these findings, concluding: flavors play an important role for online e-cigarette marketing and boosts user interaction and positive emotion;⁶ flavored (vs. unflavored) e-cigarette ads elicit greater appeal and interest in buying and trying e-cigarettes; and the appeal of ads marketing flavors is linked to rapid and persistent adoption of e-cigarettes among youth.⁷

Youth are Attracted to Flavored Tobacco Products

The vast majority of youth in the U.S. who try tobacco initiate with flavored tobacco products, including 81% of e-cigarette ever users, 65% of cigar ever users, and 50% of cigarette ever smokers.^{8,9} More recent data show that nearly 85% of past 30-day e-cigarette users used flavored e-cigarettes, with fruit flavors being the most popular, followed by candy, desserts, and other sweet flavors.¹⁰ Adolescents are more likely to report interest in trying an e-cigarette from a friend if it is menthol-, candy-, or fruit-flavored than if unflavored.¹¹ Flavor preferences are associated with higher e-cigarette

¹ Brown JE, Luo W, Isabelle LM, Pankow JF. Candy flavorings in tobacco. *N Engl J Med*. 2014;370(23):2250-2252.

² Nguyen, Nhung, McKelvey, K., Halpern-Felsher, B. Popular flavors used in alternative tobacco products among young adults. *Journal of Adolescent Health*. 2019 July 65:306-308.

³ Jenkin G, Madhvani N, Signal L, Bowers S. A systematic review of persuasive marketing techniques to promote food to children on television. *Obesity reviews*. 2014;15(4):281-293.

⁴ Cairns G, Angus K, Hastings G, Caraher M. Systematic reviews of the evidence on the nature, extent and effects of food marketing to children. A retrospective summary. *Appetite*. 2013;62:209-215.

⁵ Kraak VI, Gootman JA, McGinnis JM. *Food marketing to children and youth: Threat or opportunity?* National Academies Press; 2006.

⁶ Liang Y, Zheng X, Zeng DD, Zhou X. Impact of flavor on electronic cigarette marketing in social media. 2015:278-283.

⁷ Vasiljevic M, Petrescu DC, Marteau TM. Impact of advertisements promoting candy-like flavoured e-cigarettes on appeal of tobacco smoking among children: An experimental study. *Tob Control*. 2016;25(e2):e107-e112.

⁸ Ambrose B, Day H, Rostron B, et al. Flavored tobacco product use among us youth aged 12-17 years, 2013-2014. *J Am Med Assoc*. 2015;314(17):1-3. doi:10.1001/jama.2015.13802.

⁹ Nguyen, Nhung, McKelvey, K., Halpern-Felsher, B. Popular flavors used in alternative tobacco products among young adults. *Journal of Adolescent Health*. 2019 July 65:306-308.

¹⁰ Cooper M, Park-Lee E, Ren C, Cornelius M, Jamal A, Cullen KA. Notes from the Field: E-cigarette Use Among Middle and High School Students — United States, 2022. *MMWR Morb Mortal Wkly Rep* 2022;71:1283–1285. <https://doi.org/10.15585/mmwr.mm7140a3>.

¹¹ Pepper JK, Ribisl KM, Brewer NT. Adolescents’ interest in trying flavoured e-cigarettes. *Tob Control*. 2016;25(Suppl 2):ii62-ii66. doi:10.1136/tobaccocontrol-2016-053174.

use among adolescents.¹² Most adolescent current tobacco users cite flavors as a reason for use (including 81% for past 30-day e-cigarette users; 74% for past 30-day cigar users).¹⁰ Three quarters of adolescent and young adult flavored tobacco product users reported they would quit if flavors were unavailable.¹³

Adolescent and young adult tobacco users are more likely than older adult tobacco users to use flavored products, including menthol cigarettes,¹⁴ flavored smokeless tobacco,¹⁵ and flavored cigars.¹⁶ Young smokers (12-17 years of age) are three times as likely to smoke menthol cigarettes than smokers 35 years and older.¹⁷ Research among approximately 4000 school-going youth shows that for 98% of them, first e-cigarettes used were flavored to taste like something other than tobacco, compared to 44.1% of older adults nationwide. Fruit and candy flavors predominated for all groups; and, for youth, flavors were an especially salient reason to use e-cigarettes.¹⁸ Finally, a study showed that only 1.5% of adolescent and young adult e-cigarette users used tobacco flavored-Juuls and .9% used tobacco-flavored other e-cigarette products. Instead, the majority used fruit or dessert flavors (33% for Juul users and 64% for other e-cigarette users) and 27% of Juul users and 12% of other e-cigarette users used mint or menthol flavors.¹⁹ Studies also show that adolescents are more likely to use e-cigarettes more often when using flavored e-cigarettes.²⁰ There is also evidence that

¹² Morean ME, Butler ER, Bold KW, Kong G, Camenga DR, Cavallo DA, Simon P, O'Malley SS, Krishnan-Sarin S. Preferring more e-cigarette flavors is associated with e-cigarette use frequency among adolescents but not adults. *PloS one*. 2018 Jan 4;13(1):e0189015

¹³ Loukas A, Jackson CD, Marti CN, Perry CL. Flavored tobacco product use among youth and young adults: What if flavors didn't exist? *Tob Regul Sci*. 2017;3(2):168-173.

¹⁴ Villanti AC, Mowery PD, Delnevo CD, Niaura RS, Abrams DB, Giovino GA. Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014. *Tob Control*. 2016;25(Suppl 2):ii14-ii20. doi:10.1136/tobaccocontrol-2016-053329.

¹⁵ Oliver AJ, Jensen JA, Vogel RI, Anderson AJ, Hatsukami DK. Flavored and nonflavored smokeless tobacco products: Rate, pattern of use, and effects. *Nicotine Tob Res*. 2013;15(1):88-92. doi:10.1093/ntr/nts093.

¹⁶ Delnevo CD, Giovenco DP, Ambrose BK, Corey CG, Conway KP. Preference for flavoured cigar brands among youth, young adults and adults in the USA. *Tob Control*. 2014;24(4):389-394. doi:10.1136/tobaccocontrol-2013-051408.

¹⁷ Villanti AC, Mowery PD, Delnevo CD, Niaura RS, Abrams DB, Giovino GA. Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014. *Tob Control*. 2016;1-7. doi:10.1136/tobaccocontrol-2016-053329.

¹⁸ Harrell MB, Weaver SR, Loukas A, Creamer M, Marti CN, Jackson CD, Heath JW, Nayak P, Perry CL, Pechacek TF, Eriksen MP. Flavored e-cigarette use: Characterizing youth, young adult, and adult users. *Preventive medicine reports*. 2017 Mar 1;5:33-40

¹⁹ McKelvey, K., Baiocchi, M., Halpern-Felsher, B. Adolescents' and young adults' use and perceptions of pod-based electronic cigarettes. *JAMA Network Open*, 2018;1(6):e183535. doi:10.1001/jamanetworkopen.2018.3535

²⁰ Morean ME, Butler ER, Bold KW, et al. Preferring more e-cigarette flavors is associated with e-cigarette use frequency among adolescents but not adults. *PLoS One*. 2018;13(1). doi:10.1371/journal.pone.0189015; Ali FRM, Diaz MC, Vallone D, et al. E-cigarette Unit Sales, by Product and Flavor Type - United States, 2014-2020. *MMWR Morb Mortal Wkly Rep*. 2020;69(37):1313-1318. doi:10.15585/mmwr.mm6937e2

using flavored e-cigarettes is associated with increased frequency of e-cigarette use in adolescents compared to adults.²¹

Per the Family Smoking Prevention and Tobacco Control Act,²² all flavors other than tobacco and menthol were prohibited from cigarettes, including vanilla, fruit flavors, spices, and herbs. The reason for that regulation is that it was clear that youth are using tobacco (cigarettes at the time) in large part because of flavors.

Youth Believe Ads for Flavored E-cigarettes Target Them

Using flavors in e-cigarettes is a key marketing strategy to reach and recruit youth. In 2014, over 7,700 flavors for e-cigarettes were available, with greater than 240 new flavors being added per month.²³ What is most important is that youth believe flavored e-cigarette ads target them.

In a study²⁴ of California youth and young adults (mean age 17.5, SD = 1.7), participants were asked to indicate whether eight different ads for flavored e-cigarette products (Figure below), randomly displayed, target someone younger than them, their age, someone a little older, or someone much older like their parents. Participants felt the ads were for someone just a little older than them (age 18 – 26; not for someone much older). More than half of participants felt ads for *cherry*, *vanilla cupcake*, *caramel*, and *smoothie* flavors were for someone their age. Ads were also seen as targeting an audience younger than them. These findings suggest that while the tobacco industry argues that flavored tobacco products, including sweet and fruit flavored products, are not meant to attract youth, youth see them as aimed at them. ***These and similar findings indicate that we must immediately remove all flavored tobacco products from the market all tobacco.***²⁵

Menthol MUST be Included HB6488

To successfully tackle youth e-cigarette use, we must ensure that all flavored tobacco products are prohibited. We need immediate action to prohibit the sale of all flavors in all products as part of our overall effort to protect youth.

²¹ Morean ME, Butler ER, Bold KW, et al. Preferring more e-cigarette flavors is associated with e-cigarette use frequency among adolescents but not adults. PLoS One. 2018;13(1). doi:10.1371/journal.pone.0189015

²² <https://www.publichealthlawcenter.org/sites/default/files/resources/fda-tobacco-regulation-final-bill.pdf>; <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/family-smoking-prevention-and-tobacco-control-act-overview>

²³ Zhu SH, Sun JY, Bonnevie E, Cummins SE, Gamst A, Yin L, Lee M. Four hundred and sixty brands of e-cigarettes and counting: implications for product regulation. Tobacco control. 2014 Jul 1;23(suppl 3):iii3-9

²⁴ McKelvey, K., Baiocchi, M., Halpern-Felsher, B. Youth Say Ads for Flavored E-liquids are for Them. Addictive Behaviors, 2019 Apr;91:164-170. PMID:30314868.

Despite historic tobacco industry claims that menthol simply adds flavor, tobacco industry documents have revealed that the industry manipulates menthol levels to control a cigarette's intensity to cater to new and long-term smokers.²⁶

Menthol and other characterizing flavors appeal to new users by masking the harsh taste of tobacco, and bright packaging associates flavored tobacco products with candy and other flavors.^{27,28} Additionally, tobacco products with a characterizing flavor including fruit-flavored e-cigarettes²⁹ and menthol cigarettes¹⁴ are perceived to be less harmful than unflavored or tobacco-flavored products. In addition, there is evidence that menthol cigarettes are harder to quit.^{30,31}

Mint and menthol target vulnerable populations. In the general population, differences in menthol use exist across race, gender, age, and sexual orientation. Rates of use of menthol flavored tobacco products are often higher in marginalized populations. African American smokers consistently have the highest menthol use rate.³² Menthol use is also higher among female smokers;²⁷ Lesbian, Gay, and Bisexual smokers³³ (although see Rath et al 2013³⁴); people with severe psychological distress; people with fewer years of education and lower income; and those who are unmarried or uninsured.³⁵

The tobacco industry cultivated menthol use among African Americans by manipulating social factors of the civil rights era,³⁶ advertising menthol brand cigarettes, little cigars,

²⁶ Kreslake JM, Wayne GF, Alpert HR, Koh HK, Connolly GN. Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. *Am J Public Health*. 2008;98(9):1685-1692. doi:10.2105/AJPH.2007.125542.

²⁷ Yerger VB. Menthol's potential effects on nicotine dependence: a tobacco industry perspective. *Tob Control*. 2011;20(Suppl 2):ii29-ii36. doi:10.1136/tc.2010.041970.

²⁸ Lewis MJ, Wackowski O. Dealing with an innovative industry: A look at flavored cigarettes promoted by mainstream brands. *Am J Public Health*. 2006;96(2):244-251. doi:10.2105/AJPH.2004.061200.

²⁹ Pepper JK, Ribisl KM, Brewer NT. Adolescents' interest in trying flavoured e-cigarettes. *Tob Control*. 2016;25(Suppl 2):ii62-ii66. doi:10.1136/tobaccocontrol-2016-053174.

³⁰ Pletcher MJ, Hulley BJ, Houston T, Kiefe CI, Benowitz N, Sidney S. Menthol cigarettes, smoking cessation, atherosclerosis, and pulmonary function. 2006;166.

³¹ Trinidad DR, Pérez-Stable EJ, Messer K, White MM, Pierce JP. Menthol cigarettes and smoking cessation among racial/ethnic groups in the United States. *Addiction*. 2010;105(SUPPL 1):84-94. doi:10.1111/j.1360-0443.2010.03187.x.

³² Villanti AC, Mowery PD, Delnevo CD, Niaura RS, Abrams DB, Giovino GA. Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014. *Tob Control*. 2016;1-7. doi:10.1136/tobaccocontrol-2016-053329.

³³ Fallin A, Goodin AJ, King BA. Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults. *Am J Prev Med*. 2015;48(1):93-97. doi:10.1016/j.amepre.2014.07.044.

³⁴ Rath JM, Villanti AC, Rubenstein RA, Vallone DM. Tobacco use by sexual identity among young adults in the united states. *Nicotine Tob Res*. 2013;15(11):1822-1831. doi:10.1093/ntr/ntt062.

³⁵ Hickman NJ, Delucchi KL, Prochaska JJ. Menthol use among smokers with psychological distress: findings from the 2008 and 2009 National Survey on Drug Use and Health. *Tob Control*. 2014;23(1):7-13. doi:10.1136/tobaccocontrol-2012-050479.

³⁶ Gardiner PS. The African Americanization of menthol cigarette use in the United States.

and cigarillos in African American media and retail settings in African American neighborhoods,^{37,38} and donating to African American leadership organizations.³⁹ The strategy has been so successful that even by 6th grade, African American youth were three times more likely to recognize menthol brands than their peers.⁴⁰

In response to the growing number of adolescents who use e-cigarettes, in January 2020 the FDA prioritized enforcement against cartridge-based e-cigarette devices as well as some flavors. However, adolescents were still able to obtain and use these flavors. For example, data my lab collected in May 2020 from more than 2,000 13- to 24-year-old e-cigarette users across the U.S. showed that participants continued to use flavored JUUL pods, including mint, menthol, and mango.⁴¹ See also a newer study from my lab showing that youth simply turned to menthol e-cigarettes when FDA prioritized enforcement against flavored pod/cartridge-based e-cigarettes but allowed menthol e-cigarettes to remain on the market.⁴²

Another example of how youth turn to menthol when other flavors are not available can be found when JLI (company that founded JUUL) voluntarily took its flavored pods (other than menthol and tobacco) off the market. After that, many users, including youth, simply switched to using menthol.⁴³ The graphs below from the Centers for Disease Control and Prevention (CDC) show the growth in sales of menthol flavored e-cigarettes, with sharp increases in sales of menthol e-cigarettes in late 2019 and 2020, when JLI voluntarily took all flavored pods except menthol and tobacco flavors off the market, and when the FDA (in January 2020) prioritized enforcement against flavored “cartridge-based” e-cigarette products (e.g., JUUL) except tobacco and menthol flavors.

Nicotine Tob Res. 2004;6 Suppl 1:S55-65. doi:10.1080/14622200310001649478.

³⁷ Henriksen L, Schleicher NC, Dauphinee AL, Fortmann SP. Targeted advertising, promotion, and price for menthol cigarettes in California high school neighborhoods. *Nicotine Tob Res.* 2012;14(1):116-121. doi:10.1093/ntr/ntr122.

³⁸ Kostygina G, Glantz SA, Ling PM. Tobacco industry use of flavours to recruit new users of little cigars and cigarillos. *Tob Control.* 2014:tobaccocontrol-2014-051830-. doi:10.1136/tobaccocontrol-2014-051830.

³⁹ Yerger VB, Malone RE. African American leadership groups: Smoking with the enemy. *Tob Control.* 2002;11(4):336-345. doi:10.1136/tc.11.4.336.

⁴⁰ Dauphinee AL, Doxey JR, Schleicher NC, Fortmann SP, Henriksen L. Racial differences in cigarette brand recognition and impact on youth smoking. *BMC Public Health.* 2013;13(1):170. doi:10.1186/1471-2458-13-170.

⁴¹ Gaiha, S.M., Lempert, L.K., McKelvey, K., Halpern-Felsher, B. E-cigarette Devices, Brands and Flavors Attract Youth: Informing FDA's Policies and Priorities to Close Critical Gaps. *Addict Behav.* 2022 Mar;126:107179. doi: 10.1016/j.addbeh.2021.107179. Epub 2021 Nov 14. PMID: 34861522

⁴² McCauley, DM., Gaiha, SM., Lempert, LK, & Halpern-Felsher, B. Adolescents, Young Adults, and Adults Continue to use E-cigarette Devices and Flavors Two Years After FDA Discretionary Enforcement. *Int J Environ Res Public Health.* 2022 Jul 18;19(14):8747. doi: 10.3390/ijerph19148747. PMID: 35886599

⁴³ Diaz MC, Donovan EM, Schillo BA, Vallone D. Menthol e-cigarette sales rise following 2020 FDA guidance. *Tobacco Control.* Published online September 23, 2020. doi:10.1136/tobaccocontrol-2020-056053

These findings show that adolescents and young adults are attracted to flavors, use e-cigarettes including JUUL in large part because of the flavors, and will switch to menthol if other flavors are not available.

Taken together, these data clearly show that adolescents and young adults do use mint and menthol flavors, that such flavorants are purposely added to attract both users and non-users, and that mint and menthol attract youth. As such, eliminating the sale of all tobacco flavors including mint and menthol is essential.

Further, any policy eliminating the sale of flavored tobacco products must include “characterizing flavors” including products that provide cooling sensations, even if they don’t contain, taste, or smell like mint or menthol. This is critical to avoid loopholes whereby the tobacco industry tried to argue that their products are “non-menthol” despite clear packaging and descriptive words (e.g., crisp, cool) that imply they are indeed mentholated. This is happening in California; see images below.

Chemicals In Flavors are Harmful.

I also worry about the **chemicals found in e-cigarettes**. E-cigarettes have flavorants such as diacetyl, a buttery flavor found in popcorn, as well as vanillin and cinnamaldehyde. These have been shown to cause respiratory, lung, and other illness and effects,^{44,45,46,47} as well as recent evidence that mint and menthol flavored e-cigs have pulegone, a carcinogen.⁴⁸ Further, newer e-cigarettes have benzoic acid, which can irritate the lungs, nose and throat, and cause coughing and shortness of breath. The levels of secondhand exposure vary across e-cigarette devices; however, bystanders may inhale up to 1/10th the levels of nicotine and aerosol as in a

⁴⁴ Lee, W. H., Ong, S.-G., Zhou, Y., Tian, L., Bae, H. R., Baker, N., ... Wu, J. C. (2019). Modeling Cardiovascular Risks of E-Cigarettes With Human-Induced Pluripotent Stem Cell-Derived Endothelial Cells. *Journal of the American College of Cardiology*, 73(21), 2722–2737. <https://doi.org/10.1016/j.jacc.2019.03.476>

⁴⁵ Fetterman, J. L., Weisbrod, R. M., Feng, B., Bastin, R., Tuttle, S. T., Holbrook, M., ... Hamburg, N. M. (2018). Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction. *Arteriosclerosis, Thrombosis, and Vascular Biology*, 38(7), 1607–1615. <https://doi.org/10.1161/ATVBAHA.118.311156>

⁴⁶ Glynos, C., Bibli, S.-I., Katsaounou, P., Pavlidou, A., Magkou, C., Karavana, V., ... Papapetropoulos, A. (2018). Comparison of the effects of e-cigarette vapor with cigarette smoke on lung function and inflammation in mice. *American Journal of Physiology-Lung Cellular and Molecular Physiology*, 315(5), L662–L672. <https://doi.org/10.1152/ajplung.00389.2017>

⁴⁷ Madison, M. C., Landers, C. T., Gu, B.-H., Chang, C.-Y., Tung, H.-Y., You, R., ... Kheradmand, F. (2019). Electronic cigarettes disrupt lung lipid homeostasis and innate immunity independent of nicotine. *The Journal of Clinical Investigation*, 129(10), 4290–4304. <https://doi.org/10.1172/JCI128531>

⁴⁸ Jabba SV, Jordt SE, Risk Analysis for the Carcinogen Pulegone in Mint- and Menthol-Flavored e-Cigarettes and Smokeless Tobacco Products. *JAMA Intern Med*. 2019 Sep 16. doi: 10.1001/jamainternmed.2019.3649. [Epub ahead of print]

conventional cigarette.⁴⁹ **Taken together, there is clear evidence that e-cigarettes and in particular the flavorants within, do cause lung as well as heart and other health problems.**

It is also important to note that the e-cigarette companies are often misleading consumers and potential consumers as to what ingredients are in their products. For example, while Juul indicates that their e-liquids contains nicotine, benzoic acid, glycerol, propylene glycol, natural oils, and flavorants, an independent scientific study showed that there were 59 chemicals in Juul e-liquid.⁵⁰

Policies Prohibiting the Sale of Flavored Tobacco Products Work

Policies prohibiting the sale of flavored tobacco products work. In 2019, we conducted a study of over 3,000 California adolescents and young adults, about half of whom lived in a city or county that restricted the sales of flavored tobacco, with some including menthol. We found that those who used flavored e-cigarettes and lived in areas with flavor bans reported finding it more difficult to purchase their flavored e-cigarette or e-liquid.⁵¹

Another study using data from the 2019 Youth Risk Behavior Surveillance System (YRBSS) in Oakland showed that their convenience store flavored tobacco sales restriction was associated with a reduction in youth e-cigarette use. Further, restricting flavored e-cigarette use did NOT result in a rise in combustible cigarette smoking.⁵²

Another study showed significant reductions in monthly e-cigarette sales following a policy prohibiting the sale of all flavored e-cigarettes (in 2019) in Massachusetts.⁵³ Even local policies restricting the sale of flavored tobacco products have had effects,

⁴⁹ Grana R, Benowitz N, Glantz SA. E-cigarettes: a scientific review. *Circulation*. 2014;129(19):1972-1986

⁵⁰ <https://pubs.acs.org/doi/10.1021/acs.chemrestox.8b00381>

⁵¹ Feld, A.L., Rogers, T., Gaber, J., Pikowski, J., Farrelly, MC., Henriksen, L., Johnson, TO., Halpern-Felsher, B., Andersen-Rodgers, E., Zhang, X. Impact of local flavored tobacco sales restrictions on policy-related attitudes and perceived access to flavored tobacco among California youth and young adults. *Health Educ Behav*. 2022 Jun;49(3):468-477. doi: 10.1177/10901981211027520. Epub 2021 Aug 16. PMID: 34399591

⁵² Liu, J., Hartmen, L., Tan, A., Winickoff, J. Youth tobacco use before and after flavoured tobacco sales restrictions in Oakland, California and San Francisco, California. *Tobacco Control*, 2022.

⁵³ CDC Foundation & Information Resources, Inc., "Monitoring U.S. E-Cigarette Sales: State Trends," <https://www.cdcfoundation.org/programs/monitoring-e-cigarette-use-among-youth>. Data from Information Resources, Inc. (IRI), which includes e-cigarette sales data from convenience stores, gas stations and other retail store chains. Sales from the internet and tobacco-specialty stores, including vape shops, are not included.

such as was observed in Massachusetts where local-level flavor bans were associated with reduced likelihood of past 30-day e-cigarette use and reduced frequency of use.⁵⁴

There are also other studies on flavor bans showing that local sales restrictions in California and elsewhere are associated with high retailer compliance,⁵⁵ significant reductions in sales of flavored tobacco,⁵⁶ and reductions in youth use of these products.⁵⁷ See also.⁵⁸

Unfortunately, there has been one study touted by the tobacco industry arguing that flavor restrictions are not effective. However, this study is severely flawed and should not be used as evidence to refute flavor restrictions. This study was written by Abigail Friedman. In this study,⁵⁹ Dr. Friedman used data from the 2011-2019 Youth Risk Behavior Surveillance System (YRBSS) to examine the effects of the San Francisco ban on flavored tobacco use on high school students' tobacco use. The author compared the YRBSS data to seven other school districts in New York, Florida, and California. Dr. Friedman argues that the San Francisco flavor ban was associated with a 2-fold increase in past 30-day smoking, compared with other districts.

There are several significant flaws with this study, that should clearly make the findings invalid:

- Most importantly, the YRBSS data Dr. Friedman reported on (2019) were actually collected **before** the San Francisco flavor ban went into effect. As such, there is no way for her to conclude anything about changes in tobacco use after the ban.

⁵⁴ Hawkins, S, et al., "Flavoured tobacco product restrictions in Massachusetts associated with reductions in adolescent cigarette and e-cigarette use," *Tobacco Control*, published online January 27, 2021.

⁵⁵ Vyas P, Ling P, Gordon B, et al. Compliance with San Francisco's flavoured tobacco sales prohibition. *Tob Control* 2021;30:227-230.

⁵⁶ Rogers T, Brown EM, McCrae TM, et al. Compliance with a sales policy on flavored non-cigarette tobacco products. *Tob Regul Sci* 2017;3:84-93; Rogers T, Feld A, Gammon DG, et al. Changes in cigar sales following implementation of a local policy restricting sales of flavoured non-cigarette tobacco products. *Tob Control* 2020;29:412.

⁵⁷ Hawkins SS, Kruzik C, O'Brien M, et al. Flavoured tobacco product restrictions in Massachusetts associated with reductions in adolescent cigarette and e-cigarette use. *Tob Control* 2021:tobaccocontrol-2020-056159; Kingsley M, Setodji CM, Pane JD, et al. Short-term impact of a flavored tobacco restriction: changes in youth tobacco use in a Massachusetts community. *Am J Prev Med* 2019;57:741-8; Farley SM, Johns M. New York City flavoured tobacco product sales ban evaluation. *Tob Control* 2017;26:78-84.

⁵⁸ Gaiha, SM., Henriksen, L., Halpern-Felsher, B., Feld, AL., Gaber, J., Rogers, T., Andersen-Rodgers, E. Sources of flavored e-cigarettes among California youth and young adults: Associations with local flavored tobacco sales restrictions. *Tob Control*. 2022 Sep;31(5):659-662. doi: 10.1136/tobaccocontrol-2020-056455. Epub 2021 Apr 13. PMID: 33850007.

⁵⁹ Friedman AS. A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California. *JAMA Pediatr*. 2021;175(8):863-865. doi:10.1001/jamapediatrics.2021.0922

- The study did not focus on vaping, arguing that the YRBSS study does not allow one to distinguish between vaping nicotine versus marijuana. Her argument is not correct. As noted in the YRBSS website,⁶⁰ It is very clear that these are nicotine e-cigarettes, and the YRBSS use similar questions to what many investigators use: “The next 3 questions ask about electronic vapor products, such as JUUL, Vuse, MarkTen, and blu. Electronic vapor products include e-cigarettes, vapes, vape pens, e-cigars, ehookahs, hookah pens, and mods.”
- The bigger but related issue is that Juul was not included in the description of e-cigarette products on the YRBSS surveys until 2019, so if anything, the survey questions before 2019 were underestimating e-cigarette use. Dr. Friedman absolutely should have and could have easily examined changes in vaping in her study. For youth, the entire issue for the flavor ban has to do with reducing e-cigarette use, so not including vaping in her study means that she cannot address changes in tobacco and in particular e-cigarette use resulting from the flavor ban, making her study unreliable and invalid.
- Instead, in reality, the YRBSS data show a significant increase in vaping from 2017-2019, rates inline with what we see in other California cities and across the U.S. Further, youth were not switching from e-cigarettes to cigarettes as she claims.
- Recent (past 30-day use) could have just meant trying a cigarette once in the past 30 days, rather than continued use. We know that teens who vape are 3-8 times more likely to later use cigarettes, but that use can just be trying a cigarette. Thus, it is very possible that they are picking up on 1-time use. Without including the vaping data, she cannot discern the findings.
- There is no way that Dr. Friedman can raise concerns about vaping with the flavor ban or argue about substitution from e-cigarettes to cigarettes from her analyses.

While Dr. Friedman did submit a correction to her study noting that the data she relied on were collected prior to the San Francisco flavor ban,⁶¹ she still argued that her results remained the same. Given all of the scientific flaws in her study noted above, it is impossible for her to make these conclusions. Further, Liu et al. conducted a similar study for the city of Oakland, California, using the YRBSS data but correctly looking at data collected before and after the Oakland flavor restrictions, and clearly showed that the flavor ban was effective in reducing tobacco use. Further, Liu et al make the argument that Dr. Friedman’s study is not plausible given the flaws in their data, especially with the timeline of data collection.⁶²

⁶⁰ <https://www.cdc.gov/healthyouth/data/yrebs/questionnaires.htm>

⁶¹ Friedman AS. Clarification and Correction of Survey Wave Collection Dates in an Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California. *JAMA Pediatr.* 2022;176(9):947. doi:10.1001/jamapediatrics.2022.2388

⁶² Liu J, et al. Youth tobacco use before and after flavoured tobacco sales restrictions in Oakland, California and San Francisco, California, *Tobacco Control* Published Online First: 17 March 2022. doi: 10.1136/tobaccocontrol-2021-057135

Summary

The evidence is clear. Flavored tobacco attracts youth.

Given the information presented in this comment, it is clear that HB551 HD1 is critical, without amendments. First, I strongly support prohibiting the sale of all flavored tobacco products. A true and effective policy must prohibit all flavors including menthol, and must ensure that the policy defines “characterizing flavor” to include products that provide cooling sensations, even if they don’t contain, taste, or smell like mint or menthol. This is critical to avoid any loopholes.

I hope that the Hawaii legislature will pass HB551 HD1 as is, without amendments. Together, we can help protect kids!



Bonnie Halpern-Felsher, PhD, FSAHM (pronouns: she/her)
Marron and Mary Elizabeth Kendrick Professor in Pediatrics II
Taube Endowed Research Faculty Scholar
Professor (by courtesy), Epidemiology & Population Health; Psychiatry & Behavioral Sciences
Director, Stanford REACH Lab
Director of Fellows' Scholarship, Department of Pediatrics
Director of Research, Division of Adolescent Medicine
Co-leader, Scholarly Concentrations, Pediatrics Residency Program

Founder and Executive Director, [Tobacco Prevention Toolkit](#), [Cannabis Awareness and Prevention Toolkit](#), and [Vaping Information, Solutions, and Interventions Toolkit](#).

Stanford REACH Lab | Division of Adolescent Medicine
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HB551 HD1 Ban Flavored E-Cigarettes

To: Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair
Committee on Consumer Protection & Commerce

Hrg: Wed, Feb 15, 2023, 2:00 : Room 329 Videoconference

Testimony in Support of HB551 HD1

Aloha,

I am submitting testimony in STRONG SUPPORT of HB551 HD1. As someone who works with youth in the addiction field, it is both my professional and personal desire for the state to protect our keiki from the health and dangers of a lifelong addiction caused by Hawai'i's vaping epidemic. Countless times I have heard youth tell me they want to quit vaping but cannot because of their "addiction". In fact, many of the youth I work with are starting to experiment with vaping as early as 10 or 11 years old. Tobacco use of minors is not a new phenomenon, but youth starting as early as elementary school and middle school of this magnitude is unheard of. It is no secret that what makes vaping enticing to young people, now more than ever, is its variety of flavors including menthol flavor. HB551 HD1 establishes the necessary restrictions of using strategies to attract youth use.

Reasons to Restrict Youth Use

What about the Vaping Epidemic?

- Vaping increased 900% among high school students from 2011 to 2015.¹
- The historic rise in e-cigarettes by youth is fueled in part by extensive marketing campaigns to make the products more appealing to young people, as referred in the Surgeon General's report.
- Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019².
- In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).

Dangers of E-cigarettes are Documented:

- The Surgeon General's report details the harmful effects of e-cigarettes.

¹ American Academy of Pediatrics: 2016 <https://www.aap.org/en/news-room/aap-voices/protecting-children-from-the-dangers-of-e-cigarettes/> Site is linked to federal agency: National Institute of Drug Abuse

² CDC Centers for Disease Control and Prevention: National Youth Tobacco Survey: https://www.cdc.gov/tobacco/data_statistics/surveys/nyts/index.htm

- Advocates hears the call from 650,000 physicians belonging to numerous medical coalitions, reasserting our dedication to keeping patients safe from tobacco products.³
- Nicotine, regardless of its source, is highly addictive and has clear neurotoxic effects, especially on the developing brains of adolescents.
- The aerosol from e-cigarettes is not harmless; it includes nicotine and other harmful and potentially harmful chemicals, including heavy metal and carcinogens. Since children's brain and lungs are still developing, it is especially important to protect children and non-users from secondhand e-cigarette aerosol.

A Comment about Menthol

- Moreover, Menthol is just as, if not more harmful than, any other flavored tobacco.
- Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit.
- Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.
- If we want to protect our keiki and reduce the burden of tobacco in our communities, and we must include menthol.

Hawai'i has the opportunity to protect the future of our keiki by banning the sale of flavored tobacco products. Doing so will reduce the danger to children from vaping which continues to be a growing public health concern across the state. I ask that you **pass HB551 HDI**.

Mahalo for your time and consideration.

Michelle Paquin-Lozano

³ Surgeon General's Advisory on E-cigarettes Use Among Youth: <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

HB-551-HD-1

Submitted on: 2/14/2023 12:22:44 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John A. H. Tomoso	Individual	Support	Written Testimony Only

Comments:

02-14-23

RE: HB551

Aloha,

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. This is alarming to me.

With 8 in 10 kids starting with a flavored tobacco product, a major way to address young people’s use of tobacco products, including e-cigarettes, is to prohibit the sale of flavors that attract youth in the first place and discourage them from trying these products. This Bill will remove the thousands of fruit and candy-flavored tobacco products, as well as menthol cigarettes, that are appealing to and addicting our kids.

Mahalo

John A.H. Tomoso+, MSW

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808-280-1749

john.a.h.tomoso@gmail.com

HB-551-HD-1

Submitted on: 2/14/2023 1:06:45 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Diane Y Omura	Individual	Support	Written Testimony Only

Comments:

My name is Diane Omura, and I am a retired health educator from the island of Maui.

Kids are very gullible and even though they know that they are smoking a bunch of chemicals which will eventually kill them, if it tastes good, they will continue to experiment with new flavors and get addicted in the process. Using flavoring to lure kids is an unacceptable marketing strategy and allowing this to continue is unethical.

This is why I appreciate your attention to the role flavors play in hooking kids to vape. Vaping causes serious damage to the lungs and premature deaths. May I urge that you pass HB 551 to end the sales of flavored tobacco products, including menthols, which happens to be the most popular flavors among youth. Thank you for your time and consideration.

To: The Honorable Rep. Mark M. Nakashima, Chair
The Honorable Rep. Jackson D. Sayama, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

Re: Support for **HB551 HD1 Ban Flavored E-Cigarettes**

Hrg: Wed, Feb 15, 2023, 2:00 : Room 329, Conference Room 016

I am submitting testimony in **support of HB551 HD1**, which bans flavored e-cigarettes in Hawaii. Flavors in tobacco products entice users, particularly youth, while the nicotine keeps them hooked for life.

Vaping is a serious epidemic in Hawaii, particularly among our youth.

- Vaping increased 900% among high school students from 2011 to 2015.¹
- 40% of 12th graders report vaping in the previous 30 days.²
- Among youth that vape, nearly 85% used flavored e-cigarettes, with fruit flavors being the most popular, followed by candy, desserts, or other sweets.³
- Teens who vape are more likely to become cigarette smokers.⁴
- The historic rise in e-cigarettes by youth is fueled in part by extensive marketing campaigns and the use of flavors to make the products more appealing to young people, as referred in the Surgeon General's report.^{5 6}
- In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes.⁷

Electronic Nicotine Devices, such as e-cigarettes and vapes, are harmful both to adults and youth.

- The Surgeon General's report details the harmful effects of e-cigarettes.⁸
- Advocates hear the call from 650,000 physicians belonging to numerous medical coalitions, reasserting our dedication to keeping patients safe from tobacco products.⁹

¹ American Academy of Pediatrics: 2016 <https://www.aap.org/en/news-room/aap-voices/protecting-children-from-the-dangers-of-e-cigarettes/> Site is linked to federal agency: National Institute of Drug Abuse

² Centers for Disease Control and Prevention (CDC). *1991-2019 High School Youth Risk Behavior Survey Data*. Available at <http://yrbs-explorer.services.cdc.gov/>. Accessed on 2/14/23.

³ Centers for Disease Control and Prevention. National Youth Tobacco Survey (NYTS). Published 2022. Accessed February 14, 2023. https://www.cdc.gov/tobacco/data_statistics/0Asurveys/nyts/index.htm

⁴ Wills, T. A., Knight, R., Sargent, J. D., Gibbons, F. X., Pagano, I., & Williams, R. J. (2017). Longitudinal study of ecigarette use and onset of cigarette smoking among high school students in Hawaii. *Tobacco Control*, 26(1), 34-39. <https://doi.org/10.1136/tobaccocontrol-2015-052705>

⁵ U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

⁶ Surgeon General's Advisory on E-cigarette Use Among Youth (2018). Available at: <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>. Accessed on February 14, 2023.

⁷ Hawai'i State Department of Health, Behavioral Risk Factor Surveillance System (BRFSS), 1997-2008.

⁸ U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

⁹ Surgeon General's Advisory on E-cigarettes Use Among Youth: <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

- Nicotine, regardless of its source, is highly addictive and has clear neurotoxic effects, especially on the developing brains of adolescents.
- The aerosol from e-cigarettes is not harmless; it includes nicotine and other harmful and potentially harmful chemicals, including heavy metal and carcinogens. Since children’s brain and lungs are still developing, it is especially important to protect children and non-users from secondhand e-cigarette aerosol.
- E-cigarette use is misinterpreted as being a “healthy” choice, even though e-cigarette vapor has been demonstrated to be independently associated with pulmonary effects such as asthma.^{10 11}

Using flavors to get youth hooked on nicotine

- Flavors, including menthol, entice the user to start vaping, making it easier to start and harder to quit.
- Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth. Moreover, Menthol is just as, if not more harmful than, any other flavored tobacco. To protect our keiki and reduce the burden of tobacco in our communities, and we must include menthol in the ban.

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. Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Please consider the safety of our community and our children and **support HB551 HD1**.
Mahalo for your time and consideration.

Dr. Colleen Fox
Honolulu (Makiki), Hawaii

¹⁰ Schweitzer, R. J., Wills, T. A., Tam, E., Pagano, I., & Choi, K. (2017). E-cigarette use and asthma in a multiethnic sample of adolescents. *Preventive Medicine*, 105, 226-231. <https://doi.org/10.1016/j.ypmed.2017.09.023>

¹¹ Wills, T. A., Sargent, J. D., Gibbons, F. X., Pagano, I., & Schweitzer, R. (2016). E-cigarette use is differentially related to smoking onset among lower risk adolescents. *Tobacco Control*, 26(5), 534-539. <https://doi.org/10.1136/tobaccocontrol-2016-053116>

HB-551-HD-1

Submitted on: 2/14/2023 1:56:49 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Liza Ryan Gill	Individual	Support	Remotely Via Zoom

Comments:

Dear Chair Nakashima, Vice Chair Sayama, and Members of the Committee,

As a member of the Hawai'i Children's Action Network Speaks board, an active participant in the Coalition for Tobacco-Free Hawai'i, and a parent of soon-to-be two keiki, I fully support HB551 HD1 to eliminate the sale of flavored tobacco products.

I have now been working on this issue since the pre-pandemic time and the only thing that has changed is that more kids are now addicted to nicotine that didn't have to be. Now when you talk to high schoolers they tell you it is too late for them, their friends are addicted and e-cigarettes fill the halls and bathrooms of their schools. They say to save the elementary school students, the 3rd, 4th and 5th graders that still have a chance of escaping this extremely addictive habit.

The time to act has well since past. A recent study by Dartmouth College found that for every one adult who quits smoking combustible cigarettes as a result of using e-cigarettes, 81 more children have developed a regular smoking habit as a result of using the product. That is 81 kids who likely would not have ever developed a nicotine addiction had these products not been available.

Tobacco industry representatives will try to point to the adults who say they will switch back to combustible cigarettes if Mauna Dew and Strawberry Smash flavored vapes are no longer available to them, but these adults not only make a much smaller fraction of the e-cigarette market than children- nationally only three percent of adults use e-cigarettes, whereas 12 percent of kids are now using the products- they are adults, not children and our priority should be to give greatest protection to those that are most vulnerable. Additionally, most e-cigarettes on the market are not proven to help adults quit smoking and approved cessation devices of all varieties and sorts remain on the market and this bill would not, in any way, reduce the ability of an adult to get an FDA approved cessation device to quit smoking.

Fifteen years ago Hawai'i was within striking distance of making youth tobacco use a thing for the history books but no industry ever dies willingly and tobacco, with its enormous profits and vested interest in finding new life-long customers, was surely not going to go down without a fight. Instead they did what every industry does to stay alive, they innovated. They made a product that looked fun, had influencers sell it on Instagram, told everyone it was "safer" if not safe, and then gradually increased the levels of nicotine to hook kids faster and harder. In ten

years we lost all the progress we had made on reducing tobacco use and the tobacco industry gained customers for life.

Hawai'i now has a shot to take decisive action and pass comprehensive policy on flavored tobacco and put our keiki back where they should be, our number #1 priority. I thank you for your courage to act on this issue.

Mahalo nunui,

Liza Ryan Gill

Round Top Drive

HB-551-HD-1

Submitted on: 2/14/2023 2:19:58 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Valerie Rose	Individual	Support	Written Testimony Only

Comments:

Testimony in SUPPORT of HB551

Relating with Health

Committee on Consumer Protection & Commerce

Hearing Date: February 15, 2023

I am writing in support of HB551, which prohibits the sale of flavored tobacco products and the mislabeling of e-liquids as nicotine free.

Some reasons for the need to prohibit the sales of flavored tobacco products are:

- Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.
- Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.
- Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color. In Hawai‘i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai‘i BRFSS, 2008). Mint and menthol flavored e-cigarettes are one of the most popular flavors among youth.

Thank you for your consideration.

Valerie Rose

HB-551-HD-1

Submitted on: 2/14/2023 2:20:03 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Paul	Individual	Support	Written Testimony Only

Comments:

Aloha! My name is Michael Paul, and I am a tobacco treatment counselor in Honolulu. I strongly support the passage of HB551 to end the sale of flavored tobacco products, especially menthol.

The flavors added to vapes (e-cigarettes) are the reason many people start to use them. There is a lot of talk about flavored e-cigarettes being helpful for those who are looking to quit smoking combustible cigarettes. But in my tobacco treatment work I encounter more people who use e-cigarettes and have never smoked, than I have former smokers that have switched to e-cigarettes/vapes. And overwhelmingly these "never smokers", some of whom can't go more than five minutes after waking up in the morning without taking a hit off their vape, cite the flavors of these products as the reason they started using them. With brands having names like "Aloha Sun" and carrying flavors such as "Lilikoi Passion" and "Pass-O-Guava Nectar", it's no wonder kids and young adults are tempted to try them. One out of three Hawaii high school students, and 1 out of 5 middle school students uses e-cigarettes, and with the vast array of flavors available it's easy to see why.

Not only are flavors the reason why many started using nicotine products, but the flavors are what helps people stay hooked as their dependence to nicotine develops. I have frequently seen young people swapping vapes to try each other's flavors, tying a social component into a physical addiction. The point of these flavors is to make the delivery of nicotine, a highly addictive substance, more palatable to new users.

Most pernicious of all is menthol. People who smoke menthol flavored cigarettes have a more challenging time quitting smoking than those that do not smoke menthols, and tobacco companies know this. They have targeted and continue to target specific populations such as African Americans and those who are LGBTQ+, increasing health disparities in already marginalized communities.

And it's not just about menthol flavored products. Menthol is added to nearly all cigarettes, not just those that are menthol flavored. Per the CDC, ["Almost all the cigarettes sold in the United States contain some natural or lab-created menthol."](#) Menthol has a cooling effect and reduces the harshness of tobacco smoke, even at levels so low that no menthol flavor is detectable. The effects of menthol do not end there. ["Within the last decade research has shown that menthol, even without the presence of nicotine, can increase the number of nicotine receptors in the brain."](#)

Flavored nicotine products exist for one reason, and one reason only. They are designed to be nicotine delivery systems, and are aimed squarely at the young. Nicotine is the product they are selling, the flavors are merely the packaging.

Mahalo,

-Michael Paul

HB-551-HD-1

Submitted on: 2/14/2023 4:41:26 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lani Hernandez	Individual	Oppose	Written Testimony Only

Comments:

Vapes really help people cut back on smoking and the flavors are a big part of it since without them you might as well just smoke real tobacco. I view this bill hb551 as anti-health.

HB-551-HD-1

Submitted on: 2/14/2023 7:05:25 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cindy Nettles	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose ALL of this bill. People don't want to live in a nanny state with messed up regulations coming from bills like this one.

HB-551-HD-1

Submitted on: 2/14/2023 6:37:34 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeff Stevens	Individual	Oppose	Written Testimony Only

Comments:

Please limit HB551 to under 21 only.

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Wednesday, February 15, 2022, 2:00 PM - Room 329

Testimony in Support of House Bill 551, House Draft 1 Relating to Health

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 Hawai'i 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 calls on Hawai'i officials to support HB 551, HD 1 and restrict the sales of flavored tobacco products to protect youth. Tobacco use remains Hawai'i's and the nation's leading cause of preventable death and disease, taking an estimated 480,000 lives every year in the U.S.

It is imperative that the bill restricts all flavors of tobacco, with no exceptions, including menthol for the following reasons:

- 1. Menthol keeps the most vulnerable addicted.** Overwhelming scientific evidence not only supports the restriction of menthol cigarettes to protect public health and save thousands of lives, but also indicates that restrictions should be implemented urgently. The prevalence of menthol tobacco use has remained constant in recent years, despite declines in non-menthol tobacco usage¹. Menthol flavored tobacco products disproportionately affect minorities and other vulnerable populations.
- 2. Menthol is a barrier for quitting tobacco.** In a letter to the Food and Drug Administration dated January 22, 2021, the Hawai'i State Attorney General stated that menthol tobacco products "remain a major barrier to smoking cessation and reduction of smoking-related diseases. Although the tobacco industry argues that a ban will increase illicit trade, these warnings are overblown and self-serving. Robust measures for monitoring and enforcement are already in place. A ban on menthol cigarettes will benefit public health and there are no compelling reasons why these products should remain on the market."
- 3. Menthol is preferred by young people because it masks harsh flavors of tobacco.** Research has shown that mint (or menthol) flavors are the most attractive to the young people. In fact, mint is the number one choice for teens who vape nicotine².

¹ Kuiper NM, et al. Trends in sales of flavored and menthol tobacco products in the United States during 2011-2015. *Nicotine Tob Res.* 2018;20(6):698-706.

² 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

The need for Hawai'i to protect youth from tobacco is more urgent than ever, with youth e-cigarette use reaching epidemic levels. According to the Centers for Disease Control, in 2019 nearly every 1 in 3 high schoolers in Hawai'i 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.³

E-Cigs are Not Cessation Devices and Do Not Reduce Harm

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

The Food and Drug Administration has not found any e-cigarette to be safe and effective in helping smokers quit. The fact is, e-cigarettes are tobacco products too. Though we still have a lot to learn about the health consequences of vaping, we are very troubled by what we've seen so far. E-cigarettes still produce a number of dangerous chemicals including acetaldehyde, acrolein, and formaldehyde⁴. As we've recently seen on the news, the inhalation of harmful chemicals can cause irreversible lung damage, lung diseases—and even death.

A recent study from the University of North Carolina found that even in small doses, inhaling the two primary ingredients found in e-cigarettes—propylene glycol and vegetable glycerin—is likely to expose users to a high level of toxins and that the more ingredients a user is inhaling, the greater the toxicity.⁵

Both the U.S. Surgeon General and the National Academies of Science, Engineering and Medicine have warned about the risks of inhaling secondhand e-cigarette emissions, which are created when an e-cigarette user exhales the chemical cocktail created by e-cigarettes. In 2016, the Surgeon General concluded that secondhand emissions contain, "nicotine; ultrafine particles; flavorings such as diacetyl, a chemical linked to serious lung disease; volatile organic compounds such as benzene, which is found in car exhaust; and heavy metals, such as nickel, tin, and lead."⁶

The American Lung Association in Hawai'i urges legislators to continue to support and advocate for policies to protect youth from tobacco use by restricting flavored tobacco products. We urge for your support of House Bill 551, House Draft 1.



Pedro Haro
Executive Director
American Lung Association in Hawai'i
pedro.haro@lung.org

³ American Lung Association. *State of Tobacco Control – Hawai'i*. 2022

⁴ Ogunwale, Mumiye A et al. (2017) Aldehyde Detection in Electronic Cigarette Aerosols. ACS omega 2(3): 1207-1214. doi: 10.1021/acsomega.6b00489].

⁵ Sassano MF, Davis ES, Keating JE, Zorn BT, Kochar TK, Wolfgang MC, et al. (2018) Evaluation of e-liquid toxicity using an open-source high-throughput screening assay.

⁶ 2016 Surgeon General's Report: E-Cigarette Use Among Youth and Young Adults: <https://www.cdc.gov/tobacco/sgr/e-cigarettes/index.htm>

HB-551-HD-1

Submitted on: 2/14/2023 8:05:05 PM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeff Stier	Taxpayers Protection Alliance	Oppose	Remotely Via Zoom

Comments:

Thank you for considering my testimony in opposition to HB 551.

This written testimony is a supplement to the brief video testimony I am requesting to deliver via Zoom.

As we have learned from other attempts to ban lower risk alternatives to combustible cigarettes in other states, and as we have learned from other efforts at prohibition, the benefits of these well-meaning bans rarely live up to their promises, and always lead to harmful unintended consequences.

In this instance, the findings in the bill greatly overstate the potential benefits and completely ignore the actual harms that will take place as a result of a complete ban on lower-risk alternatives to combustible cigarettes.

This committee should include the following findings:

The U.S. FDA recognizes that e-cigarettes and other non-combustible nicotine products are less harmful than cigarettes.

The State of Hawaii, as well as the federal government, already properly ban the sale of all nicotine-containing products to anyone under 21 years of age.

Many adult smokers find that flavors in lower-risk alternatives are essential to maintain smoking cessation through lower-risk alternatives.

A ban on the sale of flavored lower-risk alternatives to cigarettes, as proposed in HB551 would only prevent adult smokers from legally accessing lower-risk products authorized by the Food and Drug Administration as appropriate for the protection of public health.

A ban on these products would achieve no benefit in terms of reducing youth access, since youth access is already forbidden. All flavored tobacco products sold to youth are already illicit. By forcing all such products onto the illicit market, the legislature would, ironically, increase youth

access to illicit products by boosting and normalizing the illicit sale of tobacco products, an environment where there are no efforts in place to prevent youth access whatsoever.

An illicit, unregulated marketplace would also increase the likelihood that even more harmful contaminated products would enter the prevailing (illicit) market.

Because the legislation would not prevent youth access, but might actually expand it;

because the legislation would increase the harm of the products sold in illicit markets;

because the legislation would prevent tobacco harm reduction for adult smokers, and keep them smoking cigarettes;

because similar efforts in other states have failed to achieve the promised benefits, and have increased the illicit market, as well as prevented adult access to lower-risk nicotine products;

the legislation should be rejected as a deeply-flawed, misleading effort to ignore the science of tobacco harm reduction and real-world examples of this experiment in other jurisdictions.

Sincerely,

Jeff Stier

Senior Fellow,

Taxpayers Protection Alliance

HB-551-HD-1

Submitted on: 2/15/2023 6:45:59 AM

Testimony for CPC on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nikkyia Taliaferro	Individual	Support	Remotely Via Zoom

Comments:

My name is Nikkyia Taliaferro, an alumna of Moanalua High School and former resident of Salt Lake. I am testifying in strong support of the Keiki Caucus Bill HB 551 which would comprehensively end the sale of flavored tobacco products including menthol. Despite testimony in opposition, the continued sale of flavored tobacco products has devastating impacts on our keiki and the overall health of Hawai'i residents. This bill is not preventing residents interested in quitting smoking to use alternatives, this bill ensures that Big Tobacco is not luring our children into becoming the next generation of smokers through enticing flavored products. There's no way to downplay the impact flavors has on youth, according to the CDC, "80.2% of high school students who used tobacco products in the past 30 days reported using a flavored tobacco product" and according to UPenn's Institute of Health Economics, kids are less likely to smoke or vape when they can't buy flavored tobacco products. The evidence is clear: flavored tobacco products are the main contributor to the teen vaping crisis in Hawai'i. If we want to ensure the health and safety of Hawai'i children we must end the sale of flavored tobacco.

Thank you for the opportunity to testify.



Papa Ola Lokahi
Nana I Ka Pono Na Ma

894 Queen Street
Honolulu, Hawaii 96813
Phone: 808.597.6550
www.papaolalokahi.org

House Committee on Consumer Protection & Commerce

Mark M. Nakashima, Chair
Jackson D. Sayama, Vice Chair

Wednesday, February 15, 2023, 2:00 PM, Conference Room 329 via Videoconference

RE: HB 551 HD 1 – RELATING TO HEALTH

Position: IN SUPPORT

Dear Chair Nakashima, Vice Chair Sayama, and Members of the Committee on Consumer Protection & Commerce,

Papa Ola Lokahi testifies in **SUPPORT** of HB 551 HD 1, which aims to prohibit the sale of distribution of all flavored tobacco products, including products with menthol, and prohibit the mislabeling of products as nicotine-free. We must ensure that smoking products are not misrepresented to our communities and enable them to make informed decisions about what they are purchasing and consuming. If we are to protect the health and safety of our youth and future generations, we must continue to examine policies and take meaningful action to ensure policies are meeting the needs of our communities.

We must also examine the existing disparities and ensure policies are aimed at closing the health disparity gap between racial groups. The 2019 Youth Tobacco Survey (YTS) found racial inequity, with 63.8% of Native Hawaiian high school youth and 37.6% of Native Hawaiian middle school youth reporting they have tried vaping. Native Hawaiian high school students reported active use of vapor products more than nearly all other racial groups in Hawai'i, and the same survey found that Native Hawaiian high school youth report using vapor products more frequently (20+ days within the last 30 days) than their non-Native Hawaiian counterparts at 17% and 10.4%, respectively. One in three Native Hawaiian youth cite the availability of flavors as the reason they use vape products, underpinning the need for us to regulate access to these harmful products further. We must also consider that our youth's neural development is at risk, and that using tobacco products during this developmental stage puts them at increased risk of developing a nicotine addiction.

It is evident that the use of tobacco products not only increases adverse health outcomes, but also exacerbates these outcomes among vulnerable groups, and deepens health disparities. Establishing policies such as these is necessary to curb access to these harmful products.

Thank you for the opportunity to provide testimony in **STRONG SUPPORT** of this critical issue, and for helping to safeguard the health and safety of our keiki and communities.



HIPHI Board

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HIPHI Initiatives

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Community Health
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COVID-19 Response

Hawai'i Drug & Alcohol Free
Coalitions

Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Collective

Date: February 13, 2023

To: Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair
Members of the Committee on Consumer Protection & Commerce

Re: Support HB 551 HD1 Relating to Electronic Smoking Devices

Hrg: Wednesday, February 15, 2023, at 2:00 PM, Conf Rm 329

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **Strong Support of HB 551 HD1**, which would end the sale of all menthol and flavored tobacco products in the state and prohibit mislabeling of e-liquid products containing nicotine.

Tobacco use remains a serious threat to public health. Each year, Hawai'i spends \$611 million in health care costs and \$152.3 million in Medicaid costs due to smoking. Menthol has cooling properties that mask the harshness of tobacco smoke and nicotine, making menthol cigarettes a popular starter product.

81% of Hawai'i youth started with a flavored product,ⁱⁱ and by regulating all menthol and other flavored tobacco products, the state can prioritize the health and safety of our communities. A report by the US Food and Drug Administration, issued in 2013, found that menthol cigarettes led to increased smoking initiation among youth and young adults, more significant addiction, and decreased success in quitting smoking. Candy, sweet, and menthol flavored tobacco attracts youth and makes nicotine tolerable. Unregulated menthol and flavored tobacco products severely threaten Hawai'i's established tobacco control policies and do not protect our children.

Flavor tobacco products have such a negative impact on public health that Massachusetts and California have ended the sale of all flavored tobacco products, including menthol. New Jersey, New York, and Rhode Island have ended the sale of flavored e-cigarettes. And nationally, over 360 localities have passed restrictions on the sale of flavored tobacco products, and at least 170 of those communities restrict the sale of menthol cigarettes as well as other flavored tobacco products.ⁱⁱ

Ending the sale of flavored tobacco products would save lives and money.

A 2021 analysisⁱⁱⁱ of tobacco products in Hawai'i conservatively estimates that it would result in:

- At least \$48 million in long-term health care cost savings for the state.
- More than 3,000 smokers (5.6% of menthol smokers) would quit due to the policy.
- 700 premature smoking-caused deaths avoided.
- Fewer youth initiating smoking with menthol cigarettes.

Thousands of youth will never start smoking because of this policy, thousands of lives will be saved, and the state will save hundreds of millions in healthcare costs.

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

In 2019, 1 in 3 (30.6%) public high school students and more than 1 in 6 (18%) public middle school students in Hawai'i reported that they are regularly vaping^{iv} Hawai'i has the third-highest high school e-cigarette rate in the Country. Because Electronic Smoking Devices (ESDs) remain unregulated, e-cigarette companies have aggressively marketed their products by glamorizing their use, using celebrities and young adults as endorsers, and making false health claims. E-cigarettes often contain nicotine, which is addictive and harmful, particularly to adolescents whose brains are still developing.

Over two decades of tobacco prevention and control policy has helped Hawai'i save \$1 billion in healthcare costs^v lowered the adult smoking rate to 11.6% (eighth lowest in the nation)^{vi}, and reduced smoking prevalence among high school students to 5.3% in 2019^{vii}. These positive steps were achieved with comprehensive smoke-free air laws, high tobacco taxes, age restrictions, removing most flavors in cigarettes, and investments in tobacco prevention education and cessation.

Unfortunately, e-cigarettes have evaded the laws to which other tobacco products are subject. The lack of a comprehensive approach has led to the rise of e-cigarette use, undoing decades of progress. In 2019, 1 in 3 (30.6%) public high school students and nearly 1 in 5 (18%) public middle school students in Hawai'i reported that they use e-cigarettes^{viii}. The state can reverse the youth vaping epidemic by implementing comprehensive policies and programs, *including ending the sale of flavored tobacco products statewide*.

Flavored products are driving youth use.

Flavors in tobacco products entice youth, and nicotine keeps them addicted. In 2020, 8 in 10 youth who use e-cigarettes reported using a flavored product. Of youth e-cigarette users, 85% use flavored products, and fruit, candy/desserts/other sweets, *mint, and menthol* are reported as the most popular flavors^{ix}. Ending the sale of **all** flavored tobacco products will reduce their appeal and protect our children from a lifetime of addiction.

Tobacco companies use menthol as a calculated tactic to hook new consumers. Menthol's cooling properties mask the harshness of tobacco. It is marketed to youth and vulnerable groups. Menthol is one of the most popular flavors of youth in Hawai'i, 78% of Native Hawaiians and Pacific Islanders who smoke use menthol cigarettes^x.

Kids have shifted dramatically to disposable and menthol e-cigarettes, two categories of products left on the market under current federal restrictions. These shifts show that the only way to end this crisis is to eliminate **all** flavored e-cigarettes^{xi}.

Hawai'i voters want restrictions.

In a poll^{xii} of registered voters, conducted by Ward Research Inc., in December 2022, 75% of respondents said that school aged children vaping or using e-cigarettes is a major problem; 76% support a law prohibiting all flavors, including menthol, of tobacco products, and e-cigarettes; furthermore, 95% believe that the use of e-cigarettes or vaping devices is harmful for Hawai'i's children, teens and families.

Comprehensive Regulation

Ending the sale of all flavored tobacco products is part of a comprehensive approach to regulating tobacco products. Passing and implementing this policy AND policies that will create tax parity, licensing and permitting, and addressing the unlawful shipment of tobacco products is how we can address this public health crisis and protect the next generation from a life-long addiction to nicotine. Comprehensive regulation would NOT apply to any FDA-approved Nicotine Replacement Therapy (NRT) or FDA-approved non-nicotine cessation products. NRTs include over-the-counter and prescription products.^{xiii}

Passing HB 551 HD1 along with other effective policies can prevent youth from the use of, and access to, tobacco products - especially e-cigarettes. We appreciate Hawai'i's leadership in tobacco control and the legislature's actions to protect our young people from a deadly addiction.

Thank you for considering HB 551 HD1 and the other policies that will better protect the health of our communities.

Mahalo,



Peggy Mierzwa
Policy & Advocacy Director
Hawai'i Public Health Institute

ⁱ The Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) 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.

ⁱⁱ <https://www.tobaccofreekids.org/assets/factsheets/0398.pdf>

ⁱⁱⁱ Chaloupka, F.J. Potential Effects of a Ban on the Sale of Flavored Tobacco Products in Hawai'i, University of Illinois at Chicago, 2021

^{iv} 2019 Youth Risk Behavior Surveillance System (YRBS). Available at: www.cdc.gov/yrbs.

^v 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.

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- ^{vi} Centers for Disease Control and Prevention (CDC). Behavioral Risk Factor Surveillance System Survey Data. Atlanta, Georgia: US Department of Health and Human Services, Centers for Disease Control and Prevention, 2020.
- ^{vii} 2019 Youth Risk Behavior Surveillance System (YRBSS). Available at: www.cdc.gov/yrbs. Accessed on 02/07/2021.
- ^{viii} 2019 Youth Risk Behavior Surveillance System (YRBSS). Available at: www.cdc.gov/yrbs. Accessed on 02/03/2021.
- ^{ix} <https://www.tobaccofreekids.org/what-we-do/industry-watch/e-cigarettes#:~:text=Flavored%20products%20are%20driving%20youth,as%20the%20most%20popular%20flavors>.
- ^x <https://med.stanford.edu/news/all-news/2020/08/vaping-linked-to-covid-19-risk-in-teens-and-young-adults.html>
- ^{xi} <https://www.tobaccofreekids.org/what-we-do/industry-watch/e-cigarettes#:~:text=Flavored%20products%20are%20driving%20youth,as%20the%20most%20popular%20flavors>.
- ^{xii} This study by Ward Research, Inc. summarizes findings from a phone survey among n=719 Hawaii registered voters (maximum sampling error +/- 3.6%), conducted between November 4-29, 2022.
- ^{xiii} <https://www.fda.gov/consumers/consumer-updates/want-quit-smoking-fda-approved-and-fda-cleared-cessation-products-can-help>



HAWAI'I COMMUNITY FOUNDATION
Amplify the Power of Giving

To: House Committee on Consumer Protection and Commerce
The Honorable Mark M. Nakashima, Chair
The Honorable Stanley Chang, Vice Chair
And Members of the Committee

From: Hawai'i Community Foundation, Micah Kāne, Chief Executive Officer & President

Re: **HB 551, HD1, Relating to Health**

Date: Wednesday, February 15, 2023, 2:00 P.M.

Place: Via Videoconference, Conference Room 329, State Capitol

The Hawai'i Community Foundation strongly *supports* HB 551, HD1. HCF administers the Hawai'i Tobacco Prevention and Control Trust Fund. Through the Trust Fund, we have funded a variety of community grants and contracts to support tobacco prevention and control activities statewide for nearly 20 years. Our goal is to help improve the health and well-being of Hawaii's people by reducing death and disease caused by tobacco consumption. By managing statewide community grant programs in tobacco cessation and youth prevention for many years, HCF has gained substantial knowledge about what it takes at the grassroots level to reduce tobacco consumption in our communities.

Flavors in tobacco products, including electronic smoking devices (ESDs), are used to attract new tobacco users through advertisements and product labeling. Many ESD flavors are designed to appeal to youth, such as bubblegum and cotton candy. Almost all commercially available ESDs contain highly addictive nicotine, which can cause long-term damage to the developing adolescent brain, affecting attention, learning, mood, and impulse control.¹ Among students 12-17 years old who ever used a tobacco product, 81% started with a flavored product.² Marketing of flavors to our keiki is being used to create a new generation dependent on nicotine, with long-term adverse health consequences to our state.

HCF strongly recommends including menthol as a prohibited flavor in HB 551. Menthol in combustible cigarettes makes the smoke smoother and less harsh on the throat so that the smoke is easier to inhale deeply.³ In other words, menthol is used to mask the effects of tobacco smoke and deliver higher concentrations of addictive nicotine more deeply into the lungs. Marketing of menthol tobacco products has a disproportionate impact on island communities. As stated in Section 1 of HB 551, HD1, adult Filipinos, Native Hawaiians and Japanese residents in Hawai'i use mentholated tobacco at high rates, resulting in higher rates of tobacco-related illnesses and death. We believe that public policy should not create exceptions for products that create greater health disparities for certain island populations.

¹ US Department of Health and Human Services. [E-cigarette Use Among Youth and Young Adults: A Report of the Surgeon General](#) [PDF – 8.47MB]. Atlanta, GA: US Department of Health and Human Services, CDC; 2016.

² 2013-2014 Population Assessment of Tobacco and Health (PATH Study), National Institutes of Health and U.S. Food and Drug Administration.

³ Tobacco Products Scientific Advisory Committee. [Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations pdf icon](#)[PDF–15.3 MB][external icon](#). Rockville, MD: US Department of Health and Human Services, Food and Drug Administration; 2011.