

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

**Testimony in SUPPORT of S.B. 975, S.D. 2
RELATING TO HEALTH**

REPRESENTATIVE DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH AND HOMELESSNESS

Hearing Date: March 15, 2023

Room Number: Conference Room 329
& Videoconference

1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of Taxation
2 (DOTAX) and to the Office of the Attorney General (AG) on the fiscal implications for
3 implementing and enforcing the proposed measure.

4 **Department Testimony:** The DOH supports Senate Bill 975, Senate Draft 2 (S.B. 975, S.D. 2)
5 as a critical public health measure to address Hawaii's youth vaping epidemic. S.B. 975, S.D. 2
6 establishes the offense of unlawful shipment of tobacco products, and includes electronic
7 smoking devices (ESDs) and e-liquids within the definition of tobacco products and increases the
8 wholesale license fee and retail tobacco permit fee for persons engaged as wholesalers/dealers or
9 retailers of cigarettes and tobacco products. The measure would also repeal state laws that
10 establish and govern the Electronic Smoking Device Retailer Registration Unit within the
11 Department of the AG; provisions of the Cigarette Tax and Tobacco Tax Law that govern
12 delivery sales.

13 The absence of protective policies to act as a preventive buffer between the promotion of
14 enticing ESDs, also known as e-cigarettes, and youth, contributed to the ongoing rise in frequent
15 use and unrestricted access to nicotine. Thirty-one percent of Hawaii's high school and eighteen
16 percent of Hawaii's middle school students reported using e-cigarettes in the past 30 days with

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

8 Hawaii does not regulate ESDs through licensing, permitting, nor taxation. ESDs are not
9 taxed like other tobacco products and often can be purchased at lower prices than cigarettes.
10 According to the U.S. Surgeon General, increasing the price of tobacco products is the single
11 most effective way to reduce consumption.⁵ An economic study by the University of Illinois,
12 reported that increasing the price of ESDs by 10% has been shown to lead to a 10% to 18%
13 reduction in the demand and consumption of ESDs – a higher price elasticity compared to
14 combustible cigarettes. Increasing the price of tobacco products has the greatest impact on
15 youth, who are particularly price sensitive.⁶ Further, the imposition of an excise tax equal to
16 70% of the wholesale price of each e-liquid and ESD will be consistent with the tax on other
17 tobacco products.

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

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 U.S. Department of Health and Human Services. [Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General](#). Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012 [accessed 2018 Jan 22].

⁶ Chaloupka, F. Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products, 1 Nicotine & Tobacco Research S105 (Supp. 1 1999).

1 The DOH supports the restriction of shipping tobacco products to anyone other than a
2 licensed wholesaler. The proposed language in Section 2 (pages 8 to 9) aligns with existing
3 language in [§245-16, HRS Unlawful shipment of cigarettes; penalty; reports; liability for unpaid](#)
4 [taxes](#), and has been reviewed and vetted between the DOTAX, AG, and DOH. The intent of the
5 original legislation, that was adopted as §245-16, HRS through Act 157, HSL 2004, “prohibits
6 the distribution of untaxed cigarettes via telephone, mail order, the Internet, or other on-line
7 sources and revises the seizure and confiscation authority of the department of the attorney
8 general to address the availability of low-priced cigarettes to underage smokers.” Unregulated
9 shipping (or importing) of tobacco products, particularly, ESDs ordered online, has created a
10 dangerous loophole, by providing an appealing and accessible option for underage users. In the
11 current unregulated online market, youth easily and often circumvent the age verification
12 process for purchasing tobacco. Minors were successful in buying ESDs online 93% of the time
13 despite age restrictions according to the Internet Tobacco Vendors Study (ITV), supported by
14 the National Cancer Institute and the U.S. Food and Drug Administration (FDA). Another
15 study found that ESDs were often shipped from internet vendors without instructions or health
16 warnings. Due to the easy access for minors through online marketing, public health
17 researchers recommend more vigorous policies to prohibit sales to minors.^{7,8}

18 Requiring licensure and retail permitting under the DOTAX would bring ESD and
19 e-liquid vendors in alignment with the traditional cigarette and tobacco retailers and would
20 provide accurate data for compliance surveillance. As of 2022, 33 states, the District of
21 Columbia, the Northern Mariana Islands, and the U.S. Virgin Islands required retailers to have a
22 license to sell ESDs.⁹ Tobacco licensing is an effective tool for limiting the negative public
23 health consequences of tobacco use by ensuring that wholesalers and retailers comply with
24 responsible sales practices. Increasing the licensure and permitting fees, which have remained

⁷ Williams RS, Derrick J, Ribisl KM. Electronic Cigarette Sales to Minors via the Internet. *JAMA Pediatric*. 2015;169(3): e1563. doi:10.1001/jamapediatrics.2015.63.

⁸ Kong AY, Derrick JC, Abrantes AS, Williams RS. *What is included with your online e-cigarette order? An analysis of e-cigarette shipping, product and packaging features. Tobacco Control*. [Epub ahead of print] June 29, 2016. doi:10.1136/tobaccocontrol-2016-053061.

⁹ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, STATE System Licensure Fact Sheet, <https://www.cdc.gov/statesystem/ecigarette.html>

1 unchanged since 1995, despite high tobacco taxes and ever-increasing tobacco industry
2 expenditures in marketing and advertising, would be a further positive move.

3 The State Legislature’s past support on comprehensive policy approaches for good health
4 and wellbeing has led to reductions in cigarette use over time. The DOH asks again for
5 courageous action to protect our keiki and ohana in Hawaii from the appealingly marketed,
6 readily available and accessible e-cigarettes that are yet to be regulated like cigarettes. The
7 attached Table 1 shows the decline of cigarette use and increase in e-cigarette use that is
8 undermining progress in providing a healthy environment for our children where they live, learn,
9 and play.

10 The DOH supports S.B. 975, S.D. 2, as a critical legislative approach to address the youth
11 vaping crisis and protect the health of Hawaii’s youth.

12 Thank you for the opportunity to testify.

13 **Offered Amendments:** None

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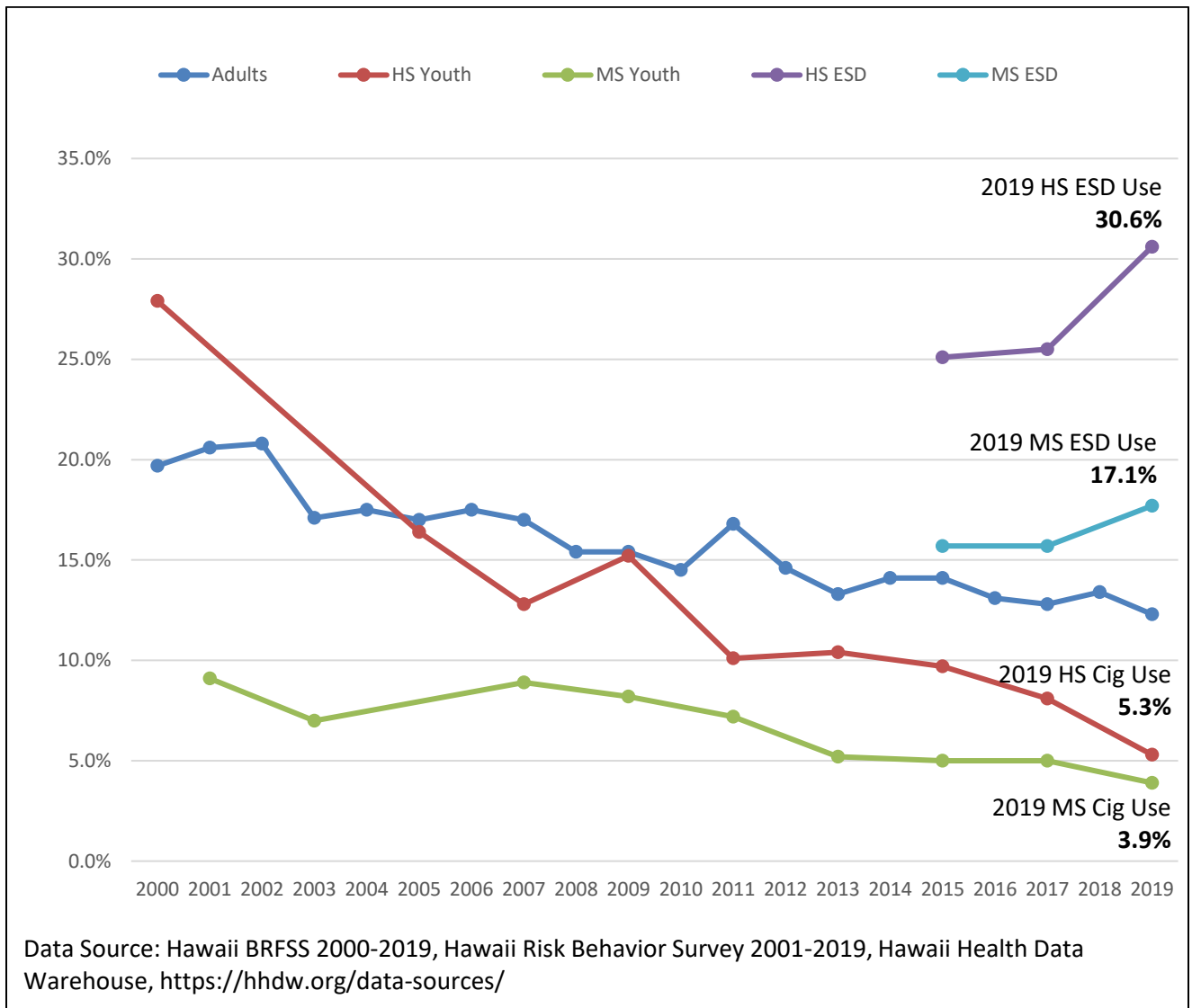
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1 Table 1. Adult and High School Current Cigarette Use, and High School and Middle School Current E-
2 Cigarette (ESD) Current Use, Hawaii 2000 to 2019, Behavioral Risk Factor Surveillance System, Youth Risk
3 Factor Surveillance System





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

ON THE FOLLOWING MEASURE:

S.B. NO. 975, S.D. 2, RELATING TO HEALTH.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH AND HOMELESSNESS

DATE: Wednesday, March 15, 2023 **TIME:** 9:45 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Richard W. Stacey or Chelsea N. Okamoto,
Deputy Attorneys General

Chair Belatti and Members of the Committee:

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

The bill seeks to address the health dangers caused by the rapidly growing use of electronic smoking devices in Hawaii, including among the youth. This bill establishes the offense of unlawful shipment of tobacco products; amends the definition of "tobacco products" in chapter 245, Hawaii Revised Statutes (HRS), to subject electronic smoking devices and e-liquids to taxation and regulation under the Department of Taxation; increases licensing and permit fees for wholesalers, dealers, and retailers of tobacco products; repeals chapter 28, part XII, HRS, relating to the Electronic Smoking Device Retailer Registration Unit; and repeals section 245-17, HRS, relating to Delivery Sales.

The Department supports subjecting electronic smoking devices to taxation and regulation under chapter 245, HRS, and repealing part XII of chapter 28, HRS. The Electronic Smoking Device Retailer Registration Unit (ESDRRU) was established within the Department under part XII of chapter 28, HRS, and currently has 695 electronic smoking device retailers registered with this unit. Approximately 90 percent of those retailers concurrently hold a tobacco retail permit with the Department of Taxation. Combining the regulation of electronic smoking devices with the retail tobacco

permitting process and the wholesale licensing process -- a function already within the purview of the Department of Taxation -- would render the ESDRRU unnecessary. Including electronic smoking devices under the purview of the Department of Taxation would conserve resources and make the regulation of electronic smoking devices a more efficient process for retailers, wholesalers, and the State.

We respectfully ask the Committee to pass this bill and thank you for this opportunity to testify.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259

HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 975, S.D.2, Relating to Health

BEFORE THE:

House Committee on Health & Homelessness

DATE: Wednesday, March 15, 2023

TIME: 9:45 a.m.

LOCATION: State Capitol, Room 329

Chair Belatti, Vice-Chair Takenouchi, and Members of the Committee:

The Department of Taxation (“Department”) offers the following comments regarding S.B. 975, S.D.2, for your consideration.

S.B. 975, S.D.2, seeks to amend chapter 245, Hawaii Revised Statutes (HRS), by: (1) adding a new section which establishes the offense of unlawful shipment of tobacco products as either a felony or misdemeanor depending upon the value of the shipment; (2) amending section 245-1, HRS, to expand the definition of “tobacco products” and adding definitions for “electronic smoking devices” and “e-liquid”; (3) amending sections 245-2 and 245-2.5, HRS, to increase the fee for tobacco and cigarette wholesaler or dealer licensing from \$2.50 to \$250, and the fee for retail tobacco permits from \$20 to \$50, while also adding a requirement for licensees to specify whether each place of business sells e-liquid or electronic smoking devices, or both; (4) repealing chapter 28, Part XII, HRS, which administers the Electronic Smoking Device Retailer Registration Unit; and (5) repealing section 245-17, HRS, “Delivery Sales” to conform with the new section making tobacco shipment unlawful.

The measure has a defective effective date of December 31, 2050.

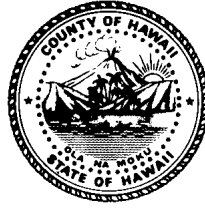
The Department requests that any amendment to the effective date be no earlier than January 1, 2024, which provides adequate time to update any relevant instructions and forms to reflect the added penalties for the unlawful shipment of tobacco, increased

Department of Taxation Testimony
S.B. 975, S.D.2
March 15, 2023
Page 2 of 2

fees for the tobacco license and retail tobacco permit, and specifications required for the retail tobacco permit.

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

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: March 14, 2023
TO: House Committee on Health and Homelessness
FROM: Jennifer Kagiwada, Council Member
Council District 2
SUBJECT: SB 975 SD 2

Aloha Chair Belatti, Vice Chair Takenouchi, and Committee Members,

I am testifying in support of SB 975 to allow Counties to retain the authority to adopt laws regarding the sale and regulation of tobacco products so long as those laws are not in conflict with and/or are more stringent than State laws. Our communities suffer when State elected officials supersede the rights of County leaders in regards to the health and well-being of our local constituents. The Counties are more able address the needs of our communities in a timely manner. Hawai'i County, in particular, has a good history of helping to pass public health policies such as Tobacco 21 and smoke-free air laws.

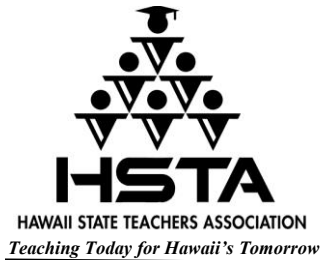
Reauthorizing Counties to regulate the sale of tobacco products allows for even more opportunities for innovative policies at the local level. County legislators are not being lobbied by tobacco industry representatives at the level State leaders have been, which means they are in a position to more easily pass laws that put public health care first. Cutting back on tobacco sales and use can improve public health and reduce health care costs associated with tobacco related illnesses, a benefit to us all.

Mahalo for the opportunity to testify in support of this bill.

Mahalo,

A handwritten signature in black ink, appearing to read 'Jenn Kagiwada'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Jenn Kagiwada



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

TESTIMONY BEFORE THE HOUSE COMMITTEE ON HEALTH &
HOMELESSNESS

RE: SB 975 SD2 - RELATING TO HEALTH

WEDNESDAY, MARCH 15, 2023

OSA TUI, JR., PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Della Au Belatti and Members of the Committee:

The Hawaii State Teachers Association **supports SB 975, SD2**, relating to health.

E-cigarette use continues to escalate among our teens. It puts our children's health at risk and becomes a lifelong addiction. By addressing unlawful shipment of e-cigarettes, taxing them as tobacco products, and licensing & permitting sellers, we are implementing comprehensive regulations that will address this crisis.

E-cigarettes have evaded many tobacco regulation laws for decades, leading to a sharp rise in the use of these products, especially by our youth, who are enticed by their unregulated marketing and lack of proper regulatory controls on an addictive drug, nicotine. **Thus, comprehensive regulation will be a major step in reversing youth use of e-cigarettes.**

Two decades of comprehensive regulation on cigarettes and other tobacco products helped Hawaii and has saved \$1 billion in healthcare costs and reduced high school smoking to 5.3% in 2019 (CDC YRBS 2017-19).

Contrary to what you may have heard, e-cigarettes are not FDA-approved cessation devices. Comprehensive tobacco regulation will not stop access to FDA-approved nicotine replacement therapy (NRTs)- approved smoking cessation products.

E-cigarettes are the only tobacco products without a tobacco tax, this needs to be changed with this bill. We, as a state, must also address unregulated, unchecked online sales of e-cigarettes directly to customers. We must require face-to-face purchases for that will make it harder for our youth to obtain these products via the internet. Licensed tobacco retailers would still be able to receive shipment of products.



HAWAII STATE TEACHERS ASSOCIATION
Teaching Today for Hawaii's Tomorrow

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

Taxation, regulation, licensing & permitting, education, and cessation services are components of comprehensive tobacco regulation and a key to lowering the use of tobacco by our youth.

The use of e-smoking products among our 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.

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 well-being of our keiki, the Hawaii State Teachers Association requests you **support** this bill.



American
Heart
Association.

American Heart Association testimony in SUPPORT of SB 975, SD2 "Relating to Health"

The American Heart Association strongly **SUPPORTS** SB 975, SD2 and offers comments on effectively taxing e-cigarettes to reduce underage usage.

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

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

Hawaii is amid a youth epidemic concerning the use of electronic smoking devices. Hawaii has the highest rate of middle school-aged student use of those products in the nation, and the second highest high school student usage rate.

Even though there is more work needed to fully understand all the dangers of e-cigarettes, there is now ample evidence they're harmful to both growing minds and bodies, as well as to adults.

E-cigarettes have been falsely marketed as a safe alternative to traditional cigarettes and as a tool to help adult smokers quit. **Those claims are untrue. The federal Food and Drug Administration has not approved a single e-cigarette product as an effective, or safe nicotine cessation product.**

Supporters of the tobacco industry often hold up a 10-year-old study done in England, the results of which have been characterized and repeated in the popular media as e-cigarettes are "95% less risky" or "95% less harmful" than combustible cigarettes. However, as the study's authors noted in a sweeping statement regarding the shortcomings of their own work, "A limitation of this study is the lack of hard evidence for the harms of most products on most of the criteria." Pro-tobacco representatives fail to mention that part of the study.

Also, the fact that the study, published in The New England Journal of Medicine, was conducted in England is significant because the e-cigarettes in England are far different from those in the U.S. English products have much lower levels of nicotine, regulated by the government, and physicians there actually encourage their use to quit nicotine addiction.

There is ample evidence that the range of e-cigarette products available today in Hawaii and the U.S. are very different from those studied in July 2013.

E-cigarette liquids have changed considerably from 2013, with widespread availability of thousands of flavors that use chemicals "generally recognized as safe" to eat **but, importantly, not to inhale.** Perhaps the most striking change has been

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the pervasive marketing of liquids with “nicotine salt.” Nicotine salt is made by adding an acid to free-base nicotine, thus introducing another potential toxicant that was rare in 2013. Relative to free-base nicotine, aerosolized nicotine salt liquid is less aversive to inhale, allowing users to increase the nicotine concentration of the liquid and likely increase their own nicotine dependence. Nicotine salt e-cigarette liquids used in most e-cigarette products available today can contain unusually high levels of nicotine. One e-cigarette refill pod can contain as much or more nicotine as an entire pack of cigarettes and kids are sometimes vaping 2-4 pods a day. And open pod e-cigarette products popular among Hawaii youths can contain even much more nicotine.

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

More recent research has shown that e-cigarette use increases heart rate, blood pressure, and platelet activation, and decreases flow-mediated dilation and heart rate variability, effects that are prognostic of long-term cardiovascular risk such as myocardial infarction (heart attack) and coronary artery disease. Other studies as recent as November 2022 indicate that e-cigarette users may be at increased risk for by decreasing blood flow in the heart even more than traditional cigarettes and can worsen heart disease risk factors such as high cholesterol.

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. Taxing tobacco products has an established history of reducing youth tobacco usage rates.

Tax Rates

Existing taxes on e-cigarettes vary widely in terms of the effective tax rates. Several states impose very low specific taxes – as low as five cents per milliliter in Delaware, Kansas, Louisiana, North Carolina, and Wisconsin. Rarer are high specific taxes, such as the tax of \$1.50 per container plus \$1.20 per milliliter levied in Chicago. *Ad valorem* tax rates vary widely as well, from eight percent of wholesale price on open systems in Georgia and New Hampshire to 95 percent of wholesale price in Minnesota. Taxing jurisdictions also vary in the relative taxes on e-cigarettes, with some states, such as California and Minnesota, setting tax rates to achieve parity with taxes on cigarettes, while others have no clear objective.

Differences in taxes across different products can lead some users to substitute from products taxed at higher rates to products taxed at lower rates. Some have argued that taxing e-cigarettes at a lower rate than conventional cigarettes could reduce the overall harms from tobacco use by encouraging some people who smoke to switch to e-cigarettes. However, the growing evidence on the respiratory, cardiovascular, and other consequences of e-cigarette use suggests that it will be

decades before there is clarity on the net public health effects of this type of substitution, something further complicated by the rapid changes in e-cigarette products.

Given this, taxing all tobacco products at the same rate as cigarettes are taxed appears most appropriate at this time.

Table 14 below contains estimates of the state tax rates for e-cigarettes that would achieve parity with state cigarette taxes, as share of the tax-inclusive and tax-exclusive retail price, based on estimated average cigarette prices and state cigarette taxes as of January 1, 2022. Cigarette price estimates are based on the average cigarette prices as of November 1, 2020 reported in the 2021 *Tax Burden on Tobacco*, updated to reflect industry price increases and state cigarette tax increases since November 2020. Table 14 also includes the equivalent *ad valorem* tax rate levied on the wholesale price of cigarettes, as reported by the Campaign for Tobacco-Free Kids.

Table 14
Estimated Ad Valorem Tax Rates to Achieve Parity with Average Cigarette Tax Rates
Based on Estimated Average Cigarette Price, June 1, 2022

State	Parity Based on Tax-Inclusive Retail Price	Parity Based on Tax-Exclusive Retail Price	Parity Based on Wholesale Price
Alabama	10.21%	11.37%	12%
Alaska	19.13%	23.65%	36%
Arizona	24.69%	32.79%	36%
Arkansas	16.48%	19.74%	21%
California	32.28%	47.66%	51%
Colorado	24.99%	33.32%	35%
Connecticut	39.90%	66.38%	77%
Delaware	26.91%	36.82%	38%
DC	38.28%	62.03%	80%
Florida	18.60%	22.84%	24%
Georgia	6.06%	6.45%	7%
Hawaii	31.98%	47.01%	57%
Idaho	8.90%	9.76%	11%
Illinois	31.18%	45.30%	53%
Indiana	14.95%	17.58%	18%
Iowa	19.41%	24.08%	25%

Kansas	18.33%	22.45%	23%
Kentucky	16.83%	20.24%	20%
Louisiana	16.11%	19.20%	20%
Maine	24.58%	32.59%	36%
Maryland	38.73%	63.21%	67%
Massachusetts	33.58%	50.55%	63%
Michigan	25.62%	34.45%	36%
Minnesota	28.97%	40.79%	54%
Mississippi	10.73%	12.02%	13%
Missouri	2.90%	2.99%	4%
Montana	21.87%	27.99%	31%
Nebraska	9.87%	10.95%	12%
Nevada	23.25%	30.29%	32%
New Hampshire	23.03%	29.92%	32%
New Jersey	31.24%	45.42%	48%
New Mexico	24.92%	33.19%	36%
New York	37.82%	60.82%	77%
North Carolina	7.30%	7.88%	8%
North Dakota	7.05%	7.59%	8%
Ohio	21.49%	27.37%	29%
Oklahoma	25.59%	34.40%	36%
Oregon	35.54%	55.13%	59%
Pennsylvania	28.90%	40.64%	46%
Rhode Island	38.84%	63.51%	76%
South Carolina	8.85%	9.72%	11%
South Dakota	20.01%	25.02%	28%
Tennessee	9.70%	10.74%	11%
Texas	19.66%	24.46%	25%
Utah	21.66%	27.64%	31%
Vermont	32.26%	47.62%	55%
Virginia	8.74%	9.58%	11%
Washington	31.79%	46.60%	54%
West Virginia	17.34%	20.98%	22%
Wisconsin	29.90%	42.66%	45%
Wyoming	9.11%	10.02%	11%
Federal	13.30%	15.34%	18%

Big Tobacco has a history of misrepresenting facts about nicotine and smoking. So, vaping-safety claims from industry or research supported by industry should be met with skepticism.

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

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

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

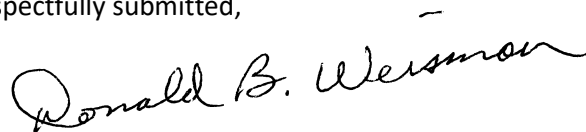
The Association advises anyone quitting smoking to get off nicotine products altogether, using FDA-approved tools proven to be effective. We also don't want anyone to ever start using any nicotine-containing product.

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

The American Heart Association of Hawaii urges legislators to pass comprehensive, science-based policies (including banning flavors from all tobacco products, increasing taxes on e-cigarette products to create parity with traditional tobacco products, and requiring retailers who sell e-cigarettes, to obtain a license tied to meaningful fines for illegal sales to minors) to help reduce Hawaii youth vaping epidemic.

Please support SB975, SD2.

Respectfully submitted,

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

Donald B. Weisman
Government Relations/Communications and Marketing Director



Date: March 13, 2023

To: Rep. Della Au Belatti, Chair
Rep. Jenna Takenouchi, Vice Chair
Committee on Health and Homelessness

From: Lindsey Freitas, Advocacy Director, Campaign for Tobacco-Free Kids

Re: **Support SB975 SD2, Relating to Health**

Hrg: March 15, 2023 at 9:45am

Dear Chair Belatti, Vice Chair Takenouchi, and Members of the Committee,

The Campaign for Tobacco-Free Kids supports parity in regulations for electronic cigarettes and traditional tobacco products. Taxing tobacco products at different rates encourages product switching, driving consumers to the lower taxed items.

We support the taxation of these devices, as youth are extremely sensitive to price and would be less inclined to buy them if they were more expensive. It is imperative that a holistic approach be adopted to combat the health crisis of youth e-cigarette use: removing enticing flavors, taxing them like other tobacco products, and better regulation/oversight of retailers are three critical steps forward in giving our keiki an addiction-free future.

Policies that raise the tax on tobacco, limit exposure to secondhand smoke, discourage the use of tobacco by youth and increase access to cessation services for those addicted to tobacco will lead to better health outcomes and less strain on the state healthcare system. Tobacco use is the leading cause of preventable death in Hawai'i¹, claiming approximately 1,400 lives each year and costing the state \$611 million dollars in direct health care costs.²

¹ Campaign for Tobacco-Free Kids: <https://tobaccofreeca.com/health/tobacco-is-the-number-one-preventable-cause-of-death/#:~:text=Tobacco%20products%20continue%20to%20be,year%20from%20tobacco%2Drelated%20diseases>.

² Campaign for Tobacco-Free Kids: <https://www.tobaccofreekids.org/problem/toll-us/california>

The dramatic rise in youth e-cigarette use is alarming. Increasing the tax on tobacco, including electronic cigarettes, is a proven method to protect our youth from these deadly products. Teenagers are especially price sensitive – every 10% increase in a tobacco tax leads to a reduction in the number of kids who smoke by six to seven percent.³ An increased e-cigarette tax will stop many from becoming addicted in the first place and thus help them avoid the tobacco related diseases that accompany it, such as cancer, lung disease, heart disease or stroke.

Thank you,
Lindsey Freitas, Campaign for Tobacco-Free Kids

³ See, e.g., Chaloupka, FJ, “Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products,” *Nicotine and Tobacco Research* 1(Suppl 1):S105-9, 1999; other studies at <http://www.ihrp.uic.edu/researcher/frank-j-chaloupka-phd> and <http://tobacconomics.org/>; Tauras, J, “Public Policy and Smoking Cessation Among Young adults in the United States,” *Health Policy* 6:321-32, 2004; Tauras, J, et al., “Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis,” National Bureau of Economic Research Working Paper 8331, June 2001, <http://www.nber.org/papers/w8331>. Chaloupka, FJ & Pacula, R, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541, April 1998; Emery, S, et al., “Does Cigarette Price Influence Adolescent Experimentation?,” *Journal of Health Economics* 20:261-270, 2001; Evans, W & Huang, L, *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper, April 15, 1998; Harris, J & Chan, S, “The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29,” *Health Economics Letters* 2(2):3-12, February 1998, <http://www.mit.edu/people/jeffrey/HarrisChanHEL98.pdf>. HHS, *Reducing Tobacco Use: A Report of the Surgeon General*, Atlanta, Georgia: HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2000, http://profiles.nlm.nih.gov/NN/B/B/L/Q/_/nnbb1q.pdf.



March 15, 2023

The Honorable Della Au Belatti, Chair
The Honorable Jenna Takenouchi, Vice Chair
House Committee on Health and Homelessness

Re: SB 975 SD2 – Relating to health

Dear Chair Belatti, Vice Chair Takenouchi, and Members of the Committees:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB975 SD2, which seeks to address the health dangers caused by the rapidly growing use of electronic smoking devices (ESD) in Hawaii, including among the youth.

The bill would strengthen tobacco regulation throughout the State by:

1. Making it unlawful to knowingly ship certain tobacco products into the State
2. Applying the Cigarette and Tobacco Tax, Chapter 245, Hawaii Revised Statutes, on e-liquids and electronic smoking devices
3. Establishing new wholesale permit and retail license requirements on the sale of certain tobacco products as well as increase various permit and licensure fees

HMSA supports this measure to protect our community, especially our youth. There has been a dramatic increase in the use of electronic smoking devices over the last decade, particularly among young individuals due to the low cost and accessibility to ESD's. Tobacco is the leading cause of preventable disease and death, and results in loss of life and financial burdens on society and the health and wellness of our community. Increasing the price of tobacco products through taxation has been proven to reduce tobacco consumption. Youth buying and consumption patterns are particularly sensitive to price increases.

Thank you for the opportunity to testify on SB975 SD2.

Sincerely,

Dawn Kurisu
Assistant Vice President
Community and Government Relations

COMMITTEE ON HEALTH & HOMELESSNESS**Rep. Della Au Belatti, Chair****Rep. Jenna Takenouchi, Vice Chair****Wednesday, March 15, 2023 - 9:45 AM - Room 329****Support for Senate Bill 975, Senate Draft 2 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 in Hawai'i supports Senate Bill 975, Senate Draft 2.

This bill defines "tobacco products" to include electronic smoking devices, which is crucial towards ending the vaping epidemic in Hawai'i's youth. This bill will amend Chapter 245 definition of tobacco products to include the definition of all devices used to delivery aerosolized or vaporized nicotine and its components that are used in the consumption of tobacco products. By adding the definition of tobacco products to include all electronic smoking devices and their components, we can bring tax parity amongst the various tobacco products. Research has shown that increasing taxes on tobacco products is a deterrent for tobacco use, particularly in youth. **It is imperative that taxes for vaping products are in parity with other tobacco products in order to truly see the public health impact of this bill.** That means taxing electronic smoking devices and its components at the 70% tax rate currently experienced by other tobacco products.

This bill would also require licensing/permitting for e-cigarette sellers, prohibit the online sale of tobacco products, increase the fee for tobacco permits and licenses. This is an essential component as electronic cigarette vendors have flourished under the current lax regulations in the state, which has precipitated the vaping epidemic in our state.

With our current laws, youth under 21 can order and obtain electronic cigarettes and its components, including e-liquids, via online sales as online verification is not enforced and can handily subverted by people under 21. Limiting online purchases to licensed tobacco retailers and wholesalers will close this loophole in our Tobacco 21 law.

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.¹

The American Lung Association in Hawai'i urges legislators to continue to support and advocate for policies to protect youth from tobacco use through tax parity. We support the current version of Senate Bill 975, Senate Draft 2, in its current form and ask your committee to pass the measure.

Mahalo,

Pedro Haro
Executive Director
American Lung Association in Hawai'i
pedro.haro@lung.org

¹ American Lung Association. *State of Tobacco Control – Hawai'i*. 2020



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

March 13, 2023

Honorable Chair Representative Della Au Bellati
Honorable Vice-Chair Representative Jenna Takenouchi
Members of the Committee on Health & Homelessness

RE: **Strong Support for SB975SD2, Relating to Health (unlawful tobacco shipment)**

Dear Chair Bellati, Vice Chair Takenouchi and members of the Health & Homelessness Committee,

This measure is extremely critical to the health of the children of our state and our entire state as well. **Please pass SB975, SD2** which would restrict online sales direct to consumers and require face-to-face purchases, making it harder for youth to obtain nicotine products on the internet.

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! ESDs are now THE most popular tobacco/nicotine product among youth, largely because these products are NOT regulated (unlike regulations on other tobacco/nicotine products).

- E-cigarettes and electronic smoking devices (ESDs) have evaded many tobacco regulation laws for decades, leading to a sharp rise in the use of these products, especially by young people, who are enticed by their unregulated marketing and lack of proper regulatory controls on an addictive drug, nicotine.
- Comprehensive regulation will be a major step in reversing youth use of e-cigarettes.
- Two decades of comprehensive regulation of cigarettes and other tobacco products has helped Hawai'i save \$1B in healthcare costs.
- Comprehensive regulation has lowered the adult smoking rate to 11.6%; and
- Reduced high school smoking to 5.3% in 2019 (CDC YRBS 2017-2019).
- ***E-cigarettes are not FDA-approved cessation devices.***
- Comprehensive tobacco regulation does not stop access to FDA-approved nicotine replacement therapy (NRTs) – approved smoking cessation products.
- E-cigarettes are the only tobacco products without a tobacco tax.
- Unregulated, unchecked online sales of e-cigarettes need to be addressed. This measure restricts online sales of e-cigarettes directly to consumers – requiring face-to-face purchases

makes it harder for youth to obtain these products via the internet. Licensed tobacco retailers would still be able to receive shipments of products.

- Taxation, regulation, licensing & permitting, education, and cessation services are components of comprehensive tobacco regulation and a key to lowering the use of tobacco use.

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 please **pass SB975SD2 out of committee so our keiki and community will be protected from ESDs and predatory online sales that is so prevalent.** 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



**Testimony to the House Committee on Health and Homelessness
Wednesday, March 15, 2023; 9:45 a.m.
State Capitol, Conference Room 329
Via Videoconference**

RE: SENATE BILL NO. 0975, SENATE DRAFT 2, RELATING TO HEALTH.

Chair Belatti, Vice Chair Takenouchi, 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 THE INTENT** of Senate Bill No. 0975, 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.

The bill, as received by your Committee, would strengthen tobacco regulation throughout the State. Among other things, this bill would:

- (1) Make it unlawful to knowingly ship certain tobacco products into the State;
- (2) Levy the Cigarette and Tobacco Tax, Chapter 245, Hawaii Revised Statutes, on e-liquids and electronic smoking devices;
- (3) Establish new wholesale permit and retail license requirements on the sale of certain tobacco products; and
- (4) Increase various permit and licensure fees.

This bill would take effect on December 31, 2050.

Testimony on Senate Bill No. 0975, Senate Draft 2
Wednesday, March 15, 2023; 9:45 a.m.
Page 2

FQHCs have long seen first-hand how tobacco has literally destroyed the lives of our patients and their families. Because of the ubiquity of cigarettes, chewing tobacco, and now electronic smoking devices, the impacts of tobacco 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.



March 13, 2023

To: COMMITTEE ON HEALTH & HOMELESSNESS
Rep. Della Au Belatti, Chair
Rep. Jenna Takenouchi, Vice Chair

Re: Testimony in Support of SB975 SD2, Relating to Health

Hrg: 15 March 2023, 9:45 AM, Conference room 329

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, SB975 SD2, a comprehensive tobacco regulation bill that: establishes the criminal offense of unlawful shipment of tobacco products; amends the definition of tobacco products under Tobacco Tax Laws to include electronic smoking devices and e-liquids; and addresses licensing and permitting sellers.

E-cigarettes have evaded many tobacco regulation laws for decades, leading to a sharp rise in the use of these products, especially by young people who are enticed by their unregulated marketing and lack of proper regulatory controls on an addictive drug, nicotine. E-cigarettes are the only tobacco product without a tobacco tax. Comprehensive regulation over e-cigarettes will be a major step to reduce the use of e-cigarettes among youth.

Tobacco regulation laws have already proven to be effective in Hawai i. Comprehensive regulation has lowered adult smoking rate to 11.6%, and reduced high school smoking to 5.3% in 2019 (CDC YRBS 2017-2019). Two decades of comprehensive regulation of cigarettes and other tobacco products have helped Hawai i save \$1billion in healthcare costs.

This measure also restricts online sale of e-cigarettes directly to consumers. Requiring face-to-face purchases makes it harder for youth to obtain these products via the internet. Licensed tobacco retailers would still be able to receive shipments of products.

Lasltly, it is important to call attention to the fact that the FDA does not approve e-cigarettes as cessation devices and that this comprehensive regulation will not stop access to FDA-approved nicotine replacement therapy (NRTs).

We strongly support SB975 SSD2 and respectfully ask that you pass this measure to ensure that Hawai i has all the components of comprehensive tobacco regulation necessary to lower the use of tobacco.



Thank you for the opportunity to provide testimony on this important public health topic that impact the health of our communities.

Respectfully submitted,

Holly Kessler
Executive Director



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 Health & Homelessness

Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair

Wednesday, March 15, 2023, 9:45 AM, Conference Room 329 & Videoconference

RE: SB 975 SD 1 – RELATING TO HEALTH

Position: STRONG SUPPORT

Dear Chair Belatti, Vice Chair Takenouchi, and Members of the Committees on Health and Homelessness,

Papa Ola Lokahi testifies in **STRONG SUPPORT** of SB 975, which aims to comprehensively regulate tobacco products, including electronic smoking devices, through the criminalization of unlawful shipment, tax parity at 70% with other tobacco products, and licensing and permitting. Papa Ola Lōkahi supports efforts that aim to protect the health of our communities, such as limiting access to tobacco products, including electronic smoking devices and other vapor products, which are known to increase the risk of adverse health outcomes. E-cigarettes are the only tobacco products without a tobacco tax and have evaded many tobacco regulation laws for decades. This has led to a sharp increase in the use of these products, especially by young people, enticed by their unregulated marketing and lack of proper regulatory controls on an addictive drug, nicotine. Comprehensive regulation will be a meaningful step in reversing the increasing trend of youth e-cigarette use in Hawaii.

We must also examine the existing disparities and ensure policies aim to close 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 cites 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 increases their risk of developing a nicotine addiction.

It is evident that using tobacco products increases adverse health outcomes, exacerbates these outcomes among vulnerable groups, and deepens health disparities. Therefore, establishing policies such as these is necessary to curb access to these harmful products.

Mahalo piha 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.

Papa Ola Lōkahi, the Native Hawaiian Health Board, authorized by the federal Native Hawaiian Health Care Improvement Act, is charged with raising the health status of Native Hawaiians to the highest possible level, which we achieve through strategic partnerships, programs, and public policy.

SB-975-SD-2

Submitted on: 3/13/2023 5:29:32 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

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

Comments:

Strongly Support SB975 SD2.

Eliminate Corporate Terrorism

www.WeAreOne.cc



Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair and
Members of the Committee on Health and Homelessness

The Coalition for a Tobacco-Free Hawaii's Youth Council, **strongly supports SB975**, regulating e-cigarettes the same as other tobacco products.

Today is Take Down Tobacco Day and we have almost 100 youth at the Capitol to share what we are seeing every day in our schools and communities. Hawai'i is facing a youth vaping epidemic. 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 destroy the developing brain. 1,400 people die from a tobacco-related illness every year in Hawai'i and e-cigarettes are addicting a whole new generation which will only drive this number higher.

Countless students from across the state and nation have chronicled youths 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.

A study by Frank J. Chaloupka, PhD Director of the Health Policy Center at the University of Illinois at Chicago showed that **a 10% increase in price reduces sales of disposable e-cigarettes by approximately 12%**, and by about 19% for reusable e-cigarettes. Youth are even more price sensitive than adults, which is why the Youth Council supports taxing e-cigarettes like other tobacco products.

It's also important to close the online loophole which makes it relatively easy for youth to purchase e-cigarettes in bulk online and sell them at their school.

It's not just youth that support this – we have endorsements from more than 100 organizations, many of which have also submitted testimony. Our members have presented to the majority of Oahu neighborhood boards, with 24 having passed

resolutions in support of a comprehensive effort to end the youth vaping epidemic, including regulating e-cigarettes the same as other tobacco products. You can see a partial list below.

The main opposition to this bill seems to be the addicted, or those profiting from their addiction. Since 95% of smokers start before the age of 21 they didn't really choose to become addicted, but rather succumbed to the slick marketing by the tobacco industry when they were kids. It's time to stand up to Big Tobacco and put Hawaii's keiki over corporate profits!

PARTIAL LIST OF SUPPORTERS TO REGULATE E-CIGARETTES THE SAME AS OTHER TOBACCO PRODUCTS

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

NEIGHBORHOOD BOARDS

Kuliouou-Kalani Iki Neighborhood Board 02
Kaimuki Neighborhood Board 04
Diamond Head Neighborhood Board 05
Palolo Neighborhood Board 06
McCully-Moiliili 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-Maili Neighborhood Board 36

BUSINESSES

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

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
Saint Louis Schools

HEALTH & COMMUNITY LEADERS

Kathryn Akioka, RRT / TTS
Joy Barua
Forrest Batz, PharmD
Frank Baum, MD
Deborah Bond-Upson
Dale Carstensen
Valerie Chang
Dyson Chee
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Bridgitte Daniel
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Mary Santa Maria
Patty Kahanamoku-Teruya
Chien-Wen Tseng, MD
John A Hau'oli Tomoso
Jennifer Valera
Cecilia Villafuerte
Linda Weiner, MD
Matthew Wong



Hawaii Dental Association

Committee: House Health & Homelessness

Time/Date: 9:45 a.m., March 15, 2023

Location: State Capitol Conference Room 329 and via Videoconference

Re: SB 975, SD2 Relating to Health

Aloha Chair Belatti, Vice Chair Takenouchi, 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 SB 975, SD2**, relating to health. This bill establishes the criminal offense of unlawful shipment of tobacco products. It amends the definition of "tobacco products" under the Cigarette Tax and Tobacco Tax Law to include electronic smoking devices and e-liquids and increases the license fee for persons engaged as wholesalers or dealers of cigarettes and tobacco products and the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products.

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, mucosal 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 SB 975, SD2.



**Parents And
Children Together**

**BUILDING THE RELATIONSHIPS
THAT MATTER MOST**

ParentsAndChildrenTogether.org

TESTIMONY IN SUPPORT OF SB 975 SD2

TO: Chair Belatti, Vice-Chair Takenouchi, & Members
House Committee on Health and Homelessness
FROM: Ryan Kusumoto, President & CEO
DATE: March 15, 2023 at 9:45 AM

Parents and Children Together (PACT) supports SB 975 SD2 Relating to Health, which would close the loophole of online sales to minors, include e-liquid and electronic smoking devices into the definition of "tobacco products," therefore requiring the same taxes, permitting, and licensing as applies to tobacco products in Chapter 245.

Founded in 1968, PACT is a statewide community-based organization providing a wide array of innovative and educational social services to families in need. Assisting more than 15,000 people across the state annually, we help identify, address, and successfully resolve challenges through our 20 programs. Among our services are early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building programs.

PACT's mission is to work together with Hawaii's children, individuals, and families to create safe and promising futures. Allowing the tobacco/e-cig industry to prey on youth does not empower youth to choose the futures they want for themselves. Our high school youth vaping rate at over 30% is double that of the national average and it is estimated that 21,000 premature deaths from smoking will happen in the future to children alive now. (<https://www.tobaccofreekids.org/problem/toll-us/hawaii>).

E-cigarettes are now the most popular tobacco product among youth – and that's largely because these products are not subject to many of the regulations other tobacco products are subject to. In addition to a ban on flavored tobacco products, comprehensive regulation which includes taxation, licensure, and prohibiting online sales of e-cigarettes is needed to address the continued increase of e-cigarette use among our youth. E-cigarettes are the only tobacco products without a tax, and taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit.

Thank you for the opportunity to testify. Please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

Date: March 14, 2023

To: Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair
Members of the Committee on Health and Wellness

From: Members of the University of Hawai'i Student Health Advisory Council

Re: Support for SB975 SD2, Relating to Health

Hearing: Wednesday, March 15 at 9:45AM CR 329 and Via Videoconference

Thank you for the opportunity to submit testimony in SUPPORT of SB 975 which would address unlawful shipment of electronic smoking devices, establish tax parity at 70% with other tobacco products, and determine licensing and permitting. 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 attracting a whole generation of youth to a harmful product. The Surgeon General has declared 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 sweet flavored electronic smoking devices entices young people to start using these harmful products, which can lead to addiction and developmental harm.

The regulation of electronic smoking 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 to protect youth in the State of Hawai'i.

Mahalo,

Student Health Advisory Council

**Testimony before the Hawaii House Committee on Health & Homelessness
Regarding the Taxation of Electronic Cigarettes
Lindsey Stroud, Director, Consumer Center
Taxpayers Protection Alliance
March 15, 2023**

Chairwoman Belatti, Vice Chairwoman Takenouchi and Members of the Committee:

Thank you for your time today to discuss imposing an excise tax on electronic cigarettes or 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 imposing excise taxes on alternatives to the most dangerous form of tobacco, combustible cigarettes. E-cigarettes are significantly less harmful and their use should be encouraged, not taxed. An excise tax will only deter their use among adults who are unable and/or unwilling to quit smoking.

- The U.S. Food and Drug Administration (FDA) has stopped using the word epidemic to describe youth vaping rates.
- 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.
- Taxes on vapor products disproportionately harm lower income persons.
- Among adults earning \$15,000 or less, 7.9 percent reported current e-cigarette use in 2021, compared to 4.8 percent who reported earning \$50,000 or more.
- 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 do smoke. In 2021, for every \$1 the state received in tobacco monies, it spent only \$0.06 on tobacco control efforts.

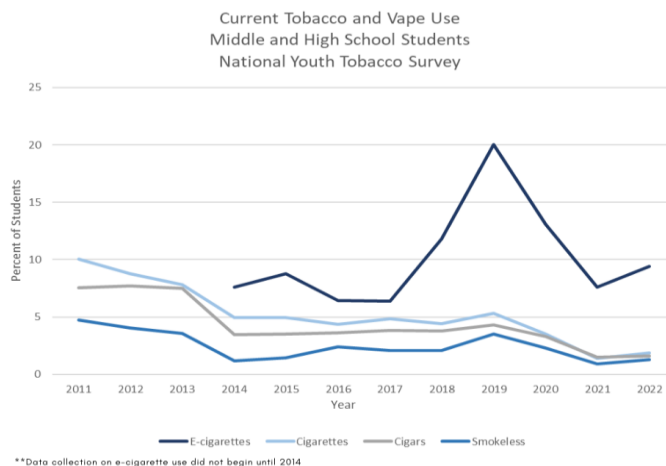
Youth Tobacco and Vapor Product Use

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

The director for the Center for Tobacco Products at the FDA recently declared that the FDA was no longer using the word “epidemic” to describe youth vaping rates. In February, Dr. Brian King stated that the FDA “has not used [the word epidemic] for the most recent estimates of youth use ... the science has shown a decline in the number of youth users.”¹

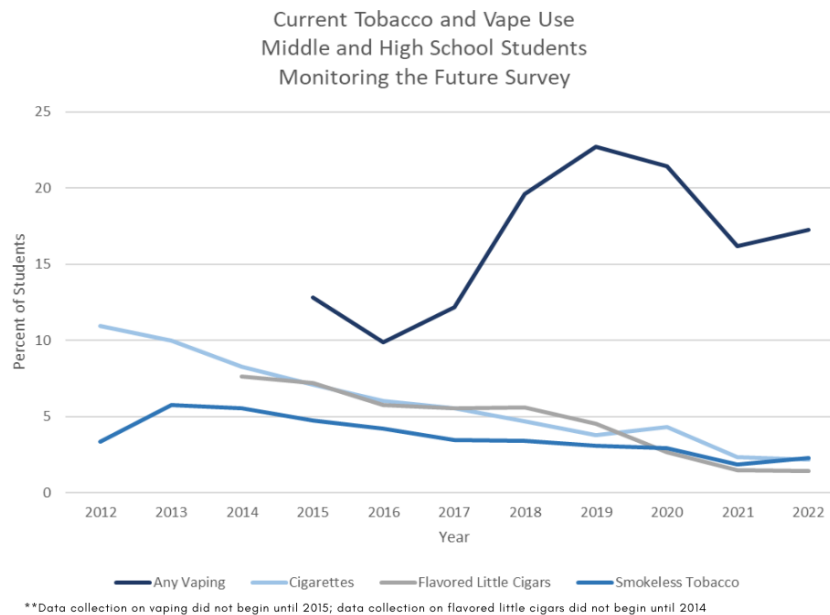
In 2022, according to the National Youth Tobacco Survey (NYTS), among middle and high school students that had reported current tobacco product use (defined as having used the product on at least one occasion in the 30 days prior), 1.9 percent had used cigars, 1.6 percent had used combustible cigarettes and 1.3 percent had used smokeless tobacco products.² 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.³ 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.

Like 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.



The CDC continues to delay publishing state-specific data from the 2021 Youth Risk Behavior Survey. However, nationally, only 18 percent of high school students reported using vapor products in the 30 days prior to the survey in 2021. This is a 45 percent decrease from 2019 when 32.7 percent of high schoolers reported current vapor product use.

As the YRBS is an aggregate of all state data, Hawaiian lawmakers should refrain from excessive taxes to address outdated figures on youth vapor product use in the state.

Adult Tobacco and Vape Use

In 2021, 10.1 percent of adults in Hawaii were currently using cigarettes.⁴ 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.

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.

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

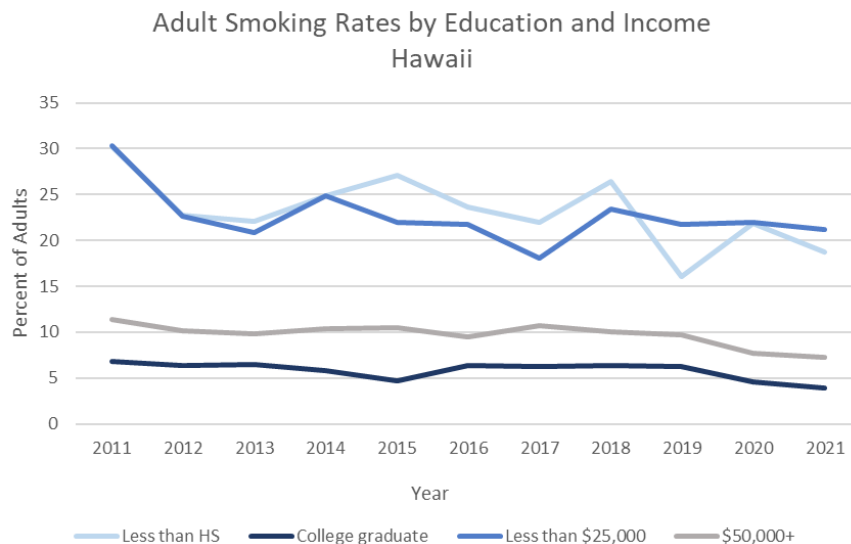
use among young adults decreased by 43.9 percent while vapor product use increased by 100.8 percent.

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

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.

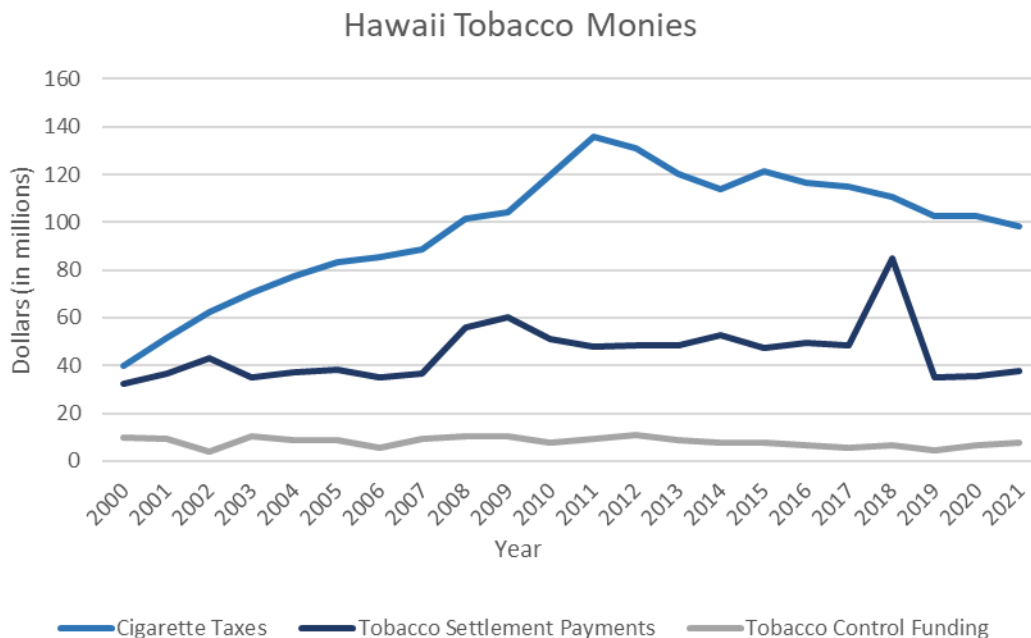
Tobacco Monies

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.⁵ 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.⁶ 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.⁷ 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 taxing products that are less harmful than combustible cigarettes and have actively contributed to significant declines in traditional tobacco smoking rates, especially among young adults. Given the significant reductions in youth use of e-cigarettes, as well as the record lows in use of traditional tobacco products, excise taxes on 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.

**Taxpayers Protection Alliance, 1101 14th St. NW, Ste 1101, Washington, D.C. 20005
(202) 930-1716, www.protectingtaxpayers.org**

¹ American Vapor Manufacturers, “Factual, candid concessions like these and more were made during our interview with director King this past Friday -- when he was finally, at long last, pressed with genuinely probing questions, ones the FDA beat writers have routinely failed to ask,” February 28, 2023, <https://twitter.com/VaporAmerican/status/1630609040744275968>.

² Eunice Park-Lee, *et al.*, “Tobacco Product Use Among Middle and High School Students — United States, 2022,” *Morbidity & Mortality Weekly Report*, Centers for Disease Control and Prevention, November 11, 2022, https://www.cdc.gov/mmwr/volumes/71/wr/mm7145a1.htm?s_cid=mm7145a1_w.

³ University of Michigan, “1975-2022 Data for In-School Surveys of 8th, 10th, and 12th Grade Students,” *Monitoring the Future*, 2022, <https://monitoringthefuture.org/results/data-products/tables-and-figures/>.

⁴ Centers for Disease Control and Prevention, “Behavioral Risk Factor Surveillance System,” 2022, <https://www.cdc.gov/brfss/brfssprevalence/>. Accessed December 2022.

⁵ Orzechowski and Walker, “The Tax Burden on Tobacco Historical Compilation Volume 56, 2021. Print.

⁶ Campaign for Tobacco Free Kids, “Actual Annual Tobacco Settlement Payments Received by the States, 1998-2022,” December 20, 2022, <https://www.tobaccofreekids.org/assets/factsheets/0365.pdf>.

⁷ Campaign for Tobacco-Free Kids, “Appendix A: History of Spending for State Tobacco Prevention Programs,” 2022, https://www.tobaccofreekids.org/assets/content/what_we_do/state_local_issues/settlement/FY2023/Appendix-A.pdf.

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. This information also includes data on 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 currently 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.

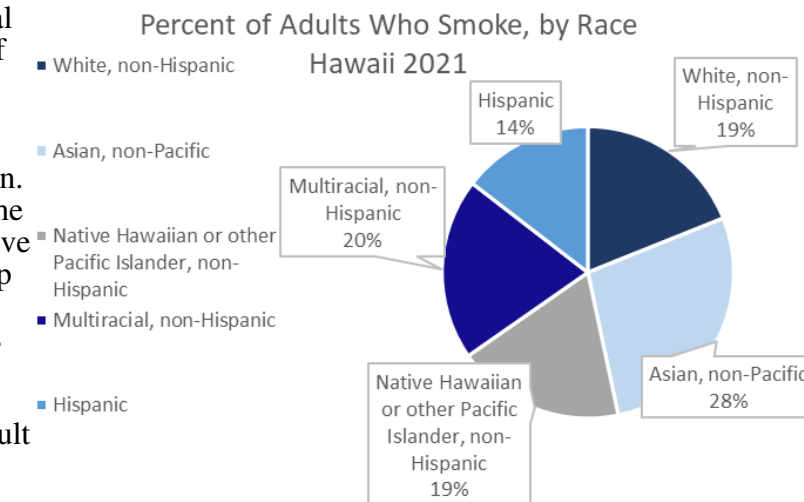
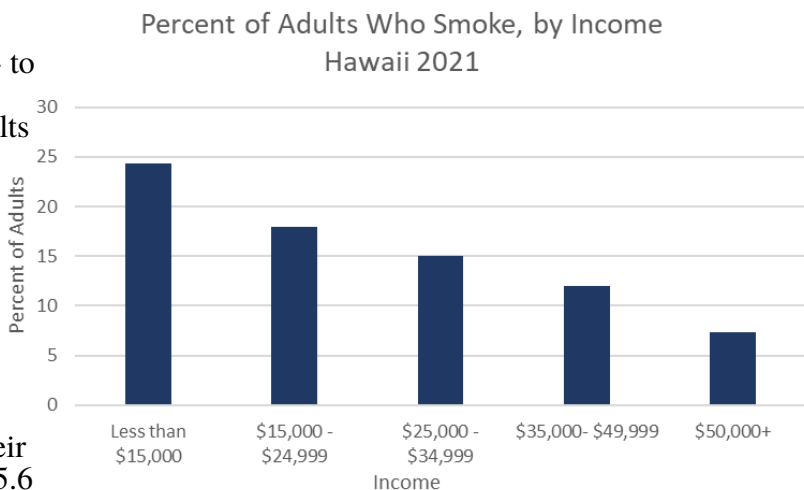
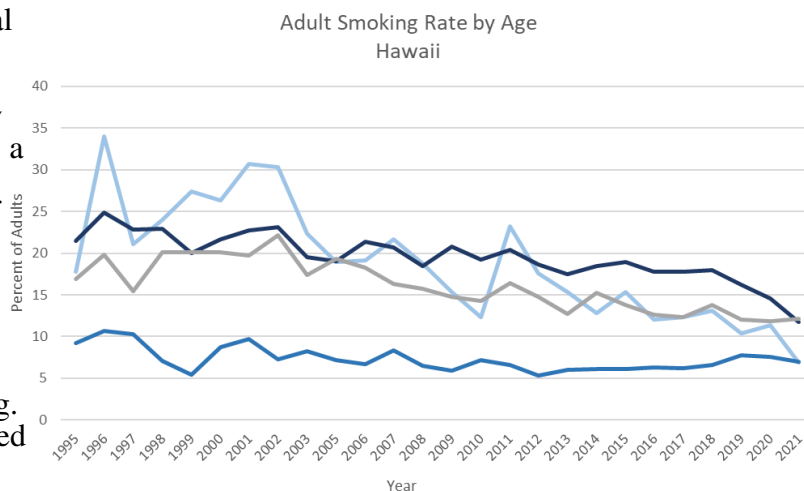
Smoking rates in the Aloha State have significantly declined since 1995 when the BRFSS Aloha began reporting combustible cigarette use. That year, 17.8 percent of Hawaii adults were then-currently smoking. Between 1995 and 2021, smoking rates have decreased by 43.3 percent with average annual decreases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



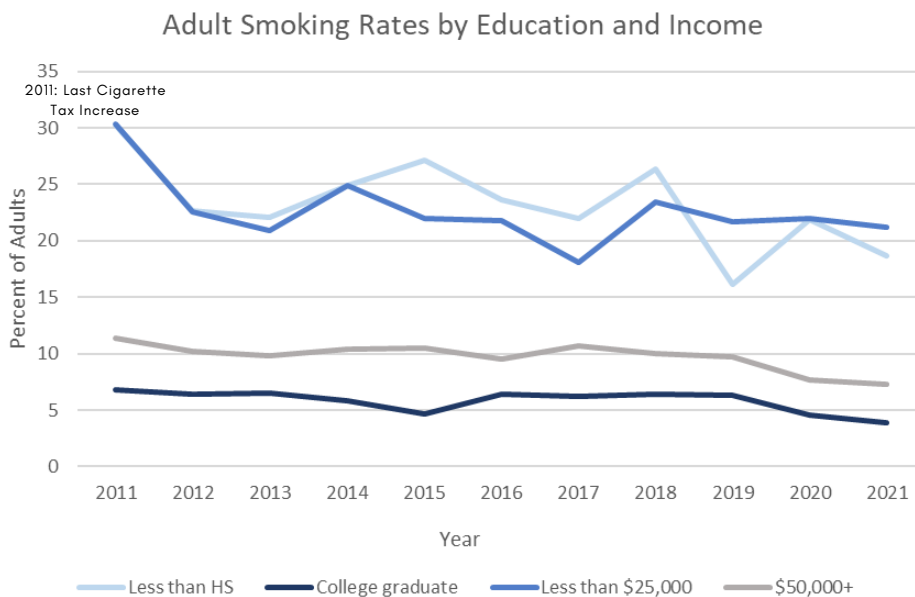
Tobacco & Vaping 101: Hawaii 2023

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

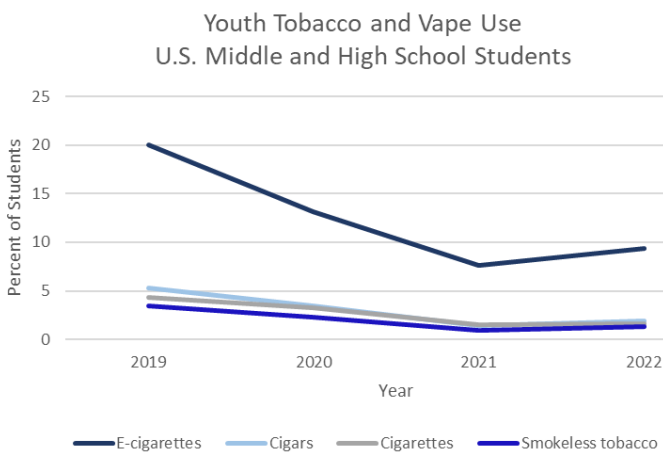
Youth Smoking and Vaping Rates

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.

In 2022, according to the National Youth Tobacco Survey, 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.

In 2022, (regarding traditional tobacco products) 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.



Young Adult Smoking Rates

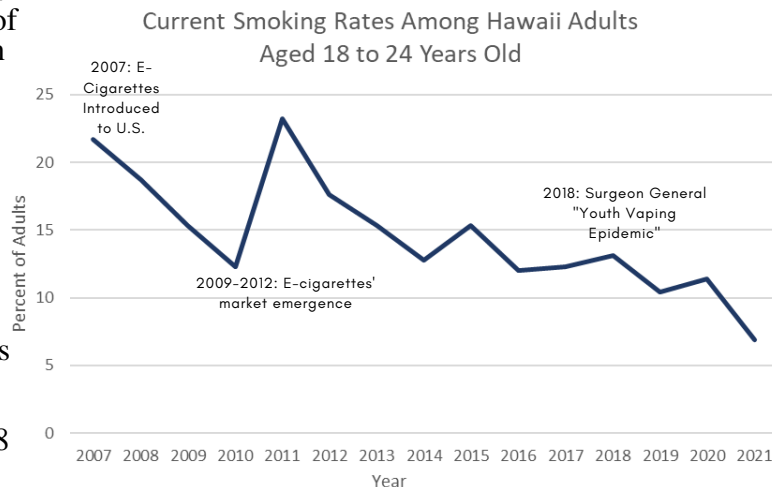
As e-cigarettes have disrupted the traditional tobacco market, policymakers have shifted their attention towards youth use and subsequent smoking initiation. Despite the rhetoric, the introduction of e-cigarettes has not led to increases in young adult cigarette smoking, but rather, correlates with significant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



Tobacco & Vaping 101: Hawaii 2023

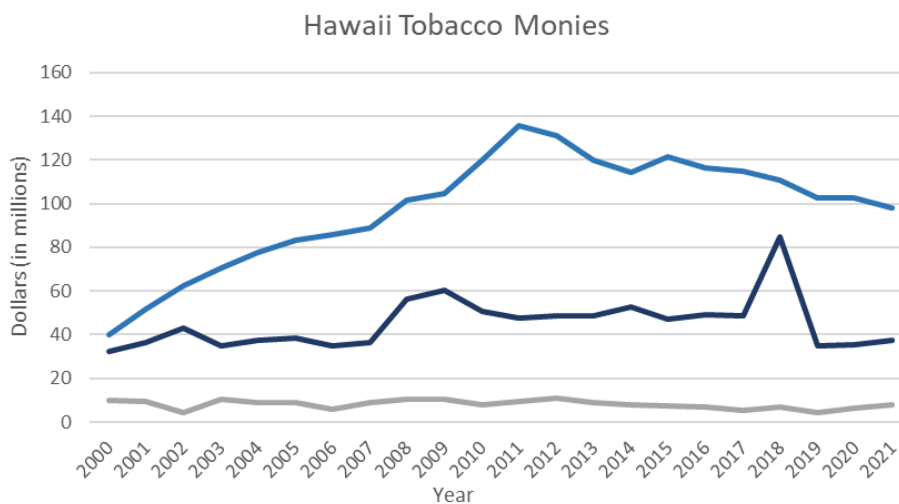
Tobacco Monies

Each year, states receive billions 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.



References

— Cigarette Taxes — Tobacco Settlement Payments — Tobacco Control Funding

1. Data on adult smoking rates comes from the Centers for Disease Control's Behavioral Risk Factor Surveillance Survey including sections on "Demographics - Race," Tobacco Use - All Categories," and "E-Cigarette Use." Accessed December, 2022. <https://www.cdc.gov/brfss/brfssprevalence/>
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.
3. Data on youth tobacco and vapor product use comes from the National Youth Tobacco Survey, accessed in December, 2022. https://www.cdc.gov/tobacco/data_statistics/surveys/nyts/index.htm.
4. Data on tax information comes from Orzechowski and Walker, "The Tax Burden on Tobacco Historical Compilation Volume 56, 2021. Print.
5. Data on tobacco settlement payments is from Campaign for Tobacco-Free Kids, "Actual Annual Tobacco Settlement Payments Received by the States, 1998-2022." Accessed December, 2022. <https://www.tobaccofreekids.org/assets/factsheets/0365.pdf>.
6. Data on tobacco control funding is from Campaign for Tobacco-Free Kids, "Appendix A: A History of Spending for State Tobacco Prevention Programs," Accessed December, 2022. <https://www.tobaccofreekids.org/assets/factsheets/0209.pdf>.

Tobacco Harm Reduction 101

An estimated 30.8 million American adults smoked in 2020, or approximately 12.5 percent of the U.S. population.[1] Smoking-related disease and deaths cost the United States more than \$300 billion each year, including \$225 billion attributed to medical costs and more than \$156 billion due to lost productivity.[2]

For many years, policymakers have staunchly pushed forward with only one approach: quit or die. This failed method of smoking prevention and cessation has negligibly reduced smoking rates over the years. Yet, there is another approach: tobacco harm reduction for those who are unwilling or unable to quit smoking. In 1976, famed tobacco research Michael Russell remarked “people smoke for the nicotine, but die from the tar.”[3] Today, cigarettes contain nearly 600 ingredients and when ignited release more than 7,000 chemicals in the tobacco smoke, including 69 which are known to cause cancer.[4]

Nicotine, while not benign, is not responsible for causing cancer or the other ill effects caused by combustible cigarette smoke. In fact, the U.S. Food and Drug Administration,[5] the Centers for Disease Control and Prevention,[6] and the American Cancer Society[7] all acknowledge that nicotine has addictive properties but is not responsible for the harms caused by various tobacco products.

Given that nicotine itself is not the harm-causing property of tobacco, consumers and manufacturers have moved forward with giving adults the options to try and switch to less harmful tobacco products, otherwise known as tobacco harm reduction.

Tobacco harm reduction takes into account the science and the individual, all the while reducing the harms related to cigarette smoking. Rather than shaming persons addicted to nicotine, tobacco harm reduction offers them an opportunity to use a less harmful product, while delivering nicotine in a manner that is effective at reducing their cravings.

Reduced harm tobacco products include: electronic cigarettes/vaping devices, heated tobacco products, nicotine replacement therapy, and smokeless and snus products. These products deliver nicotine to adult consumers in a manner that is significantly less harmful than combustible cigarettes. Moreover, there is a plethora of evidence to their reduced risks.

- **E-Cigarettes:** Despite media alarmism, e-cigarettes are significantly less harmful than combustible cigarettes, as noted by numerous public health agencies. In 2015, Public Health England found e-cigarettes to be 95 percent less harmful than combustible cigarettes.[8] In 2021, the agency noted that “vaping is positively associated with quitting smoking successfully.”[9] In 2016, the UK Royal College of Physicians declared that e-cigarettes were unlikely to exceed five percent of the harms that are caused by smoking.[10] Not only does the UK government subsidize e-cigarettes as a cessation tool for people who smoke, vape shops can be found in hospitals in the country. In the United States, in 2018, of the estimated 10 million vapers, approximately 3 million had previously used combustible cigarettes.[11] In 2021, the FDA, through a new regulatory pathway, authorized the first e-cigarette product, finding that the product is “significantly less toxic than combusted cigarettes” and “could benefit addicted adult smokers who switch ... by reducing their exposure to harmful chemicals.”[12]
- **Heated Tobacco:** The US FDA has not only allowed for the marketing of a heated tobacco product, the manufacturer has been permitted to market it with a reduced risk claim, including that due to the product heating tobacco and not burning it, the process “significantly reduces the production of harmful and potentially harmful chemicals.”[13] While the rollout in America has been limited (and currently hindered by a patent dispute), in other countries, heated tobacco products have been linked to significant reductions in adult smoking rates. A 2020 study by the American Cancer Society remarked that heated tobacco products “likely reduced cigarette sales in Japan.”[14]

Tobacco Harm Reduction 101

- **Nicotine pouches:** Nicotine pouches are used the same way as snus but deliver nicotine via infused fillers like plant-based fibers instead of pasteurized tobacco. They are the newest innovation on the nicotine market and they are as or less harmful than snus. As a result, they have been rising in popularity across the world. For example, a May 2022 study assessed the potential effect of nicotine pouches if introduced in the U.S. in 2000. The study estimated there would have been about 700,000 fewer deaths by 2050.
- **Nicotine Replacement Therapy (NRT):** NRT is the most endorsed form of tobacco harm reduction and is subsidized by federal and state health care quit-smoking programs. NRT includes gums, patches, lozenges, and prescription medication. Studies have found that similar rates of cessation success among users of various NRT products and smokeless and snus products.[15] Other tobacco harm reduction products have been found to be more effective. For example, a 2019 randomized controlled trial found that e-cigarettes were almost twice as effective as NRT in aiding in smoking cessation.[16]
- **Smokeless:** Smokeless tobacco poses much lower risks than smoking, all while containing nicotine. A 2009 Biomed Central study analyzed 89 studies of smokeless tobacco use and cancer finding “very little evidence” of smokeless tobacco producing elevated cancer risks.[17] A 2011 review of epidemiologic studies found that snus and smokeless tobacco use to be “99% less hazardous than smoking.”[18]
- **Snus:** Snus is an oral moist tobacco often used in pouches. It originated in Sweden and has been part of the country’s “tobacco culture” for more than a century. Snus has been directly linked to reducing smoking rates in the country. Swedish men, who have the highest rate of smokeless tobacco use in Europe and the lowest smoking rate, “also have the lowest rates of lung cancer and other smoking-related diseases in Europe.”[19] Further, a 2020 long-term study of Swedish snus users that were former smokers concluded that over “80% found snus of great importance to succeed with smoking cessation.”[20]

As cigarettes remain available, it is imperative that policymakers offer the consumers access to less harmful tobacco products. Policymakers should avoid excessive regulations, unfair taxation, and outright prohibition when enacting policies regarding novel tobacco harm reduction innovations. Lawmakers should put forth policies that both inform consumers of the wide variety of less harmful products, as well as allow the market to introduce products that are effective at both delivering nicotine in a less harmful manner and reducing smoking rates.

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Tobacco Harm Reduction 101

Tobacco Harm Reduction Products Can Help Adults Quit Smoking

Many opponents of tobacco harm reduction (THR) often claim there is no evidence that alternative nicotine/novel tobacco products including e-cigarettes, heated tobacco, and smokeless and snus tobacco products, are effective for smoking cessation. This misinformation deters many people who smoke from trying a reduced risk product.

Users Tend to Be Current and/or Former Smokers

Surveys in individual countries indicate an overwhelming majority of novel tobacco product users are current and former smokers. For example, the UK's Action on Smoking and Health (ASH) estimate that less than one percent of the country's current 3.6 million vapers are never-smokers.[1] A 2019 study in the *International Journal of Environmental Research and Public Health* found that among heated tobacco users in Japan, only one percent were never smokers.[2] Similarly, according to the Centers for Disease Control and Prevention (CDC), in 2018, current and ever e-cigarette use was highest among persons who had quit smoking and "lowest among those who never smoked cigarettes." [3]

Safer nicotine products are almost exclusively attractive to people who smoke and the motivation for trying them is to reduce harm from tobacco or quit entirely. According to the latest Global State of Tobacco Harm Reduction briefing, harm reduction options are already being used by an estimated 112 million people worldwide, with approximately 82 million using vaping products, 20 million using heated tobacco and 10 million using smokeless tobacco, nicotine pouches and snus.[4]

Research Indicates Effectiveness of Tobacco Harm Reduction Products

Data from national surveys find e-cigarettes to be effective in helping adults quit smoking.

In the UK it has been estimated by ASH that at least 2.3 million UK smokers have quit smoking completely with nicotine vaping devices.[5] According to the CDC, in the United States, 4.3 million US adult nicotine vapers are ex-smokers,[6] and the latest Eurobarometer survey found that 7.5 million EU citizens have quit smoking using a nicotine vaping product.[7]

Heated tobacco products have led to significant reduction in smoking rates. A 2020 study by the American Cancer Society remarked that heated tobacco products "likely reduced cigarette sales in Japan." [8] Another 2020 study published in the *International Journal of Environmental Research and Public Health* came to a similar conclusion, stating that "the accelerated decline in cigarette-only sales since 2016 corresponds to the introduction and growth in the sales of heated tobacco products." [9]

Snus has been directly linked to reducing smoking rates in Sweden, which has a seven percent smoking rate, the lowest in Europe. A 2020 long-term study of Swedish snus users that were former smokers concluded that more than "80% found snus of great importance to succeed with smoking cessation." [10] Furthermore, a joint Swedish and Australian study of more than 60,000 individuals found that "Snus has both contributed to decreasing initiation of smoking and ...appears to facilitate smoking cessation." [11]

A 2008 study in *Harm Reduction Journal* examining data from the 2000 National Health Interview Survey, found that men who had switched to smokeless tobacco in their most recent quit attempt "had the highest proportion of success among those attempting [to quit] smoking," and that switching to smokeless tobacco "compares very favorably with pharmaceutical nicotine as a quit-smoking aid among American men." [12]

Nicotine pouches are a more novel tobacco harm reduction product with research indicating that they can be useful in helping adults quit smoking. A May 2022 study assessed that if nicotine pouches had hypothetically been introduced into the US in 2000, there would have been about 700,000 fewer deaths by 2050.[13]

Tobacco Harm Reduction 101

FDA-Approved Cessation Products Have Limited Success

Unfortunately for many adults who continue to smoke, current FDA-approved cessation products have not been useful helping them quit, and some studies indicate novel tobacco harm reduction products are more effective.

A 2019 randomized trial published in *The New England Journal of Medicine* found e-cigarettes to be twice as effective as nicotine replacement therapy in helping adults quit smoking.[14] In 2021, the Cochrane Library living review of e-cigarettes found that “nicotine e-cigarettes help more people to stop smoking than nicotine replacement therapy.”[15]

Unfortunately, as of June 2022, the FDA erroneously claims that “there is not yet enough evidence to support claims that e-cigarettes... are effective tools for quitting smoking.”[16]

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**Hawaii State Legislature
House Health & Homelessness Committee
Testimony: S.B. 975
Guy Bentley, Director of Consumer Freedom, Reason Foundation
March 15, 2023**

Chair Belatti, members of the committee, thank you for the opportunity to submit testimony on S.B. 975.

My name is Guy Bentley, and I am the director of consumer freedom at the Reason Foundation, a 501(c)3 nonprofit think tank. Our team analyzes and promotes policy solutions that both improve public health and avoid unintended consequences while protecting consumer choice.

Taxing e-cigarettes and other reduced-risk nicotine products presents a very different policy challenge from that of taxing traditional cigarettes. Cigarette taxes are necessary to ensure smokers who may later contract smoking-related diseases do not impose additional healthcare costs on non-smokers. E-cigarettes, however, are a dramatically safer form of nicotine consumption.¹ Nicotine is one of the principal addictive agents in cigarettes but is not the cause of smoking-related disease, which stems from combustion and inhaling the resulting smoke. Since e-cigarettes do not involve combustion, they've been found to be substantially safer.

The Food and Drug Administration recognizes there is a “continuum of risk” concerning tobacco products, with cigarettes being the most dangerous and e-cigarettes being far less dangerous. Because e-cigarettes, snus, and heated tobacco products are safer than cigarettes, products in all three of these categories have been authorized for sale by the FDA as “appropriate for the protection of public health.” To qualify for FDA authorization, safer nicotine products like e-cigarettes must undergo extensive review and be deemed a net benefit to public health for both users and non-users of the products. Several of these products have also been granted modified risk marketing orders, which allow the manufacturer to inform smokers they will reduce their risk of smoking-related diseases if they switch to these products.

¹ Kings College London. “Vaping substantially less harmful than smoking, largest review of its kind.” September 29 2022.
<https://www.kcl.ac.uk/news/vaping-substantially-less-harmful-than-smoking-largest-review-of-its-kind-finds>

According to modeling conducted by David Levy and colleagues at Georgetown University Medical Center, replacement of cigarette use by e-cigarette use over ten years would yield 6.6 million fewer premature deaths with 86.7 million fewer life years lost nationwide.²

Research published in the *New England Journal of Medicine* (NEJM) shows e-cigarettes to be almost twice as effective as nicotine replacement therapies at helping smokers quit.³ The Cochrane Review, considered the gold standard of international evidence-based medicine, finds that e-cigarettes are substantially more effective at helping people stop smoking than nicotine replacement therapies.⁴

Since noncombustible nicotine products, like e-cigarettes and other reduced-risk products, present significantly less danger to consumers and offer a net benefit to public health if smokers switch from cigarettes, sound public policy dictates that these products should be taxed at a significantly lower rate than cigarettes, if at all.

According to research from Georgia State University Professor Michael Pesko, taxing e-cigarettes at equivalent rates to cigarettes on the national level results in fewer adult e-cigarette users and an increase of 2.5 million more smokers than there would be otherwise. Taxing less harmful products at levels similar to the more harmful products provides a clear disincentive for smokers to switch, thus resulting in net harm to public health.

Half to three-quarters of American smokers are from low-income communities, so any price increase will necessarily present a more significant barrier to poorer smokers looking to switch to vaping than those on higher incomes. Vapers who use the products to replace traditional cigarettes are highly sensitive to price changes. According to a working paper published by the National Bureau of Economic Research, the price elasticity for e-cigarettes is -1.3 , so for every 10 percent increase in the price of e-cigarettes, sales fall by 13 percent.⁵ By contrast, cigarettes

² Levy DT, Borland R, Lindblom EN, et al. "Potential deaths averted in USA by replacing cigarettes with e-cigarettes." *Tobacco Control* 2018;27:18-25. <https://tobaccocontrol.bmj.com/content/27/1/18>

³ Hajek, Peter et al. "A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy." *New England Journal of Medicine*. 2019; 380:629-637 <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

⁴ Cochrane Review. "Electronic cigarettes for smoking cessation." November 2022. <https://www.cochrane.org/news/updated-cochrane-review-shows-electronic-cigarettes-can-help-people-quit-smoking>

⁵ Cotti, Chad D and Courtemanche, Charles J and Maclean, Johanna Catherine and Nesson, Erik T and Pesko, Michael F and Tefft, Nathan. "The Effects of E-Cigarette Taxes on E-Cigarette Prices and Tobacco Product Sales: Evidence from Retail Panel Data." *National Bureau of Economic Research*. August 2020. <https://www.nber.org/papers/w26724>

are highly inelastic, ranging from -0.3 and -0.7 , so for every 10 percent increase in the price of cigarettes, sales decline between three and seven percent.

If public health promotion is the priority, it would be necessary to maintain as broad a differential as possible between risk-reducing products like e-cigarettes and combustible cigarettes. While raising e-cigarette taxes may appear an attractive solution to the problem of youth vaping, policymakers should recognize that, according to the 2022 National Youth Tobacco Survey (NYTS), 86 percent of high schoolers are not using e-cigarettes at all, and 98 percent are not smoking combustible cigarettes. These numbers represent a decline of nearly 60 percent in the number of youth vaping since 2019.

There is strong reason to believe youth e-cigarette use can be reduced with alternative public health strategies that will not deter adult smokers from switching to a safer nicotine product.

Thank you again for the opportunity to comment on S.B. 975, and please do not hesitate to reach out if we can provide additional information or insights on this subject.

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

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TOBACCO, Include Electronic Smoking Devices, Hike Fees

BILL NUMBER: SB 975 SD 2

INTRODUCED BY: Senate Committees on Ways & Means and Judiciary

EXECUTIVE SUMMARY: Establishes the criminal offense of unlawful shipment of tobacco products. Amends the definition of "tobacco products" under the Cigarette Tax and Tobacco Tax Law to include electronic smoking devices and e-liquids. Increases the license fee for persons engaged as wholesalers or dealers of cigarettes and tobacco products and the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products. Repeals state laws that establish and govern the Electronic Smoking Device Retailer Registration Unit within the Department of the Attorney General and provisions of the Cigarette Tax and Tobacco Tax Law that govern delivery sales.

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

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

Adds a definition of "e-liquid" as any liquid or like substance, whether or not the substance contains nicotine, that is designed or intended to be used in an electronic smoking device, whether or not packaged in a cartridge or other container. The term does not include prescription drugs; cannabis for medical use governed by chapter 329; manufactured cannabis products governed by chapter 329D; or medical devices used to aerosolize, inhale, or ingest prescription drugs, including manufactured cannabis products manufactured or distributed in accordance with section 329D-10(a).

Also amends the definition of "tobacco products" as (1) Any product containing, made of, or derived from tobacco or nicotine, other than cigarettes or little cigars, that is intended for human consumption or is likely to be consumed by inhalation, absorption, or any other means of ingestion, including large cigars and any substitutes thereof other than cigarettes that bear the semblance thereof, snuff, snus, chewing or smokeless tobacco, and smoking or pipe tobacco; (2) Any electronic smoking device as defined in this section and any substance, including e-liquids, that may be aerosolized or vaporized by the device, whether or not the substance contains

nicotine; or (3) Any component, part, or accessory of any item described in paragraph (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes. "Tobacco products" does not mean drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

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

Amends section 245-2.5, HRS, to raise the annual fee for a retail tobacco permit from \$20.00 to \$50.00.

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

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

Makes technical and conforming amendments.

EFFECTIVE DATE: December 31, 2050.

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

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

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

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

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

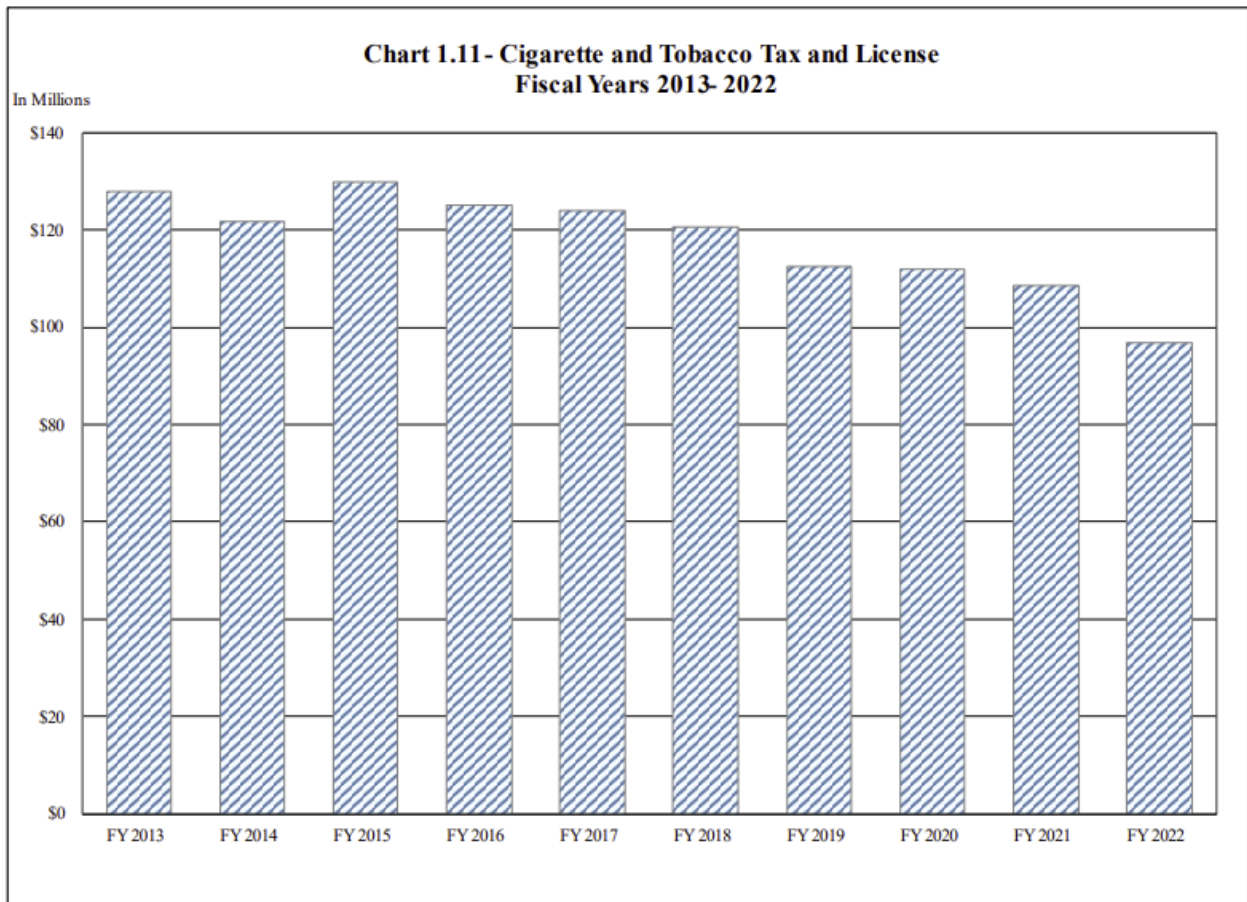
The irony is that arguments to increase the tax on tobacco and, more specifically, cigarettes, is a goal of getting smokers to quit while depending on the revenues from tobacco and cigarette taxes to fund an ongoing program, in this case the Cancer Research Center. So, which is it folks, stop smokers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

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

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

Kalapa, “Finding the Blame for What Ails You,” at <https://www.tfhawaii.org/wordpress/-blog/2012/10/finding-the-blame-for-what-ails-you/> (Oct, 28, 2012).

As predicted, programs that have been fed by earmarks from the tobacco tax, like the Cancer Research Center, have become a victim of the success of tobacco cessation programs and publicity. Revenues produced by the tobacco tax have been in steady decline over the past few years despite tax rate increases, and hoisting the smoking age to 21 in the 2015 session certainly didn’t reverse the trend.



Re: SB 975 SD2

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Source: Department of Taxation Annual Report (2021-2022), page 23.

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

Digested: 3/13/2023



Testimony in **OPPOSITION** to SB975

Hearing time: 9:45 am, March 15, 2023

To: House Committee on Health and Homelessness

Rep. Della Au Belatti, Chair
Rep. Jenna Takenouchi, Vice Chair
Rep. Terez Amato
Rep. John M. Mizuno
Rep. Greggor Ilagan
Rep. Scott Y. Nishimoto
Rep. Bertrand Kobayashi
Rep. Diamond Garcia

From: Brian Fojtik, Senior Vice President Government Relations, Cigar Association of America, Inc.

The Cigar Association of America, Inc. (“CAA”) submits this testimony in opposition to SB975, an effort to criminalize the currently and historically lawful shipment of tobacco products to consumers. CAA’s members include the largest internet retailers of premium cigars and pipe tobacco. These companies have been in business for decades and, as responsible retailers, comply fully with all federal, state, and local laws. They all use sophisticated, state-of-the-art third-party software to perform age verification on every consumer sale, preventing sales to those not old enough to purchase tobacco products. Further, nearly all these retailers adopted 21 as a minimum age of purchase long before it was federal law. According to data collected and aggregated by Econsult Solutions, an economic consulting firm based in Philadelphia, in 2017, the average age of customers purchasing premium cigars from these internet retailers was 55, and 89% of the consumers were above the age of 35.¹

While the preamble to SB975 recites many facts and issues relating to youth usage of *e-cigarettes* in Hawai’i, there is no mention of youth usage of cigars. This is because, while there is always continued room for improvement, current high school usage of cigars in Hawai’i is at

¹ Econsult Solutions, Inc., “PURCHASING PATTERNS AND DEMOGRAPHICS OF ONLINE PREMIUM CIGAR CUSTOMERS” July 2018. (on file with author)



the lowest level ever measured -- 2.8% when last measured in 2019.² This is over 90% less than the 33.1% of Hawai'i high school students who reported current usage of e-cigarettes in 2019.³

For these and other reasons, federal law continues to permit internet sales of cigars and pipe tobacco, while prohibiting such sales of other tobacco products. Specifically, in both the original 2010 Federal Prevent All Cigarette Trafficking Act (PACT Act) and its 2021 amendment, Congress recognized that cigars and pipe tobacco were different than cigarettes, smokeless tobacco, and e-cigarettes (including with different usage patterns) and, in both instances, made an informed, deliberate decision **not** to subject these products to PACT Act restrictions. This allows cigars and pipe tobacco to continue to be shipped to adult consumers using the US Postal Service. In fact, cigars and pipe tobacco are the only tobacco products that can legally be shipped to adult consumers using the US Postal Service.

While SB975 has the laudable goal of addressing youth usage of e-cigarettes, it has the unnecessary consequence of prohibiting the online sale of cigars and pipe tobacco – products the Federal government recognizes present vastly different consumer profiles -- to adult tobacco consumers. Rather than include cigars and pipe tobacco in a bill making all shipments to unlicensed persons unlawful, the Hawai'i legislature should instead work with CAA – as numerous other states have been and are doing -- to create a path to compliance for online cigar and pipe tobacco retailers to collect and remit the tobacco excise tax in Hawai'i on direct sales to consumers. This will allow adult Hawai'i residents to continue to purchase the products they enjoy -- and will give Hawai'i the tools it does not currently have to collect this tax on online retail transactions. Given Hawai'i's location, it is even more important to preserve adult consumers' access to these products.

CAA has, in conjunction with the Premium Cigar Coalition (a trade group made up of the seven largest online retailers of premium cigars), been working with both the Federation of Tax Administrators Uniformity Committee (to craft Model Legislation to provide a path to compliance for these companies) and state Departments of Taxation (to provide the tools to implement this path). The Model Legislation has been successfully enacted in Maryland, Michigan, North Carolina, Indiana, and Virginia and is being considered by other state legislatures this session.

² Hawaii Youth Tobacco Survey https://hhdw.org/report/query/result/yts/CurrCigar/HS_ST.html

³ https://hhdw.org/report/query/result/yts/CurrEcigNew/HS_ST.html





The Model Legislation, adapted for Hawai'i, does the following:

- Establishes the scope of the bill in terms of application to a finite set of products (cigars and pipe tobacco) in Remote Retail Sales.
- Clearly extends application of Hawai'i cigar and pipe tobacco excise tax to transactions between a remote retail seller and consumer within Hawai'i.
- Establishes clarity in defining the tax base on which Hawai'i cigar and pipe tobacco excise tax is calculated in remote retail sales.
- Establishes clear responsibility and means for a remote retail seller to collect cigar and pipe tobacco excise tax from the consumer and remit the tax to Hawai'i on all remote retail sales to Texas ship-to addresses.
- Establishes procedures to collect Hawai'i cigar and pipe tobacco excise tax on all remote transactions regardless of origin (inside or outside the state) of the source.
- Establishes a clear path to cigar and pipe tobacco excise tax compliance in Hawai'i through licensure for remote sellers making remote retail sales in interstate and intrastate commerce.

CAA and PCC look forward to engaging in a dialogue with the Department of Taxation so that these goals can be achieved in Hawai'i, enabling the Hawai'i Department of Taxation to collect this tax revenue. Pursuing this course has the benefit of allowing Hawai'i adults to continue to be treated as adults and purchase products they enjoy, while also providing Hawai'i with additional excise tax revenue it currently cannot collect. Enactment of SB975 would completely foreclose this possibility and would criminalize the shipment of cigars and pipe tobacco to adult consumers. This would be an unfortunate, unintended consequence of legislation not aimed at these products or meant to restrict the choices of the consumers who enjoy them. CAA thanks the Committee for the opportunity to present our argument and we oppose SB975.





March 15, 2023

Testimony on Hawai'i SB 975 — “An Act Relating to Health”

Dear Chairs and Members of the House Committee on Health and Homelessness,

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

Simply put, SB 975 will do more harm than good if passed. Enacting an increase in taxes on vaping and other alternative nicotine products will lead to much higher prices for consumers, pushing many former smokers to switch back to smoking combustible tobacco. Tragically, 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](#), ensuring that adult consumers have access to the vaping products they prefer will ultimately lead to fewer cigarette smoking-related deaths in Hawai'i.

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.

Implementing a tax on vaping and alternative nicotine products will encourage these former smokers to switch back to smoking combustible cigarettes, and will disproportionately harm lower-income individuals throughout the state effectively robbing them of even more of their income and penalizing them for choosing less risky and more responsible alternatives to smoking combustible cigarettes. Additionally, this policy would ultimately lead to increases in smoking-related healthcare costs, which are already costing Hawaiian taxpayers \$141.7 million annually through Medicaid alone. We can expect that number to substantially increase if this bill is passed as vapers will be financially encouraged to switch back to smoking, further exacerbating smoking-related illnesses while taxpayers are expected to pick up the tab.

We know that smoking-related illnesses are very serious and can lead to cancer. On a personal note, 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 public health, embracing vaping as a harm reduction tool here in Hawai'i and standing up for consumer choice for adults will help ensure that your citizens are less likely to end up in a situation similar to mine.

A tax on vaping products and nicotine alternatives will result in consumers being less inclined to purchase these products through regulated entities, and will instead be looking towards the illicit market in order to avoid the price increases. This presents serious concerns for public health in Hawai'i as consumers will be purchasing unregulated products





that do not necessarily adhere to regulatory standards. Additionally, unlike vape shops, the illicit market does not abide by age restrictions therefore making it much easier for youth to acquire these products illegally.

Although this bill is well-intentioned, the proposed tax on vaping and alternative nicotine products is simply misguided as the unintended consequences would only exacerbate the problem Hawai'i is trying to fix, making this particular bill unviable in achieving its desired outcomes.

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 urge you to vote against SB 975.**

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

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



March 13, 2023

To: Members of the Hawaii House Health 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 SB 975, legislation that would allow local governments to regulate tobacco products and reduced-risk alternatives at severe detriment to the state.** SB 975 also seeks to increase the tax rate on e-cigarettes, which are a reduced-harm alternative to tobacco and have helped millions quit cigarette smoking.

It is simply good governance that matters of this magnitude be decided at the state level, due to both the level of increased scrutiny, transparency and accountability it provides, but also the direct impact local regulation of tobacco can have on state tax revenue. Retaining regulatory consistency and uniformity throughout the state in terms of tobacco policy will safeguard residents and businesses from poorly thought-out local restrictions and will protect the state's revenue stream in uncertain economic conditions. **As such, it is imperative that this proposal does not pass.**

This misguided legislation encourages local governments to pass harmful regulations on reduced-risk nicotine products like e-cigarettes, which are shown to be 95% [less harmful](#) than cigarettes and the most effective tool for smoking cessation. The local regulations that SB 975 would allow for can be expected to lead to drastic increases in cigarette smoking in Hawaii, leading to a clear increase in tobacco related mortality.

It is the fundamental responsibility of state governments to protect their citizens. At times, these threats can come from local government officials. In the instance of tobacco harm reduction policies, local government officials act without the degree of scrutiny and accountability found at the state level. Similarly, lacking the expertise in healthcare policy, local restrictions and levies may act contrary to all available science and data, serving to restrict the ability of smokers to quit smoking with the help of reduced risk tobacco alternatives.

Studies have repeatedly shown that flavored vapes, which SB 975 would allow localities to regulate, 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 [study](#) from ten of the world's top experts in cancer prevention and public health.

A [study](#) from Dr. Abigail Friedman at the Yale School of Public Health found that youth smoking doubled when San Francisco imposed a flavor ban in 2018. 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%. SB 975 would allow for localities to create public health disasters like in San Francisco. **Voting for SB 975 would be inviting a public health disaster, like the one that occurred in San Francisco, into Hawaii.**

It is important to note that, contrary to some arguments made by opponents of this bill, "local control" at its core is about safeguarding individual liberties and restricting the growth of government; it is not a free pass for cities to do whatever they want. Localities are just as capable of being conduits for heavy-handed laws that will harm citizens. When that is at stake, state action is not only appropriate to safeguard individual freedoms – it is essential.

Additionally, prohibitions on e-cigarettes and tobacco products promote a black market for the products. Multi-million-dollar crime syndicates, that also engage in human trafficking and money laundering, flood the black market with unsafe products that produce revenue used to fund terrorism. For this reason, the US State Department has explicitly called tobacco smuggling a "[threat to national security](#)".

Paradoxically, local 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.

Further, SB 975 seeks to define e-cigarettes as tobacco products, failing to differentiate them from more harmful tobacco products like cigarettes. This will harm public health by **failing to ensure appropriate licensure and regulation of alternative nicotine products.** Vapor products are [shown to be at least 95% less harmful](#) than combustible cigarettes and are also more than [twice as effective](#) at helping smokers quit than traditional nicotine replacement therapies. It would be a serious mistake for the Hawaii legislature to pass SB 975 and treat vaping products the same as deadly cigarettes.

SB 975's vaping tax hike will also have negative consequences for Hawaii. Imposing taxes on e-cigarettes is proven to drive adults to more deadly alternatives, going against every principle of sound public policy.

Research from the National Bureau of Economic Research (NBER) determined that **Minnesota's tax on vaping products prevented [32,400 additional adult smokers from quitting smoking](#).** Additionally, they found "consistent and robust evidence" that taxes on e-cigarettes increase smoking rates, decrease smoking cessation, and lead to more tobacco-related deaths.

Vaping taxes also reinforce socioeconomic inequality. 72% of people who smoke cigarettes are low-income. Taxes make products less affordable, thereby decreasing access to the groups who would benefit most from switching to vaping.

Additionally, high tax rates on e-cigarettes promote a black market for the products. SB 975 would take profits from small, family-owned vape shops and turn it over to criminal smugglers who would

have no problem selling products to children. This bill would drive vape shops out of businesses, costing a significant number of jobs and livelihoods.

SB 975 would also add nicotine pouches to the state definition of tobacco products, subjecting these extremely low-risk products to the same tax rate as significantly more harmful products. Nicotine pouches are entirely tobacco-free and have a very low toxicant profile, containing only trace amounts of chemicals. These products provide users with nicotine, an addictive but relatively benign substance like caffeine, while removing nearly all the harms that come along with traditional tobacco products. **Implementing taxes on nicotine pouches, as SB 975 seeks to do, would drive reduced-risk consumers to more harmful products like cigarettes, harming public health considerably.**

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 the 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% less harmful](#) 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](#), a smoker 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.

- The Cochrane Review, the gold standard of medical meta-analysis, has identified “high certainty evidence” that e-cigarettes are more [effective](#) than nicotine replacement therapies at helping those who smoke quit.
- 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 University of Glasgow study showed that e-cigarettes particularly [help disadvantaged](#) persons quit smoking. SB 975 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.
- Evidence demonstrates that 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.
- Large-scale [analysis](#) from Georgetown University Medical Center estimates that 6.6 million American lives can be saved if a majority of cigarette smokers switched to vaping. **This would save more than 28,600 lives in Hawaii.**

For the reasons outlined above, in the interests of public health, protecting small businesses, state tax revenues, and preventing the spread of smuggling cartels in Hawaii, we call upon you to **accept the science and vote against SB 975**. Over 25,000 lives quite literally depend upon it.

Sincerely,

Tim Andrews
Director of Consumer Issues
 Americans for Tax Reform



Tuesday, March 14, 2023

The Honorable Della Au Belatti, Chairman
The Honorable Jenna Takenouchi, Vice Chairman
Hawaii House Committee on Health and Homelessness

Dear Chairman Belatti, Vice Chairman Takenouchi, and members of the Hawaii House Committee on Health and Homelessness,

On behalf of National Taxpayers Union, the nation's oldest taxpayer advocacy organization, I write to share our strong opposition to Senate Bill 975. This bill would tax vapor and other alternative nicotine products at the same rate as combustible tobacco products, a drastic 70%.

It is clear that vapor products are innovative solutions for smokers transitioning toward significantly less harmful alternatives. As you probably know, vapor products do not contain tobacco. They contain nicotine without toxic chemicals found in traditional tobacco products intended for smoking. It is very concerning that this bill would apply a severe 70% tax on electronic nicotine delivery systems. This would severely limit the accessibility of these alternative nicotine products to lower- and middle-income residents.

Promoting healthy, smoke-free lives and preventing disease is an admirable goal. However, SB 975 will sadly have the opposite effect as intended. Taxing smoke-free alternatives at the same rate as cigarettes eliminates an economic incentive for consumers to choose a less harmful option. These products are very different; the state law definition and tax code should reflect their distinct characteristics.

In summary, this bill does a disservice to public health, will inflict harm on small businesses, could potentially create a black market for unregulated use and distribution, and will require consumers to pay more for safer alternatives.

National Taxpayers Union strongly believes Senate Bill 975 will hurt Hawaiians as they try to promote healthy lives and help those who struggle with smoking addictions. We urge you to stand with taxpayers and reject government overreach and tax increases.

Sincerely,

Mattias Gugel
Director of State External Affairs
National Taxpayers Union
mgugel@ntu.org



Fox Rothschild LLP
ATTORNEYS AT LAW

101 Park Avenue, 17th Floor
New York, NY 10178
Tel (212) 878-7900 Fax (212) 692-0940
www.foxrothschild.com

BARRY S. SCHAEVITZ
Direct Dial: 212-878-1437
Email Address: BSchaevitz@foxrothschild.com

March 15, 2023

Testimony in **OPPOSITION** to SB975

Hearing time: 9:45 am, March 15, 2023

To: House Committee on Health and Homelessness

Rep. Della Au Belatti, Chair
Rep. Jenna Takenouchi, Vice Chair
Rep. Terez Amato
Rep. John M. Mizuno
Rep. Greggor Ilagan
Rep. Scott Y. Nishimoto
Rep. Bertrand Kobayashi
Rep. Diamond Garcia

We serve as outside counsel to the Premium Cigar Coalition (“PCC”) and submit this testimony in opposition to SB975, an effort to criminalize the currently and historically lawful shipment of tobacco products to consumers. PCC’s members are seven online retailers of premium cigars and pipe tobacco, including the three largest in the United States, and together account for the vast majority of such sales. The PCC member companies have been in business for decades and, as responsible retailers, comply fully with all federal, state, and local laws. Thompson Cigar, as an example, has been in business since 1915, originally as a retailer, then a mail order retailer, and now an online and mail order retailer. These companies, which have all been selling and shipping cigars directly to consumers for decades, are well-acquainted with the responsibility they hold by doing so. All members of the PCC use sophisticated, state-of-the-art, third-party software to perform age verification on every consumer sale, ensuring no sales are made to those not old enough to legally purchase tobacco products. Further, nearly all PCC members adopted 21 as the minimum age of purchase long before it was federal law.

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Minnesota Nevada
New Jersey **New York** North Carolina Pennsylvania South Carolina Texas Virginia Washington



While the preamble to SB975 recites many facts and issues relating to youth usage of *e-cigarettes* in Hawai'i, there is no mention of youth usage of cigars. This is because, while there is always continued room for improvement, current high school usage of cigars in Hawai'i is at the lowest level ever measured -- 2.8% when last measured in 2019.¹ This is over 90% less than the 33.1% of Hawai'i high school students who reported current usage of e-cigarettes in 2019.² Further, nothing is said in the preamble regarding youth usage of cigars being linked to online sales. That is because the youth usage rates are so low, in part because PCC members are so vigilant about age verification. As evidence of this, in 2018 five of these companies provided data to Econsult Solutions, an economic consulting firm based in Philadelphia, which collected and aggregated this data. The analysis showed that, in 2017, the average age of the customer purchasing premium cigars from these internet retailers was 55, and 89% of the consumers were above the age of 35.³

For these and other reasons, federal law continues to permit internet sales of cigars and pipe tobacco, while prohibiting such sales of other tobacco products. Specifically, in both the original 2010 Federal Prevent All Cigarette Trafficking Act (PACT Act) and its 2021 amendment, Congress recognized that cigars and pipe tobacco were different than cigarettes, smokeless tobacco, and e-cigarettes (including with different usage patterns) and, in both instances, made an informed, deliberate decision **not** to subject these products to PACT Act restrictions. This allows cigars and pipe tobacco to continue to be shipped to adult consumers using the US Postal Service. In fact, cigars and pipe tobacco are the only tobacco products that can legally be shipped to adult consumers using the US Postal Service.

While SB975 has the laudable goal of addressing youth usage of e-cigarettes, it has the unnecessary consequence of restricting the online sale of cigars and pipe tobacco – products the Federal government recognizes present vastly different consumer profiles- to adult tobacco consumers. Rather than include cigars and pipe tobacco in a bill making all shipments to unlicensed persons unlawful, the Hawai'i legislature should instead work with PCC (and the Cigar Association of America) – as numerous other states have been and are doing -- to create a path to compliance for online cigar and pipe tobacco retailers to collect and remit the tobacco excise tax in Hawai'i on direct sales to consumers. This will allow adult Hawai'i residents to continue to purchase the products they enjoy -- and will give Hawai'i the tools it does not currently have to collect this tax on online retail transactions.

PCC has, in conjunction with the Cigar Association of America, been working with both the Federation of Tax Administrators Uniformity Committee (to craft Model Legislation to provide a path to compliance for these companies) and state Departments of Taxation (to provide the tools

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

² https://hhdw.org/report/query/result/yts/CurrEcigNew/HS_ST.html

³ Econsult Solutions, Inc., "PURCHASING PATTERNS AND DEMOGRAPHICS OF ONLINE PREMIUM CIGAR CUSTOMERS" July 2018. (on file with author)



to implement this path). The Model Legislation seeks to solve the many issues present with the fact that tobacco excise tax statutes were not drafted to impose the excise tax on a direct to consumer transaction, but instead an upstream transaction between a distributor and retailer. The Model Legislation has been successfully enacted in Maryland, Michigan, North Carolina, Indiana, and Virginia and is being considered by other state legislatures this session.

The Model Legislation, adapted for Hawai'i, does the following:

- Establishes the scope of the bill in terms of application to a finite set of products (cigars and pipe tobacco) in Remote Retail Sales.
- Clearly extends application of Hawai'i cigar and pipe tobacco excise tax to transactions between a remote retail seller and consumer within Hawai'i.
- Establishes clarity in defining the tax base on which Hawai'i cigar and pipe tobacco excise tax is calculated in remote retail sales.
- Establishes clear responsibility and means for a remote retail seller to collect cigar and pipe tobacco excise tax from the consumer and remit the tax to Hawai'i on all remote retail sales to Texas ship-to addresses.
- Establishes procedures to collect Hawai'i cigar and pipe tobacco excise tax on all remote transactions regardless of origin (inside or outside the state) of the source.
- Establishes a clear path to cigar and pipe tobacco excise tax compliance in Hawai'i through licensure for remote sellers making remote retail sales in interstate and intrastate commerce.

PCC and CAA look forward to engaging in a dialogue with the Department of Taxation so that these goals can be achieved in Hawai'i, enabling the Hawai'i Department of Taxation to collect this tax revenue. Pursuing this course has the benefit of allowing Hawai'i adults to continue to be treated as adults and purchase products they enjoy, while also providing Hawai'i with additional excise tax revenue it currently cannot collect.



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ATTORNEYS AT LAW

Page 4 of 4

Enactment of SB975 would completely foreclose this possibility and would criminalize the shipment of cigars and pipe tobacco to adult consumers. This would be an unfortunate, unintended consequence of legislation not aimed at these products or meant to restrict the choices of the consumers who enjoy them. PCC thanks the Committee for the opportunity to present our argument and we oppose SB975.

Sincerely,

Barry S. Schaevitz

SB 975, SD 2 Relating to Health
March 15, 2023

Committee of Health & Homelessness

Chair: Rep. Belatti
Vice Chair: Rep. Takenouchi

**TESTIMONY IN SUPPORT OF SB 975, SD 2
RELATING TO HEALTH**

I am Julian Lipsher testifying as a private citizen in support of SB 975, SD 2. I currently serve as Chair of the Coalition For a Tobacco Free Hawaii's Policy Committee which is 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 prevention.

The bill as it relates to electronic smoking devices (ESD) proposes to:

- * Establish a regulatory structure for shipment of tobacco products.
- * Amends the definition of 'tobacco products' to include ESD's and e-liquids in Hawaii Revised Statutes.
- * Require licensing and permitting fees for ESD retailers and wholesalers.
- * Establish a consistent rate of tax with other tobacco products.

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

- e-cigarettes have evaded tobacco regulation laws for almost a decade, leading to a sharp rise in the use of these products, especially by young people, who are enticed by their marketing, attractive flavoring, and lack of proper regulatory controls on an addictive drug, nicotine.
- E-cigarettes are the only tobacco products without a tobacco tax.

- Comprehensive regulation that includes taxation, licensing and permitting will be a major step in reversing youth use of e-cigarettes.
- Two decades of comprehensive regulation of cigarettes and other tobacco products has helped Hawaii'i save an estimated annual \$526 million in direct healthcare costs and another \$387 million in lost productivity.
- Comprehensive regulation of cigarettes has lowered the adult smoking rate to 10.1%; and reduced high school smoking to 5.3%.
- E-cigarettes are not FDA-approved cessation devices.
- Comprehensive tobacco regulation does not stop access to FDA-approved nicotine replacement therapy (NRTs) – approved smoking cessation products.
- Unregulated, unchecked online sales of e-cigarettes need to be addressed. This measure restricts online sales of e-cigarettes directly to consumers – requiring face-to-face purchases makes it harder for youth to obtain these products via the internet. Licensed tobacco retailers would still be able to receive shipments of products.

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

Thank you for the opportunity to testify.

Julian Lipsher
jdlipsher@hawaii.rr.com

SB-975-SD-2

Submitted on: 3/13/2023 11:06:10 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Sarah Kern	Individual	Support	Written Testimony Only

Comments:

March 13, 2023

Aloha Chair Au Bellati, Vice Chair Takenouchi, and Committee Members,

My name is Sarah Kern and I am a resident of Lihue, Kauai. I am testifying in strong support of SB975. I am a teacher at Chiefess Kamakahahei Middle School and I have seen the negative impacts that e-cigarette and vape use has on our students in their critical years of development in early adolescence. SB975 would amend the definition of “tobacco products” to include these products that are harming our keiki every single day. Any laws that discourage or limit the use, sale, or distribution of tobacco products in Hawaii is important for the health of our state and especially our keiki.

Thank you for the opportunity to testify in support of this bill.

Mahalo nui loa,

Sarah Kern

SB-975-SD-2

Submitted on: 3/13/2023 1:31:22 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

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

Comments:

Honorable Representative Della Au Belatti, Chair

Honorable Representative Jenna Takenouchi, Vice Chair

Members of the Committee on Health & Homelessness

Re: SB 975 Relating to Health, Strong Support

Representatives Belatti and Takenouchi and members of the Committee on Health & Homelessness:

SB 975 will address the continued escalation of e-cigarette use among our teens, putting our children’s health at risk – including becoming a lifelong addiction. By addressing the unlawful shipment of e-cigarettes, taxing them as tobacco products, and licensing and permitting sellers, you will implement comprehensive regulations to address this crisis.

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. I strongly support proven strategies like taxing tobacco products and cigarettes. E-cigarettes are now the most popular tobacco product among youth – and that’s largely because it’s not subject to many of the regulations other tobacco products are subject to. By implementing the same policies and regulations Hawai‘i used to reduce cigarette use to record lows, we can reverse the trends in youth e-cigarette use.

Hawai‘i is in the midst of a youth vaping epidemic, with one in three high school students and one in five middle school students reporting “current use” of e-cigarettes. Hearing elementary school teachers and administrators from our district complain about the students using flavored vaping products and having to call 911 for health emergencies is gut-wrenching and unacceptable.

E-Cigarettes are the only tobacco products without a tax! Please also keep in mind that e-cigarettes are NOT FDA-approved for cessation and this regulation DOES NOT stop access to FDA-approved nicotine replacement therapy (approved smoking cessation products).

If we are truly trying to support our keiki and citizens of Hawai'i, I'm again respectfully requesting your support of this bill. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must do better and we must do it now.

Shelly Ogata, RN, MPH

Hilo, HI

SB 975

I am writing as a long-time Kauai pediatrician in support of SB975, which regulates electronic smoking devices. E-cigarettes have evaded taxation as a nicotine device for years due to the tobacco lobby's false argument that they are smoking cessation devices. In fact, electronic smoking devices have no FDA approval as a cessation device, unlike other products such as nicotine gums and patches. To the contrary, electronic devices actually promote nicotine dependence by functioning as a starter drug for children and adolescents and utilizing liquids with very high nicotine concentrations. These devices have targeted our children by using attractive packaging and flavored liquids. As a nicotine delivery device, they must be taxed at the same rate as regular cigarettes. Face to face and online sale of e-cigarettes and liquids should be licensed and monitored, with strong consequences for violations. Thus far there are some rules, but they are regularly flouted without fear of punishment, as several studies of vape shops have demonstrated. The FDA has shown it has little appetite for monitoring and punishing violators of its own rules and has put in place a very prolonged approval process of vaping products which has no hope of stemming the tide of new products continuously brought forth by the tobacco industry. For the sake of our keiki we must put our best foot forward in regulating this dangerous and addictive nicotine product. SB975 is a very promising strategy for accomplishing this worthy goal.

Linda Weiner, MD
Pediatrics, Kauai

SB-975-SD-2

Submitted on: 3/13/2023 4:10:39 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Joseph Humphry	Individual	Support	Written Testimony Only

Comments:

As a physician and parent, I strongly support this bill. There is no reason to expose young people to addictive substances.

Joe Humphry

SB-975-SD-2

Submitted on: 3/13/2023 4:36:24 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

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 SB975 SD2 is one of the tools we can use to do this by taxing these products which have proven to curtail the use of tobacco products in both youth and the general population. There is no reason not to treat E-Cigarettes like any other tobacco product. I urge you to support SB975 SD2 to protect our keiki from a lifetime of tobacco addiction.

Mahalo.

SB-975-SD-2

Submitted on: 3/13/2023 6:37:54 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Karen Tessier	Individual	Support	Written Testimony Only

Comments:

I am support of this bill as a way to help protect the health of children and teens.

SB-975-SD-2

Submitted on: 3/13/2023 6:56:57 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Patricia Blair	Individual	Support	Written Testimony Only

Comments:

Regulate tobacco products. E- cigarettes should be banned.

Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair
COMMITTEE ON HEALTH & HOMELESSNESS

I'm Zoey, a local youth from Nu'uuanu/Liliha, and I support SB975.

As a youth that has personally seen the impacts of tobacco on my family members and friends, namely my grandpa who had passed away from tobacco use as well as my many fellow peers in middle school, I strongly support the bill to tax and regulate e-cigarettes as any other tobacco product.

Taxing and restricting the online sale of e-cigarettes will undoubtedly help prevent youth addiction to these products, especially since inexpensive accessibility and unregulated online sales have been primary sources of tobacco products for Hawaii kids in high school, middle school, and even elementary school. I've seen it first hand, when my fellow classmates and friends would fill the school bathrooms with sickly sweet scents of cotton candy using vapes that they bought online with just the click of a button. By implementing the same policies and regulations Hawai'i used to reduce cigarette use to record lows, we can reverse the trends in youth e-cigarette use and prevent further health consequences on kids like myself.

Therefore, I urge the committee to support SB975, so that we can truly prevent the dangers of tobacco from affecting both my generation and our future generations.

Mahalo,
Zoey Duan

Representative Della Au Belatti, Chair and Members of the Committee on Health and Homelessness

My name is Karenna and I'm from Mililani, Oahu. I am submitting testimony in support of SB 975 to regulate e-cigarettes like other tobacco products. This will reduce the amount of lives lost from tobacco usage and complications due to tobacco, especially among children. Did you know that if this problem is not addressed, 21,000 children alive today will die from tobacco usage? We must protect our children from tobacco and the only way we can do that is by regulating e-cigarettes like other tobacco sales.

I am only in high school and already some of my classmates have admitted to using tobacco products, such as e-cigarettes. This is terrible. I am close to my classmates and the last thing I want is for them to have health problems (or even die) from using tobacco products. The tobacco industry has admitted to marketing towards high schoolers, a fact that I find disgusting. Tobacco industries use flavors to hook children, so children become addicted to nicotine.

There needs to be a tobacco tax attached to e-cigarettes. Applying a tax to tobacco products has been proven to reduce the number of smokers, therefore saving many lives, especially those of young people. This tax would be about 70% of the wholesale price, the same as other tobacco products.

Restricting online sales of tobacco products, mostly e-cigarettes, is also crucial to saving lives. Children (even ones as young as six years old!) can access tobacco products online, which is scary. It's easy for them to do so, and resell them to classmates. This is obviously really bad and needs to be stopped. Why should e-cigarettes be available for purchase online, when combustible cigarettes aren't?

Lastly, getting a license and a permit to sell tobacco products is necessary. Right now, people who sell e-cigarette cannot get revoked or anything. They just need to register. This is why it's so easy to buy tobacco products and why so many kids are doing so! If these retailers were to be licensed, this license can be revoked if they sell to children.

As a teenager, this issue is really important to me. Thank you for taking the time to hear me out!

To: Representative Della Au Belatti, Chair and Members of the Committee on Health and Homelessness

From: Jaelyn Natividad

Re: Support for SB 975

I believe that we need to regulate e-cigarettes the same as other tobacco products because it includes a common 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-cigarettes. This does not only impact their bodies and personal health but it impacts the environment and community around them. It may start with one student with an e-cigarette, but then another will become a follower and so on and so forth, and a classroom of students will be trying them by the end of the week.

My athletically and academically minded cousin started vaping. It hurts to see my cousin throwing years away from their 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 because of stress or whatnot. I love my cousin too much to see my cousin throw their life away!

By increasing the cost of e-cigarettes by taxing them like other tobacco products it will make them less attractive to students like my cousin.

Representative Della Au Belatti, Chair and Members of the Committee on Health and Homelessness

Support for SB 975

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

Kahuku

Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair and
Members of the Committee on Health and Homelessness

March 13, 2023

Support for SB975

I support SB975. My name is Kinohi and I am from Hau'ula O'ahu and a member of the Coalition for a Tobacco-Free Hawaii Youth Council.

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, and nicotine is a highly addictive chemical that can have 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.

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. 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 and 1 in 3 Hawai'i high school students report using e-cigarettes on a regular basis.

Youths are more price sensitive than adults, so taxing e-cigarettes the same as other tobacco products will help decrease youth e-cigarette use, this would help to end the youth vaping epidemic.

Kinohi
Hau'ula, O'ahu

Della Au Belatti, Chair
Jenna Takenouchi, Vice Chair
Members of the Committee on Health and Homelessness

I'm Samantha Lay, a junior at Roosevelt High School and I **support** SB975 as it calls for regulating e-cigarettes similar to other tobacco products.

The alarming issue facing youth today is one worth addressing and putting forth the effort to lessen those negative impacts. I may not have personally experienced those effects myself, but have observed one of my good friends succumb to the faults of peer pressure. Learning she suffered from heart/lung complications as a result, the extensiveness of harm done came to light as it was challenging to see her have a difficult time breathing, especially when confronted with mask restrictions. Additionally, the health disparities are definitely important to emphasize. With certain marginalized groups, considering race and socioeconomic status, specific audiences are being targeted by the tobacco industry marketing on-island. Not to mention the rates that correspond to vaping in such early stages of individuals' lives. With e-cig use on the rise, we see a rapid increase in addiction and demand for these products. With this bill, the objectives to reduce tobacco use will be ensured, putting youth in the forefront of it all.

By taxing e-cigarettes at a similar rate to other tobacco products it will raise the price which will deter youth from starting and encourage youth to quit.

Representative Della Au Belatti, Chair and members of the Committee on Health and Homelessness

Support for SB 975

Vapes negatively impact our youth because they are very addictive and for our generation easy to get their hands on. By taxing them like cigarettes it will raise the cost which will keep some students from starting using them.

Vapes are just as addictive and harmful as other tobacco products. And for our generation we would rather vape than smoke cigarettes. Because cigarettes give an unpleasant taste and scent. 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 for me 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 a 100 kids walk by it every day on their way home. By making the price higher through tax fewer would stop and try to buy them.

Carmine
Kealakekua, Hawaii

To: Representative Della Au Belatti, Chair and members of the Committee on Health and Homelessness

From: Daniel Valera

Re: Support for SB975

E-cigs are also addictive and will harm your body the same as cigs or even worse so should be regulated in the same way.

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.

Increasing the cost by taxing them will help reduce youth use. Maybe if cigarettes had been more expensive when my uncle was a kid it would have stopped him from starting, and he would still be here.

Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair and
Members of the Committee on Health & Homelessness

I believe it's important to regulate e-cigarettes the same as other tobacco products and **support SB 975**. It's not okay for these tobacco companies to target young audiences with these cheap products, ruining their futures, they shouldn't be in the hands of teenagers or young adolescents. Making them more expensive by taxing them like other tobacco products will make them less attractive.

I was influenced into vaping by a bad group of friends who were also influenced by the tobacco industry. I instantly got hooked and loved the flavor of it. When I saw the effect it had on my body, I could barely hold my breath when I swam and when I ran I would get out of breath very quickly. I knew I was in trouble. I told my boyfriend who was in the youth council group the effects vaping was having and he helped and showed me what vaping can really do and helped me to quit vaping and now I'm trying to help others.

The availability of flavored tobacco products negatively impacts youth and other targeted groups because it makes the youth blind to the risks and makes them want to try them without them knowing the harm it can do to their bodies and flavored tobacco makes kids get hooked easily when they taste so good. The low price of vapes makes them easy to get.

Raising the price will help but we need to do more. The relatively easy access to e-cigarettes purchase online has impacted my school and neighborhood. Many students go in school bathrooms and vape and because of that, most of the bathrooms at my school are closed down and people who actually use the bathroom get in trouble for having the scent on them even if they don't use. Please regulate vapes the same as other tobacco products.

Maui E.
Hilo, Hawaii

To: Representative Della Au Belatti, Chair and members of the Committee on Health and Homelessness

From: Destin

Date: 3/13/2023

Re: Support for SB 975

We need to regulate e-cigarettes the same as other tobacco products because e-cigarettes are easily accessible because of the internet and the disposable vapes are cheap and easy to sell to other people.

I have a fear of going to the bathroom at school because most people that go to the bathroom use it as an excuse to 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 around me.

The easy and cheap access to e-cigarettes endangers my community to the point where some parents don't trust their kids and fear that their kids are being peer pressured to use flavored tobacco products.

Destin

Pa'auilo, Hawaii

Rep. Della Au Belatti, Chair
Rep. Jenna Takenouchi, Vice Chair
Members of the Committee on Health and Homelessness

From: Moani Yamanoha

Re: Support for SB 975

I support SB 975 because people that vape are becoming addicting at a young age which can lead to serious health issues in the future. They are no better than other tobacco products and should be taxed the same way.

When my grandparents lived in 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 let off 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 go through that with their family and friends because of vaping.

By taxing vapes the same as other tobacco it would cause fewer kids to use them and make those that vape want to quit.

Chair Della Au Belatti
Vice Chair Jenna Takenouchi
Members of the Committee on Health & Homelessness

Support SB975

I believe we need to regulate e-cigarettes the same as other tobacco products and tax them at similar rates because it is basically the same product and increasing the tax will make young adults and kids who are not financially independent think twice before buying.

Mary Liaguno
Waikaloa, HI

Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair and
Members of the Committee on Health & Homelessness

My name is Sydnee Yokota and I am testifying in support of SB975.

Nicotine is an addictive component found in e-cigarette, and using e-cigarettes can be a gateway to using other substances, such as combustible tobacco cigarettes, marijuana, and other illicit drugs. Nicotine can alter a growing individual's brain development and function. 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.

E-cigarettes are found in practically all convenience stores here on the Big Island. They have appealing colors, exciting flavors and low costs 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, surrounded by candy, becoming a massive consumer attraction, especially to the youth.

I believe if e-cigarettes are regulated and taxed like other tobacco products, it could potentially cause the youth to not start using them.

Sydnee Yokota
Pepeekeo

Chair Belatti and members of the Committee on Health and Homelessness

Support for SB 975.

My name is Zoe Gacayan, I'm from Paauilo and I'm testifying in support of SB 975. We need to acknowledge that e-cigarettes are the same as any and every other tobacco product because they all do the same thing; kill. Just because they "seem safer" doesn't make the outcome any different. It makes it worse if anything. Increasing the cost could make the youth not buy as much. The current low cost can cause youth to use their money unwisely and cause unhealthy habits, like spending their money on harmful products like e-cigarettes.

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 they were not my targeted audience. Youth however could listen. Those are the people I want to talk to and impact. By educating youth on the harms and raising the cost of e-cigarettes we can stop kids from vaping.

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. We need action now to stop this and taxing vapes like other tobacco is one way to help.

Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair and
Members of the Committee on Health and Homelessness

I am testifying in support of SB975.

I believe that we need to regulate e-cigarettes the same as other tobacco products and tax them at similar rates because if the tax makes it expensive, youth hopefully won't be able to afford to have them.

The relatively easy access to e-cigarette purchase online impacts my community because you don't have to be of age to buy it, it is very easy for youth to purchase it for themselves. We need to close the online loophole. You can't buy cigarettes online, why should you be able to buy e-cigarettes that way?

Tobacco has impacted my life because I was not able to meet my great grandparents, they both passed away from lung cancer within a year of each other due to being heavy smokers. I don't want to see this happen to other generations.

I think increasing the cost of e-cigarettes by taxing them like other tobacco would cause more youth to quit and fewer to start.

Danica Valera
Kamuela

Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair and
Members of the Committee on Health and Homelessness

Support for SB 975

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.

By treating e-cigarettes the same as other tobacco products it will make it more expensive so fewer kids will start and others may quit.

Thank you for the opportunity to testify.

To: Chair Della Au Belatti, Vice Chair Representative Jenna Takenouch, and members of the Committee on Health and Homelessness

From: Jaedyn Pavao, Kalaheo Hawaii

I support SB 975. We need to regulate e-cigarettes because they do take a toll on the body and it has become overused. Increasing the cost will stop youth from using them. However, how are they even getting them in the first place? We need to better regulate these products so we can decrease the overall use of these items for people across all ages. Ending online sales would help.

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 the harms of these products .

Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair and
Members of the Committee on Health and Homelessness

My name is Lokella Medeiros and I am from Hilo. I am testifying in support of SB975. We need to regulate e-cigarettes the same as other tobacco products to protect the youth and well being of future generations.

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.

Youth have easy access to buying these products and regulating them like other tobacco products will help keep them out of their hands.

Rep. Belatti, Chair
Rep. Takenouchi, Vice Chair and
Members of the Committee on Health & Homelessness

I am testifying today in support of SB 975

My name is Noel Nichols and I believe e-cigarettes need to be treated like other tobacco products and taxed like cigarettes. By increasing the cost children will have a harder time coming up with the money to buy them.

They should also not be available online where kids can buy these products then sell them to younger children in the elementary schools.

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. It is even in the elementary schools! Please help them by making e-cigarettes harder for them to get. :(

Noel Nichols
Laie

SB-975-SD-2

Submitted on: 3/13/2023 9:35:39 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Janel Kamahele	Individual	Support	Written Testimony Only

Comments:

I support SB975 because it will continue to lower adult smoking and reduce youth smoking.

SB-975-SD-2

Submitted on: 3/13/2023 10:20:50 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

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

Comments:

Aloha,

My name is Bryan Mih and I am a parent, pediatrician, and the medical director of the Kapi’olani Smokefree Families Program. For the health of our keiki and their families, it is vitally important to support SD 975 SD2. This bill improves regulations on e-cigarettes or “vapes” in Hawai’i and helps keep them out of the hands of keiki.

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

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

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

Once young people are addicted to nicotine, it is extremely difficult to quit. Appropriately regulating and taxing these electronic nicotine devices just brings these products in line with laws regarding other tobacco products. This is a common sense solution that is long overdue and which will improve the health of many, especially our keiki and young people.

Please support this important measure. Mahalo for your consideration.

Sincerely,

Bryan Mih, MD MPH FAAP

Pediatrician

Medical Director, Kapi'olani Smokefree Families

Date: March 14, 2023

To: The Honorable Della Au Belatti, Chair
The Honorable Jenna Takenouchi, Vice Chair
Members of the House Committee on Health & Homelessness

Re: **Support for SB 975 SD2, Relating to Health**

Hrg: Wednesday March 15, 2023 at 9:45 am Conference Room 329 via Videoconference

Aloha House Committee on Health & Homelessness,

As a parent, community member and healthcare professional I am writing in **strong support for SB 975 SD2** which establishes the criminal offense of unlawful shipment of tobacco products; amends the definition of "tobacco products" under the Cigarette Tax and Tobacco Tax Law to include electronic smoking devices and e-liquids; increases the license fee for persons engaged as wholesalers or dealers of cigarettes and tobacco products and the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products; repeals state laws that establish and govern the Electronic Smoking Device Retailer Registration Unit within the Department of the Attorney General and provisions of the Cigarette Tax and Tobacco Tax Law that govern delivery sales.

Hawaii is in the midst of a youth vaping epidemic that has been underway for more than six (6) years. One in three high school students and one in five middle school students report "current use" of e-cigarettes.

Comprehensive regulation of combustible tobacco products significantly lowered the adult and high school smoking rates in Hawaii.

Taxation, licensing & permitting, restricting online sales, education, and cessation services are all components of comprehensive tobacco regulation and key to addressing the continuing epidemic level of e-cigarette use among our youth.

E-cigarettes are the only tobacco products that are untaxed in Hawaii. **SB 975 SD2** taxes e-cigarettes in line with other tobacco products.

SB 975 SD2 brings e-cigarettes under regulation with all other tobacco products, including licensing and permitting, while maintaining full access to FDA-approved medications for smoking cessation, including FDA-approved over-the-counter (OTC) nicotine replacement therapy (NRTs; patches, gums and lozenges).

SB 975 SD2 restricts online sales of e-cigarettes directly to consumers. Requiring face-to-face purchases makes it harder for youth to obtain these products via the internet, while licensed tobacco retailers would still be able to receive shipments of products.

I **strongly support SB 975 SD2**, ask you to pass it out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Keaau, HI

SB-975-SD-2

Submitted on: 3/14/2023 5:47:54 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

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

Comments:

In support of SD2. Thank you.

SB-975-SD-2

Submitted on: 3/14/2023 7:12:09 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Janet Onopa MD	Individual	Support	Written Testimony Only

Comments:

I am a primary care physician on Oahu. I cannot tell you how many of my patients have struggled to quit smoking, saying, "if only I could go back and never smoke that first cigarette", and similar laments, especially as they struggle to breathe with COPD, or deal with the diagnosis of cancer. The addiction of nicotine is truly awful, and so insidious, and to have kids starting vaping and having this be a rising and huge new entry into nicotine addiction is terrible. To have this highly addictive substance sliding under the regulations, and without a tax base to deal with the health effects, is just crazy. Young people are enticed by the unregulated marketing and lack of proper regulatory controls on this addictive drug, nicotine. Comprehensive regulation will be a major step in reversing youth use of e-cigarettes. Mahalo for your attention.

SB-975-SD-2

Submitted on: 3/14/2023 7:24:45 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Kim Swartz	Individual	Support	Written Testimony Only

Comments:

I've encountered vape shops alleging they don't allow or sell vapes to kids but there were kids in the shop! Vaping! Not good. And the shop said none of their vape products had nicotine but then they showed me a vape product with nicotine! Terrible!

SB-975-SD-2

Submitted on: 3/14/2023 7:58:00 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Kathleen Kearns	Individual	Support	Written Testimony Only

Comments:

I am a family physician practicing on Molokai and Maui. Our teens have an easy time obtaining e cig products and often start up in high school, starting them on decades of nicotine addiction that perpetuates itself when they raise their own families. We need to promote the message that vaping is just as harmful as smoking. They must be regulated similarly.

Kathleen Kearns, MD, FAAFP

SB-975-SD-2

Submitted on: 3/14/2023 8:17:44 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Linda Kim	Individual	Support	Written Testimony Only

Comments:

Dear Chair and Vice Chair,

It is imperative that we put a STOP to teen vaping in our state. It's an epidemic. It hooks kids sometimes for life and increases their chances of having poor health and developing chronic conditions. As an advanced practice registered nurse at a Juvenile Detention Center, I see first hand the ill effects of vaping on our youth. In a recent Quality Improvement Project, we found that 94%!! 94%!!! of all youth admitted to our facility use vaping products!!!! Drastic measures must be taken to stop the targeting of our youth by Big Tobacco. Do your part. Pass this bill!!!

Sincerely,

Linda Kim, APRN

SB-975-SD-2

Submitted on: 3/14/2023 8:44:36 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Michele Nihipali	Individual	Support	Written Testimony Only

Comments:

- E-cigarettes have evaded many tobacco regulation laws for decades, leading to a sharp rise in the use of these products, especially by young people, who are enticed by their unregulated marketing and lack of proper regulatory controls on an addictive drug, nicotine.
- Comprehensive regulation will be a major step in reversing youth use of e-cigarettes.
- Two decades of comprehensive regulation of cigarettes and other tobacco products has helped Hawaii'i save \$1B in healthcare costs.
- Comprehensive regulation has lowered the adult smoking rate to 11.6%; and
- Reduced high school smoking to 5.3% in 2019 (CDC YRBS 2017-2019).
- E-cigarettes are not FDA-approved cessation devices.
- Comprehensive tobacco regulation does not stop access to FDA-approved nicotine replacement therapy (NRTs) – approved smoking cessation products.
- E-cigarettes are the only tobacco products without a tobacco tax.
- Unregulated, unchecked online sales of e-cigarettes need to be addressed. This measure restricts online sales of e-cigarettes directly to consumers – requiring face-to-face purchases makes it harder for youth to obtain these products via the internet. Licensed tobacco retailers would still be able to receive shipments of products.
- Taxation, regulation, licensing & permitting, education, and cessation services are components of comprehensive tobacco regulation and a key to lowering the use of tobacco use.

Please support SB 975 SD2

Thank you for your consideration,

Michele Nihipali

54-074 A Kam Hwy.

Hauula, HI 96717

COMMITTEE ON HEALTH & HOMELESSNESS
Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair

DATE: Wednesday, March 15, 2023
TIME: 9:45 AM
PLACE: Conference Room 329 & Videoconference
State Capitol
415 South Beretania Street

SB975, SD2 Relating to Health

Aloha Hawaii State Legislators!

As a licensed, practicing dentist in the State of Hawaii, I am writing to express my opposition to the 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, mucosal 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.

Mahalo for the opportunity to testify in support of SB975.
Derek H Ichimura, DMD
96701

DATE: Wednesday, March 15, 2023
TIME: 9:45 AM
PLACE: Conference Room 329 & Videoconference
BILL: SB975 SD2 Relating to Health

Aloha Chair Belatti, Vice Chair Takenouchi and members of the committee!

As a licensed, practicing dentist in the State of Hawaii, I am writing to express my opposition to the 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, mucosal 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.

Mahalo for the opportunity to testify.

Amy Ogawa

96701

Wednesday, March 15, 2023

To: Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair
Members of the House Committee on Health & Homelessness

Re: SB975 SD2 Relating to Health

As a licensed, practicing dentist in the State of Hawaii, I am writing to express my opposition to the 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, mucosal 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.

[To eliminate fluoridation which has been proven to be beneficial and safe yet allowing vaping does not make much sense in protecting our children.](#)

Mahalo for the opportunity to testify in support of SB975, SD2.
Norman S Chun
96734

COMMITTEE ON HEALTH & HOMELESSNESS
Representative Della Au Belatti, Chair
Representative Jenna Takenuchi, Vice Chair

DATE: Wednesday, March 15, 2023
TIME: 9:45 AM
PLACE: Conference Room 329 & Videoconference
State Capitol
415 South Beretania Street

SB975, SD2 Relating to Health

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Mahalo for the opportunity to testify in support of SB975.
Lili Horton
96816

DATE: Wednesday, March 15, 2023
TIME: 9:45 AM
PLACE: Conference Room 329 & Videoconference
BILL: SB975 SD2 Relating to Health

Aloha Chair Belatti, Vice Chair Takenouchi and members of the committee!

As a licensed, practicing dentist in the State of Hawaii, I am writing to express my opposition to the 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, mucosal 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.

Mahalo for the opportunity to testify.

Carla Fukumoto, DDS
96822

Wednesday, March 15, 2023

To: Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair
Members of the House Committee on Health & Homelessness

Re: SB975 SD2 Relating to Health

As a licensed, practicing dentist in the State of Hawaii, I am writing to express my opposition to the 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, mucosal 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.

Mahalo for the opportunity to testify in support of SB975, SD2.
Neil C. Nunokawa D.D.S.

COMMITTEE ON HEALTH & HOMELESSNESS
Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair

DATE: Wednesday, March 15, 2023
TIME: 9:45 AM
PLACE: Conference Room 329 & Videoconference
State Capitol
415 South Beretania Street

SB975, SD2 Relating to Health

Aloha Hawaii State Legislators!

As a licensed, practicing dentist in the State of Hawaii, I am writing to express my opposition to the 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, mucosal 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.

Mahalo for the opportunity to testify in support of SB975.
Darrell T Teruya, DDS
Honolulu, HI 96817

DATE: Wednesday, March 15, 2023
TIME: 9:45 AM
PLACE: Conference Room 329 & Videoconference
BILL: SB975 SD2 Relating to Health

Aloha Chair Belatti, Vice Chair Takenouchi and members of the committee!

As a licensed, practicing dentist in the State of Hawaii, I am writing to express my opposition to the 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, mucosal 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.

Mahalo for the opportunity to testify.

[Wayne Leong](#)

SB-975-SD-2

Submitted on: 3/14/2023 9:11:20 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Valerie Smalley	Individual	Support	Written Testimony Only

Comments:

Aloha , I am a parent and have also served in Hawaii for the last 20 years as a Tobacco Treatment Specialist in the field of cessation. I am in strong support of SB975 as it will provide the comprehensive regulation that is desperately needed. Unregulated, unchecked online sales of e-cigarettes need to be addressed. This measure restricts online sales of e-cigarettes directly to consumers- requiring face to face purchases which makes it harder for youth ot obtain these products via the internet. This will not impact small businesses as they will still be able to receive shipments of products. This comprehensive regulation will be a major step in reversing youth use of e-cigarettes.

Thank you for taking the time to focus on this very important matter.

Valerie Smalley

SB-975-SD-2

Submitted on: 3/14/2023 9:12:58 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Shani Carvalho	Individual	Support	Written Testimony Only

Comments:

I, Shani Carvalho am in strong support of SB975. This comprehensive regulation bill will ultimately help save the lives of thousands in Hawaii. I strongly support this bill because it will implement regulations for shipping of e-cigarettes, tax them as tobacco products due to the nicotine within the e-juice, as well as keep sellers of these items accountable by ensuring they have proper licenses and permits.

SB-975-SD-2

Submitted on: 3/14/2023 9:23:22 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Paul	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Belatti, Vice-Chair Takenouchi, and committee members,

My name is Michael Paul, I am a Certified Tobacco Treatment Specialist in Honolulu. I help people quit using tobacco/nicotine products and I am writing in strong support of SB975, to regulate e-cigarettes as tobacco products. E-cigarettes, colloquially known as "vapes" have escaped regulation time and time again leading to a sharp rise in use, particularly among children and young adults.

After two decades of comprehensive regulation we have seen clear success in lowering the rates of smoking among adolescents and young adults. It's now time for us to do the same for e-cigarettes/vapes, regulating them just the same as other tobacco products. Just like cigarettes, or chewing tobacco, the point of e-cigarettes is to deliver nicotine, a highly addictive substance, to the user. The multitude of flavors available for "vapes" makes it distressingly easy to deliver that nicotine to a younger and younger consumer. In my line of work I am seeing more and more people who vape that have never smoke cigarettes, nearly all of them have been in their early to mid-twenties.

Adopting comprehensive taxation, permitting, and licensing regulations along with education and cessation services will be key components in the fight against tobacco and lowering the rate of new nicotine initiation in youth and young adults.

Mahalo for your time,

-Michael Paul

SB-975-SD-2

Submitted on: 3/14/2023 9:28:27 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Natasha Woodward	Individual	Support	Written Testimony Only

Comments:

Aloha,

As an employee in Hawaii's public schools, it is very disturbing to see how many kids are vaping without even having the mental capacity to realize that they are slowly getting addicted at such a young age. Please protect our keiki by supporting this bill so that tobacco isn't so easily accessible to them.

Natasha

SB-975-SD-2

Submitted on: 3/14/2023 9:45:25 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Valera	Individual	Support	Written Testimony Only

Comments:

Aloha my name is Jen Valera, I am in support of SB975. This bill will save many lives in Hawaii and save our yourh from the vaping epedimic. Vaping should be regulated the same as any other tobacco product. We need to get the vaping industry to be accountable for what they are selling and who they are selling to. It is illegal for anyone 21 and youger to vape, yet our youth can easily check of the box that they are an adult and order the devices online. Please help us protect our keiki. They are the future of Hawai'i and we need to show them we care about them.

SB-975-SD-2

Submitted on: 3/14/2023 11:40:20 AM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Zoey Duan	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Della Au Belatti, Vice Chair Jenna Takenouchi, and members of the Committee on Health and Homelessness,

I'm Zoey, a local youth from Nu'uano/Liliha and a commissioner on the Hawaii State Youth Commission, and I strongly support SB 975, SD2.

Taxing and restricting the sale, shipment, and retail of e-cigarettes and tobacco products will undoubtedly help prevent youth addiction to these products, especially since most youths who use vape and tobacco products are able to obtain them due to lack of comprehensive regulation and enforcement. Restricting the online sales of tobacco products is especially important. I've seen it first hand, when my fellow classmates and friends would fill the school bathrooms with sickly sweet scents of cotton candy using vapes that they bought online with just the click of a button. By implementing more stringent policies and regulations that other states have seen to be greatly beneficial for preventing youth addiction, we can reverse the trends in youth e-cigarette use and avoid detrimental health consequences on youths like myself.

Additionally, while lobbyists, interest groups, and other stakeholders that profit off of us youths will tell you that the epidemic is not real, or that it has "gotten better," the reality is that the data they name are either 1) sourced by tobacco companies themselves 2) not an accurate description of the tragedies that I've seen with my own eyes in our schools and in our communities or 3) irrelevant when we consider the amount of keiki lives — 21,000 — that have and will continue to be lost due to tobacco products.

Therefore, I urge the committees to strongly support SB 975, SD2, so that we can truly prevent the dangers of tobacco from affecting both my generation and our future generations.

Mahalo,

Zoey Duan

SB-975-SD-2

Submitted on: 3/14/2023 12:32:44 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Kristin Mills	Individual	Support	Written Testimony Only

Comments:

I am in strong support of SB975. Hawaii has among the highest rates of middle school and high school e-cigarette (ESD) use in the nation and it has been declared vaping a youth epidemic by the U.S. Surgeon General. One in three high school students and one in five middle school students report “currently using” e-cigarettes (per 2019 YRBS data).

As a parent and health educator, 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 emotions, 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.

Taxing and regulating sales of tobacco products is a proven strategy to reduce youth rates of use. However, e-cigarettes are the ONLY tobacco product without a tax and are being poorly regulated! E-cigarettes need to be taxed and the funds accrued need to be put into prevention and control services.

I am in strong support of SB975 because it applies a tobacco tax to e-cigarettes and requires licensing and permitting for tobacco retailers and wholesalers.

Our youth deserve their health! Our youth deserve to remain addiction free. Please help protect our youth by supporting SB975.

Mahalo, Kristin Mills, M.S., M.A.

SB-975-SD-2

Submitted on: 3/13/2023 4:00:23 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

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

Comments:

A felony just because someone wants a flavored vape to help them quit or just enjoy life better.
This bill hb975 is insane.

SB-975-SD-2

Submitted on: 3/13/2023 4:09:19 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Lani Hernandez	Individual	Oppose	Written Testimony Only

Comments:

The purpose of this bill is to deny First Nations on the mainland from getting income from online sales, right?

SB-975-SD-2

Submitted on: 3/13/2023 5:23:00 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

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

Comments:

.



‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō’ike Mana’o I Mua O Ka ‘Aha’ōlelo

Testimony Presented Before the
House Committee on Health & Homelessness
Wednesday, March 15, 2023 at 9:45 a.m.

By

Lee Buenconsejo-Lum, Interim Dean
John A. Burns School of Medicine

And

Michael Bruno, Provost
University of Hawai’i at Mānoa

SB 975 SD2 – RELATING TO HEALTH

Chair Belatti, Vice Chair Takenouchi, and Members of the Committee:

Thank you for the opportunity to present testimony today. The John A. Burns School of Medicine (JABSOM) **supports SB 975 SD2** which establishes the criminal offense of unlawful shipment of tobacco products; amends the definition of “tobacco products”; increases the license fee for persons engaged as wholesalers or dealers of cigarettes and tobacco products and the retain tobacco permit fee for retailers engaged in the sale of cigarettes and tobacco products.

E-cigarette use or vaping among youth and young adults has become a national public health concern. E-cigarettes are now the most popularly used tobacco product among youth and young adults, surpassing cigarettes. While smoking rates in Hawaii have decreased through the years, ESD use has rapidly increased, threatening significant public health gains through our Tobacco 21 law and tobacco youth access laws. This is particularly concerning because e-cigarettes provide a new way to deliver the addictive drug nicotine. No matter how it is delivered, nicotine exposure can lead to addiction and harm the developing brain. Studies are also finding that ESDs can lead to smoking cigarettes for new users, including kids.

Recent federal action has been enacted to better regulate electronic nicotine delivery systems, with the implementation of the premarket tobacco product applications--the equivalent of a federal Food and Drug Administration scientific certification. All manufacturers of existing tobacco products and new tobacco products were required to submit premarket tobacco product application to the Food and Drug Administration by September 9, 2020, to continue legal sales of those products. In January 2021, the Food and Drug Administration began issuing warning letters to manufacturers that failed to submit premarket tobacco product applications for products being marketed for sale.

The John A. Burns School of Medicine's training of medical students, residents, and fellows continues to include a variety of topics to ensure our learners understand policy implications, resources, and options to prevent, reduce, and/or facilitate quitting of tobacco products including ESD. Our populations at the highest risk for tobacco-related chronic disease remain the targets of the tobacco industry. A multi-pronged approach, including this legislation, will help reduce the widening of health disparities in cardiovascular and lung disease, and many cancers that we see disproportionately in Native Hawaiian and other Pacific Islander populations.

This measure will better regulate and ensure the removal of unsafe, noncertified electronic nicotine delivery systems from the marketplace and curb the use of electronic smoking devices and tobacco products by criminalizing the unlawful shipment of tobacco products as well as increasing permit fees.

Thank you for this opportunity to testify.



TO: The Honorable Della Au Belatti, Chair
The Honorable Jenna Takenouchi, Vice Chair
House Committee on Health & Homelessness

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

RE: **SB 975 SD2 – RELATING TO HEALTH
In Support**

DATE: Wednesday, March 15, 2023
9:45 a.m.; conference room 329 & videoconference

Aloha Chair Belatti, Vice Chair Takenouchi 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 SB 975 SD2.

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 SB 975 SD2 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.



HIPHI Board

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Kaiser Permanente

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John A. Burns School of Medicine,
Department of Pediatrics

Titiimaea Ta'ase, JD
State of Hawai'i, Deputy Public
Defender

HIPHI Initiatives

Coalition for a
Tobacco-Free Hawai'i

Community Health
Worker Initiative

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: March 13, 2023

To: Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair
Members of the Committee on Health & Homelessness

Re: Strong Support for SB975 SD2 Relating to Electronic Smoking
Devices

Hrg: Wednesday, March 15, 2023, at 9:45 AM

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **strong support of SB 975 SD2**, which would close the loophole of online sales to minors, include e-liquid and electronic smoking devices into the definition of "tobacco products," therefore requiring the same taxes, permitting, and licensing as applies to tobacco products in Chapter 245.

Taxation of Tobacco Products, including ESDs

Since 2016 e-cigarettes have been classified as tobacco products by the FDAⁱⁱ. Therefore, Including ESDs as part of the definition of tobacco products in Chapter 245 brings much-needed clarity. Once incorporated into that chapter, e-cigarettes would be taxed with parity and be included into the existing regulation system via permitting, licensure, and taxation, making it easier to implement enforcement. In a 2022 Ward survey of registered voters, 91% of those surveyed support taxing vaping products the same as other tobacco products, and 94% of respondents felt the state should dedicate a portion of the revenue from those taxes to prevention and cessation programs.

E-cigarettes are just as addictive as cigarettes. In fact, e-cigarette users get even more nicotine than they would from a combustible tobacco product. Users often buy extra-strength cartridges, which have a higher concentration of nicotine than a cigarette has.ⁱⁱⁱ Because e-cigarettes are the only tobacco products not subject to the Hawai'i State tobacco tax laws, 1) these products are lower-priced tobacco alternatives with virtually no restrictions that can appeal to the youth, and; 2) the state is unable to collect tax revenue of an FDA defined tobacco product. Raising taxes and increasing the price of tobacco products is a proven strategy to reduce consumption of tobacco/ nicotine for both adults and youth. Currently, 29 states and the District of Columbia have implemented e-cigarette taxes.^{iv}

ESD licensing and permits protect both consumers and merchants.

The Coalition supports requiring ESD sellers and vendors to obtain a tobacco permit and/or license, which is currently required for any tobacco retailer or wholesaler. This consistency would assist with communicating and enforcing current tobacco tax and purchase laws.

Comprehensive regulations on e-cigarettes are necessary to reverse the youth vaping epidemic.

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 gains were achieved through a comprehensive approach which included: smoke-free air laws, imposing tobacco taxes, age restrictions, removing most flavors in cigarettes, and investments in tobacco prevention education and cessation.

E-cigarettes have evaded many tobacco prevention and control laws other tobacco products are subject to, leading to the rise of e-cigarettes, 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 using e-cigarettes.^{viii} The state has an opportunity to reverse the youth vaping epidemic by implementing comprehensive policies and programs.

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

According to the 2019 YRBS, Hawai'i has the third highest e-cigarette rate in the Country, with 1 in 3 (30.6%) public high school students and more than 1 in 6 (18%) public middle school students reporting that they are regularly vaping^{ix}. 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.

Need to stop the unlawful online sales of ESDs

Currently, those under 21 can obtain e-cigarettes via the Internet because online age verification is easily by-passed by youth. Limiting online purchases to licensed tobacco retailers and wholesalers will close this loophole in our Tobacco 21 law.

This 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.^x E-cigarettes are not among these approved cessation methods.

Hawai'i has made enormous progress on tobacco control, and we ask the legislature to take the necessary steps to protect our youth from a lifetime of addiction. Thank you for considering this measure which will comprehensively regulate electronic smoking devices.

Thank you for considering the policies that will better protect the health of our communities.

Mahalo,



Peggy Mierzwa
Policy and 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) that is dedicated to reducing tobacco use through education, policy, and advocacy. With more than two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including being the first state in the nation to prohibit the sale of tobacco and electronic smoking devices to purchasers under 21 years of age.

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

ⁱⁱ <https://www.federalregister.gov/documents/2016/05/10/2016-10685/deeming-tobacco-products-to-be-subject-to-the-federal-food-drug-and-cosmetic-act-as-amended-by-the>

ⁱⁱⁱ <https://www.hopkinsmedicine.org/health/wellness-and-prevention/5-truths-you-need-to-know-about-vaping#:~:text=What's%20worse%2C%20says%20Blaha%2C%20many,greater%20hit%20of%20the%20substance.>

^{iv} <https://www.tobaccofreekids.org/assets/factsheets/0169.pdf>

^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

^{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.

^{viii} 2019 Youth Risk Behavior Surveillance System (YRBSS). Available at: www.cdc.gov/yrbs.

^{ix} 2019 Youth Risk Behavior Surveillance System (YRBS). Available at: www.cdc.gov/yrbs.

^x <https://www.fda.gov/consumers/consumer-updates/want-quit-smoking-fda-approved-and-fda-cleared-cessation-products-can-help>

SB-975-SD-2

Submitted on: 3/14/2023 4:00:58 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Chris Cooper	Individual	Oppose	Written Testimony Only

Comments:

Opposed.



Testimony in Support of SB975 SD2

RE: Relating to Health

Hawaii Dental Hygienists' Association

March 14, 2023

Dear Chair Belatti, Vice Chair Takenouchi, and members of the Committee on Health and Homelessness:

The Hawaii Dental Hygienists' Association (HDHA) strongly **supports Senate Bill 975, SD2** which seeks to address the overall health dangers caused by the dramatic increase of electronic smoking devices (ESD) in Hawaii. In contrast to the positive decline in combustible tobacco smoking, use of electronic smoking devices (ESDs), also known as vaping or e-cigarettes, has increased dramatically over the last decade, making ESDs and flavored tobacco products the most common tobacco product used among youth.

We congratulate the Legislature for introducing a measure that seeks to address the health dangers caused by ESD products in Hawaii by significantly strengthening tobacco regulation throughout the State. HDHA believes that the nicotine in tobacco is clearly addictive and has been proven to be especially harmful to the oral health of those using it. Current research shows a direct correlation between smoking and periodontal disease. It has been shown to significantly increase the risk of tooth loss over time and decrease the ability for oral soft tissue to heal.

As the largest association representing Hawaii's licensed dental hygienists', HDHA, **strongly supports evidence-based policies such as SB 975 SD2**. Dental hygienists strive daily to educate patients on ways to improve their oral health, which includes discussing the harmful effects of smoking, vaping and tobacco related products. We look forward to working with lawmakers toward our common goal of increased health and decreased dental disease in our great State.

Thank you for your time and consideration.

SB-975-SD-2

Submitted on: 3/15/2023 9:07:24 PM

Testimony for HLT on 3/15/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Danielle Gross	Individual	Support	Written Testimony Only

Comments:

I am writing in support of enacting comprehensive regulations on e-cigarettes and vaping products. Vaping is making it easier for kids to become addicted to tobacco products by making the drug more attractive than ever. Candy-like flavors that smell sweet are so different from the terrible tobacco smoke from cigarettes I remember as a kid. It is outrageous to me that the e-cigarette companies should be allowed to market tobacco products to kids- and this is exactly what they are doing. As a parent of young boys I fear my kids will get early exposure to e-cigarettes because it is extremely popular- especially with younger generations. The e-cigarette companies are making tobacco more attractive to all people and making a huge profit of it. Please make it harder to these companies to put our younger generations at risk of becoming addicted to tobacco, and all the associated negative health effects that accompany it.