

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
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**Testimony in OPPOSITION to S.B. 2109  
RELATING TO UNLAWFUL SHIPMENT OF TOBACCO PRODUCTS**

SENATOR JARRETT KEOHOKALOLE, CHAIR  
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date: February 14, 2024

Room Number: Conference Room 229  
and Videoconference

1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of Taxation  
2 (DOTAX) regarding any fiscal implications of a large cigar and pipe tobacco exemption to the  
3 unlawful shipment provision of §245-16.5 Hawaii Revised Statutes (HRS).

4 **Department Position:** The DOH opposes this measure.

5 **Department Testimony:** The DOH respectfully opposes Senate Bill 2109 (S.B. 2109) which  
6 proposes to amend §245-16.5, HRS by exempting large cigars and pipe tobacco sold through  
7 the internet from shipping restrictions to consumers in the State provided that all applicable  
8 state taxes on the products are paid.

9 There is no public health justification for exempting cigars or pipe tobacco from  
10 regulations designed to reduce the burden of tobacco use in Hawaii. Cigar smoking is not a safe  
11 alternative to cigarette smoking.<sup>1,2</sup> Cigar smoke contains the same toxic substances as cigarette

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<sup>1</sup> National Cancer Institute. [Cigars: Health Effects and Trends. Smoking and Tobacco Control Monograph No. 9](#). Smoking and Tobacco Control Monograph No. 9. Bethesda (MD): National Institutes of Health, National Cancer Institute, 1998 [accessed 2015 Oct 19].

<sup>2</sup> Campaign for Tobacco-Free Kids. The Rise of Cigars and Cigar-Smoking Harms. January 3, 2024. Retrieved from <https://assets.tobaccofreekids.org/factsheets/0333.pdf>

1 smoke<sup>3</sup> and is strongly associated with certain cancers including oral, esophageal, laryngeal,  
2 and lung cancers and the risk for head and neck and esophageal cancer increases when  
3 combined with alcohol.<sup>4,5,6</sup> The National Academies of Sciences, Engineering, and Medicine  
4 Committee studying the health effects of premium cigars also finds evidence is growing  
5 associating cigars with pancreatic cancer. Researchers at the FDA Center for Tobacco Products  
6 published a study in 2019 stating that nearly 200,000 cardiovascular conditions and cancer  
7 cases were attributable to former exclusive cigar smoking among U.S. adults aged 35 years and  
8 older.<sup>7</sup> A large cigar may contain as much tobacco as a whole pack of cigarettes.<sup>8</sup>

9 Among middle and high schoolers in 2023, cigars were the third most used tobacco  
10 product.<sup>9</sup> The ways in which mass media and cigar marketing strategies connect and emphasize  
11 tobacco use with social status and influence can make young people want to try these  
12 products.<sup>10</sup> A study presented at the Society for Research on Nicotine and Tobacco provided  
13 preliminary confirmation that premium cigar use is being reported by young adults (18-29  
14 years), and is not restricted to older adults.<sup>11</sup>

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<sup>3</sup> *Harmful Chemicals in Tobacco Products*. (n.d.). Retrieved February 8, 2024, from <https://www.cancer.org/cancer/risk-prevention/tobacco/carcinogens-found-in-tobacco-products.html>

<sup>4</sup> The National Academies of Sciences, Engineering, and Medicine; Health and Medicine Division; Board on Population Health and Public Health Practice; Committee on Patterns of Use and Health Effects of "Premium Cigars" and Priority Research; Mead AM, Geller AB, Teutsch SM, editors. *Premium Cigars: Patterns of Use, Marketing, and Health Effects*. Washington (DC): National Academies Press (US); 2022 Mar 10. 5, Health Effects of Premium Cigars. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK586217/>

<sup>5</sup> National Cancer Institute. [Cigars: Health Effects and Trends. Smoking and Tobacco Control Monograph No. 9](#). Smoking and Tobacco Control Monograph No. 9. Bethesda (MD): National Institutes of Health, National Cancer Institute, 1998 [accessed 2015 Oct 19].

<sup>6</sup> American Cancer Society. *Cigar Smoking*. Atlanta: American Cancer Society [cited 2015 Oct 19].

<sup>7</sup> Rostron, B. L., Corey, C. G., & Gindi, R. M. (2019). Cigar smoking prevalence and morbidity among US adults, 2000–2015. *Preventive Medicine Reports*, 14, 100821. <https://doi.org/10.1016/j.pmedr.2019.100821>

<sup>8</sup> Baker, F., S.Ainsworth, J.T. Dye, et al., *Health Risks Associated with Cigar Smoking*, *Journal of the American Medical Association*, 284(6):735-740, 2000.

<sup>9</sup> Birdsey J, Cornelius M, Jamal A, et al. [Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023](#). *MMWR Morb Mortal Wkly Rep* 2023; 72(44):1173–1182.

<sup>10</sup> Centers for Disease Control and Prevention. (2023, November 2). Youth and tobacco use. Centers for Disease Control and Prevention. [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/youth\\_data/tobacco\\_use/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm)

<sup>11</sup> Coleman B.N., C.G. Corey, C.D. Delnevo, et al. *Use of Flavored Cigars, Cigarillos, and Little Filtered Cigars: Findings from the 2012-13 National Adult Tobacco Survey*, presented at the Conference for the Society for Research on Nicotine and Tobacco (2014).

1           There are no safe tobacco products<sup>12</sup>, and there is no safe level of exposure to tobacco  
2 smoke.<sup>13,14,15</sup> Smoking is the leading cause of preventable death and disease in the United  
3 States<sup>16</sup>, claiming 1,400 lives in Hawaii each year<sup>17</sup>, and exacting an excess of \$611 million in  
4 annual medical costs directly attributable to smoking.<sup>18</sup> Cigar smoking has many of the same  
5 negative health consequences as cigarettes yet they are often less restricted.<sup>19</sup>

6           The DOH respectfully opposes S.B. 2109 and any exemptions for large cigars or pipe  
7 tobacco from regulations designed to reduce the burden of tobacco use in Hawaii.

8           Thank you for this opportunity to testify.

9           **Offered Amendments:** None

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<sup>12</sup> *Is Any Type of Tobacco Product Safe?* (n.d.). Retrieved February 8, 2024, from <https://www.cancer.org/cancer/risk-prevention/tobacco/is-any-type-of-smoking-safe.html>

<sup>13</sup> US Department of Health and Human Services. [The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General](#). Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2014.

<sup>14</sup> US Department of Health and Human Services. [The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General](#). Atlanta, GA: US 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; 2006.

<sup>15</sup> US Department of Health and Human Services. [A Report of the Surgeon General: How Tobacco Smoke Causes Disease: What It Means to You](#). Atlanta, GA: US 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; 2010.

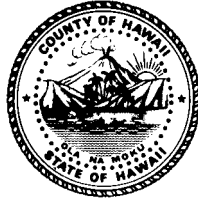
<sup>16</sup> U.S. Department of Health and Human Services. [The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General](#). Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014 [accessed 2017 Apr 20].

<sup>17</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Hawaii. November 2023. Accessed <https://www.tobaccofreekids.org/problem/toll-us/hawaii>

<sup>18</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Hawaii. November 2023. Accessed <https://www.tobaccofreekids.org/problem/toll-us/hawaii>

<sup>19</sup> Campaign for Tobacco-Free Kids. The Rise of Cigars and Cigar-Smoking Harms. January 2024. <https://assets.tobaccofreekids.org/factsheets/0333.pdf>

**Susan L.K. Lee Loy**  
Council Member  
District 3



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## **HAWAI‘I COUNTY COUNCIL**

25 Aupuni Street, Hilo, Hawai‘i 96720

February 8, 2024

The Honorable Senator Jarrett Keohokalole, Chair  
The Honorable Senator Carol Fukunaga, Vice Chair  
Members of the Senate Committee on Commerce and Consumer Protection

Hawai‘i State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

### **Re: Oppose SB2109, relating to Unlawful Shipment of Tobacco Products**

Aloha Chair Keohokalole and Vice Chair Fukunaga, and Members of the Committee on Commerce and Consumer Protection,

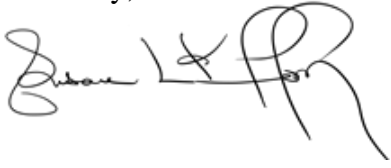
Mahalo for the opportunity to express my opposition to Senate Bill No. 2109. This bill is of utmost importance as we address the longstanding challenges and growing concerns surrounding the dangerous tobacco/nicotine situation we are dealing with in our County.

Although the State has done great policy work to establish the offense of unlawful shipment of tobacco products, this bill would exempt some tobacco products (cigars). As a result, this policy will be made more difficult to enforce, and this situation will continue to frustrate our County law enforcement, victims, and their families in our community.

Cigars are tobacco products that cause cancer, heart disease, and chronic obstructive pulmonary disease. There are no “best practices” or public health reasons to allow a cigar exemption, as cigars often contain more nicotine, tar, and carbon monoxide than regular cigarettes.

SB 2109 does not reflect the community’s recognition of the urgency to address the dangerous conditions of tobacco use. It is a step in the wrong direction if we are looking to protect the public.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan L.K. Lee Loy". The signature is fluid and cursive, with a large, stylized "R" at the end.

Susan "Sue" L.K. Lee Loy  
Council Member, County of Hawai'i



Senate Committee on Commerce and Consumer Protection  
Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair

Hearing Date: Wednesday, February 14, 2024

**ACS CAN OPPOSES SB 2109: RELATING TO UNLAWFUL SHIPMENT OF TOBACCO PRODUCTS.**

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

Thank you for the opportunity to **OPPOSE** on SB 2109: RELATING TO UNLAWFUL SHIPMENT OF TOBACCO PRODUCTS. The American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support fact-based policy and legislative solutions designed to eliminate cancer as a major health problem. We support all efforts to invest in comprehensive policies that would strengthen the health infrastructure in Hawaii to prevent youth from starting to use tobacco and help adults already addicted to tobacco to quit.

ACS CAN opposes tobacco products being shipped directly to consumers. All tobacco products and all tobacco retailers should be regulated in the same manner. By exempting cigar shipments, this expands tobacco products being delivered directly to consumers. Shipments directly to consumers should be prohibited and only allowed to in state brick and mortar licensed retailers where consumer’s identification is properly checked to verify that they are over the age of 21. This exemption may allow easy access for youth to access to large cigars or pipe tobacco products.

**Disparities in Youth Cigar Use**

An estimated 500,000 U.S. students currently used cigars in 2022, making cigars the second most popular tobacco product among youth.<sup>i</sup> Male high school students are also more likely than female high school students to currently use cigars (3.5 percent vs 2.1 percent). These disparities are in part due to a higher volume of exposure to tobacco promotion and advertising as well as higher tobacco retail outlet density in communities of color, which is clearly a health equity issue.

## Flavored Cigars

Cigars, cigarillos, and little cigars are all sold in many flavors that are appealing to young people, such as menthol, banana, mango, grape, Tropical Twist, Purple Swish and chocolate. Flavored cigars are very popular among youth and young adults. A 2015 study found that 74 percent of youth who used cigars reported flavoring as a primary reason for using them.<sup>ii,iii</sup> In 2021, 44.4 percent of students who currently use cigars reported using flavored cigars in the past 30 days (41.1% for high school students and 59.9% for middle school students.)<sup>iv</sup> Importantly, flavored cigars can also serve as a gateway for people who do not use tobacco products to start using tobacco. A 2019 longitudinal study found that, among youth aged 12-17 who began using cigars during the study period, 45.2 percent reported that their first product was flavored.<sup>v</sup> This same study found that young adults aged 18-24 who start with flavored cigars are more likely to regularly use cigars compared to those who start with unflavored cigars.

To prevent youth from accessing cigars and pipe tobacco products, please consider not exempting these tobacco products from being shipped directly to consumers. All tobacco products, including cigars and pipe tobacco, should be taxed and regulated in the same manner.

Thank you for the opportunity to OPPOSE SB 2109. Should you have any questions, please do not hesitate to contact Government Relations Director Cynthia Au at [Cynthia.Au@Cancer.org](mailto:Cynthia.Au@Cancer.org) or 808.460.6109.

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<sup>i</sup> Park-Lee E, Ren C, Cooper M, Cornelius M, Jamal A, Cullen KA. Tobacco Product Use Among Middle and High School Students - United States, 2022. *MMWR Morb Mortal Wkly Rep.* 2022 Nov 11;71(45):1429-1435. doi: 10.15585/mmwr.mm7145a1. PMID: 36355596; PMCID: PMC9707354.

<sup>ii</sup> Flavors. Truth Initiative; 2018. <https://truthinitiative.org/sites/default/files/media/files/2019/03/Truth-Flavors-Fact-Sheet.pdf>

<sup>iii</sup> Ambrose BK, Day HR, Rostron B, et al. Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. *JAMA.* 2015;314(17):1871. doi:10.1001/jama.2015.13802

<sup>iv</sup> Gentzke AS, Wang TW, Cornelius M, et al. Tobacco Product Use and Associated Factors Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. *MMWR Surveill Summ* 2022;71(No. SS-5):1–29.

<sup>v</sup> Villanti AC, Johnson AL, Glasser AM, et al. Association of Flavored Tobacco Use With Tobacco Initiation and Subsequent Use Among US Youth and Adults, 2013-2015. *JAMA Netw Open.* 2019;2(10):e1913804. doi:10.1001/jamanetworkopen.2019.13804



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Coalition for a  
Tobacco-Free Hawai'i

Community-Based Research &  
Evaluation

Community Health  
Worker Initiatives

COVID-19 Response

Environmental Health

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/Healthy Aging  
& Community Living

Public Health Workforce  
Development

Date: February 12, 2024

To: Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair  
Members of the Committee on Commerce & Consumer Protection

Re: Opposition to SB2109, Relating to Unlawful Shipment of Tobacco Products

Hrg: Wednesday, February 14, 2024 at 9:30 AM

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The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Institute,<sup>i</sup> is in **Opposition to SB2109**, which would exempt large cigars and pipe tobacco from the offense of unlawful shipment of tobacco products when purchased through the Internet.

### **Cigar smoking harms health.**

According to the National Cancer Institute and the US Surgeon General, cigar smoking causes oral cavity cancers (cancers of the lip, tongue, mouth, and throat), and cancers of the larynx, esophagus and lung, heart disease, and chronic obstructive pulmonary disease (COPD). Cigar smoke contains the same toxins as cigarette smoke, and many new cigar products are more easily smoked and inhaled, just like cigarettes.

### **Changing the law promotes loopholes.**

The Coalition worked diligently over ten years to close the loophole of online tobacco sales. Tobacco companies are notorious for exploiting loopholes to modify products to continue to target youth markets in appealing ways.

Exempting large cigars from online sales makes these products more appealing to kids. Cigars today are no longer just smoked by older men. Instead, the cigar market consists of products that vary widely in shape, flavors, and prices, making them appealing to a broader audience, including kids.

### **Negatively impacts youth.**

Young people model adult behaviors, and more kids are learning to smoke cigars. Cigars are less regulated than cigarettes and are able to use kid-friendly flavors that attract youth to their product and increasing access to online purchasing will make it easier and more appealing for teens to buy and smoke these products.

Flavored tobacco use continues to be a significant public health concern in the US, particularly among groups such as youth and racial minorities. Two of the products that are most used in flavored form, especially among



young people, are electronic nicotine delivery systems (ENDS) and cigars.<sup>ii</sup> Exempting any tobacco product sends the wrong public health message. Hawai'i once led the way in tobacco control, and this bill is a step backwards for the health of our State.

We respectfully ask you to defer SB2109.

Mahalo,

A handwritten signature in black ink that reads "Peggy Mierzwa". The signature is written in a cursive style and is positioned above the printed name and title.

Peggy Mierzwa  
Director of Policy & Advocacy  
Hawai'i Public Health Institute

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<sup>i</sup> The Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) that is dedicated to reducing tobacco use through education, policy, and advocacy. With more than two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including being the first state in the nation to prohibit the sale of tobacco and electronic smoking devices to purchasers under 21 years of age.

<sup>ii</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6918456/>

February 12, 2024

TO: Jarrett Keohokalole, Chair  
Carol Fukunaga, Vice Chair  
Members of the Senate Committee on Commerce and Consumer Protection

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

RE: **SB 2109** - Relating to Unlawful Shipment of Tobacco Products  
Hearing Date: February 14, 2024  
Time: 9:30 a.m.

The Cigar Association of America, Inc. ("CAA") **supports SB 2109.**

**SB2109** is a bill to consider and correct the unintended consequences of legislation passed in 2023. 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 age verification software on every consumer sale, to confirm that all sales are to adults 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 Econsolut 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.

Last year SB975 imposed a tax on e-cigarettes. In an effort to ensure this e-cigarette tax was collected, the bill also made it unlawful for any company to ship any tobacco products to consumers unless the seller could register and pay the excise tax on sales of these products. This applied regardless of the category of tobacco products. At one point during the hearings on the bill, it was amended to remove this unintended consequence, but the final version of the legislation retained these provisions. This forced internet retailers that sell large cigars and pipe tobacco to stop sales into the state because there is currently no mechanism in Hawai'i law enabling these retailers to collect and remit excise tax on sales of these products directly to consumers.

**SB2109** recognizes this unintended consequence and seeks to correct it. It recognizes that federal law prohibits internet sales of e-cigarettes but continues to permit internet sales of cigars and pipe tobacco to consumers. 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. In fact, cigars and pipe tobacco are the only tobacco products that can legally be shipped to adult consumers using the US Postal Service.

That said, while **SB2109** has the proper intent, it does not address the underlying issue that under current Hawai'i law internet retailers of large cigars and pipe tobacco are unable to pay the excise taxes on these products. This is because the authority and the tools to do so currently do not exist in Hawai'i statute. Hawai'i is not alone in this position.

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

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

- Establish the scope of the bill in terms of application to a finite set of products (cigars and pipe tobacco) in Remote Retail Sales.
- Clearly extend application of Hawai'i cigar and pipe tobacco excise tax to transactions between a remote retail seller and consumer within Hawai'i.
- Establish clarity in defining the tax base on which Hawai'i cigar and pipe tobacco excise tax is calculated in remote retail sales.
- Establish 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 Hawai'i ship-to addresses.
- Establish 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.
- Establish 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. To accomplish this, CAA requests this bill be amended to allow sales to resume in the state for a finite period of time, during which CAA and PCC will work with the Department of Taxation to craft the above legislation for Hawai'i. Attached to this testimony as Exhibit A is a proposed amendment that would accomplish these goals. 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 a path to collect additional excise tax revenue it currently does not receive. Time to work with the Department of Taxation to create a path for these taxes to be collected is critical to achieving the goals of the legislation. If amended to return to the status quo prior to passage of SB975 in 2023 and with a timeline for the legislature to deliberate new legislation that will reverse the unintended consequence from last year and put Hawai'i in a place to collect excise tax revenue from these sales in the future.

CAA thanks the committee for the opportunity to present its argument and **supports SB2109**.

# Exhibit A

## **A BILL FOR AN ACT**

RELATING TO CIGARS.

### **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

Preamble. To allow the legislature sufficient time to deliberate clarifications needed to the tobacco tax statutes regarding non-face to face sales to adult consumers.

SECTION 1. The legislature believes online sales of large cigars and pipe tobacco are important to Hawaii's adult consumers and bring sales tax revenue into the state.

Last session, the Hawaii legislature passed SB985 that, in addition to imposing a tax on e-cigarettes, had the unintended consequence of making it unlawful to ship direct to adult consumers tobacco products, including large cigars and pipe tobacco, unless those entities collect and remit excise tax on sales of these products.

Current Hawaii law does not provide authority for online retailers of cigars and pipe tobacco to collect excise tax on sales direct to adult consumers.

The legislature understands that a nationwide effort is in place in conjunction with the Federation of Tax Administrators to reform tobacco statutes to allow collection of this tax and that Colorado, Indiana, Maine, Maryland, Michigan, North Carolina, and Virginia have already passed such legislation.

This proposed legislation would allow cigars and pipe tobacco to be sold to adult consumers in the same manner as which they had been. It would also provide a sunset by which interested parties, as they have in other states, must work with the Department of Taxation to create a legislative solution to provide the Department with the authority and tools necessary to collect this

tax.

1 SECTION 2. Section 245-1, Hawaii Revised Statutes, is amended  
by adding to read as follows:

2 "Pipe Tobacco" means any tobacco which, because of its  
appearance, type, packaging, or labeling, is suitable for use and likely  
to be offered to, or purchased by, consumers as tobacco to be smoked in  
a pipe.

3 SECTION 3. Section 245-16.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) This section shall not apply to the shipment of  
6 tobacco products if any of the following conditions are met:

- 7 (1) The tobacco products are exempt from taxes as provided  
8 by section 245-3(b); [er]  
9 (2) All applicable state taxes on the tobacco products are  
10 paid in accordance with the requirements of this  
11 chapter[.--] ; or

12 (3) Until June 30, 2025, the person or entity is  
engaged in the business of selling large cigars or pipe  
13 tobacco to a consumer in the State in a non-face-to-face  
14 transaction, and if required by law, any applicable sales  
15 taxes are paid.

16 SECTION 4. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that  
18 were begun before its effective date.

19 SECTION 5. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

Section 6. This Act shall take effect upon its approval.

**INTRODUCED BY:** \_\_\_\_\_

# S.B. NO.

**Report Title:**

Unlawful Shipment of Tobacco Products; Exemption; Large Cigars; Remote Sales; Online Orders; Mail Orders

**Description:**

Exempts from the offense of unlawful shipment of tobacco products the shipments of large cigars to a consumer under certain circumstances.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



**SB-2109**

Submitted on: 2/8/2024 9:53:12 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tommy Noyes	Testifying for The Friends of Kamalani & Lydgate Park	Oppose	Written Testimony Only

Comments:

Aloha Senate Commerce & Consumer Protection Committee members,

**Kindly accept this STRONG OPPOSITION to SB 2109.**

Since 1994 The Friends of Kamalani & Lydgate Park -- a community service organization -- has worked collaboratively with the County of Kaua'i to encourage physical activity and reduce smoking & tobacco use, particularly among youth.

Despite appealing to a more limited market segment, cigars are tobacco products. There are no public health reasons to allow cigars or pipe tobacco an exemption from the offense of unlawful shipment of tobacco products .

Moreover, it has been clearly established that cigar smoking causes cancer, heart disease, and chronic obstructive pulmonary disease. In fact, large cigars can contain more nicotine, tar, and carbon monoxide than cigarettes.

Mahalo for reading this testimony strongly opposing Senate Bill 2109!

Tommy A. Noyes  
General Coordinator  
The Friends of Kamalani and Lydgate Park



**TESTIMONY OF TINA YAMAKI  
PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
FEBRUARY 14, 2024  
SB 2109 RELATING TO UNLAWFUL SHIPMENT OF TOBACCO PRODUCTS**

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

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

We support SB 2109. This measure exempts from the offense of unlawful shipment of tobacco products the shipments of large cigars and pipe tobacco sold to a consumer in the State through the Internet under certain circumstances.

Sales from the internet are becoming the norm for many business to survive. For some small businesses, online sales have kept them afloat especially during the pandemic when shops had to be closed. Small locally owned businesses survived due to the omni channel where they have a brick and mortar store but also an online presence where customers can purchase directly from their website as well as a presence in social media. People have become accustomed to ordering everything online. Legitimate businesses that sell these types of tobacco products have many safeguards to deter minors from purchasing online.

Measures like this one that make it easier for companies to operate are very welcome. Hawaii's reputation of being one of the worst states to do business in has to stop and this is a positive step in the right direction.

Mahalo again for this opportunity to testify.

Date: February 9, 2024

To: The Honorable Jarrett Keohokalole, Chair  
The Honorable Carol Fukunaga, Vice Chair  
Members of the Senate Committee on Commerce and Consumer Protection

Re: **Opposition to SB 2109**, Relating to Unlawful Shipment of Tobacco Products

Hrg: Wednesday February 14, 2024 at 9:30 am Conference Room 229 and Videoconference

Aloha Senate Committee on Commerce and Consumer Protection,

As a parent, community member and healthcare professional I am writing in **strong opposition to SB 2109**, which exempts from the offense of unlawful shipment of tobacco products the shipments of large cigars and pipe tobacco sold to a consumer in the State through the Internet under certain circumstances.

All tobacco products (including cigars and pipe tobacco) cause harm to health. There are no rational public health reasons to allow an exemption for any tobacco products.

Giving an exemption sends our youth a mixed message on the health risks of tobacco products, which we know are many, serious and deadly.

Like smoking cigarettes, cigar smoking causes cancer, heart disease, and chronic obstructive pulmonary disease. Contrary to popular belief, pipe smoking is also unsafe and increases the risk of mouth, lung and bladder cancers.

Smoking cigars or pipe tobacco exposes the smoker to more nicotine, tar, and carbon monoxide than cigarettes, all of which harm the body and compromise health.

Giving some tobacco products an exemption from current law is neither in the public interest nor in any sense maintaining reasonable consumer protection from a group of products that pose clear health dangers with use.

I **strongly oppose SB 2109**, respectfully ask you to reject this bill.

Many thanks for your consideration,

Forrest Batz, PharmD  
Keaau, HI

**SB-2109**

Submitted on: 2/10/2024 8:02:25 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Keoni Shizuma	Individual	Support	Written Testimony Only

Comments:

Aloha Chair, Vice Chair, and members of the committee,

I stand in support of SB2109.

Speaking specifically to pipe tobacco, Native Americans have traditional tobacco practices and ceremonies involving tobacco, usually consumed with use of a pipe. I support this bill in allowing pipe tobacco to be purchased through the internet and shipped to consumers in the State, in order to allow Native Americans living in the State to have more options for acquiring pipe tobacco, some of which may be cheaper, in order for them to perform their traditional and cultural ceremonies.

As a Native Hawaiian who practices traditional and cultural ceremonies, I would hate to be limited by laws that affect who and how I source the materials I need for my ceremonial practices. It is with this intent that I support SB2109.

Mahalo for your time and consideration.

Keoni Shizuma

**SB-2109**

Submitted on: 2/9/2024 1:39:18 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

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

Comments:

February 9, 2024

The Honorable Senator Jarrett Keohokalole, Chair

The Honorable Senator Carol Fukunaga, Vice Chair

Members of the Senate Committee on Commerce and Consumer Protection

Hawai'i State Capitol

415 South Beretania Street

Honolulu, HI 96813

**Re: Oppose SB2109, relating to Unlawful Shipment of Tobacco Products**

Aloha Chair Keohokalole and Vice Chair Fukunaga, and Members of the Committee on Commerce and Consumer Protection,

Mahalo for the opportunity to express my opposition to Senate Bill No. 2109. This bill is counterproductive as we address the longstanding challenges and growing concerns surrounding the dangerous tobacco/nicotine situation we are dealing with in our County.

Although the State has done great policy work to establish the offense of unlawful shipment of tobacco products, this bill would exempt some tobacco products (cigars). As a result, this policy will be made more difficult to enforce, and this situation will continue to frustrate our County law enforcement, victims, and their families in our community.

Cigars are tobacco products that cause cancer, heart disease, and chronic obstructive pulmonary disease. There are no "best practices" or public health reasons to allow a cigar exemption, as cigars often contain more nicotine, tar, and carbon monoxide than regular cigarettes.

SB 2109 does not reflect the community's recognition of the urgency to address the dangerous conditions of tobacco use. It is a step in the wrong direction if we are looking to protect the public.



## **SB 2109**

We are two long-time Kauai physicians who strongly oppose SB2109, which creates an exemption for cigars to be shipped. Cigars are a tobacco product which contain even higher levels of carcinogens (nicotine, tar, and carbon monoxide) than cigarettes. Regular cigar smoking can cause heart disease, chronic obstructive lung disease (COPD), and cancer. There is absolutely no public health reason to exclude cigars from the same shipping restrictions as other tobacco products, and further this can create an excuse to start chipping away at restrictions on other tobacco products. Please do not allow any exclusions of tobacco products to the shipping restrictions which were passed in the 2023 legislative session.

Respectfully submitted,  
Robert Weiner, MD  
Linda Weiner MD

**SB-2109**

Submitted on: 2/11/2024 5:49:47 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jake J. Watkins	Individual	Support	Written Testimony Only

Comments:

support.



**SB-2109**

Submitted on: 2/11/2024 9:24:56 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Moses k Alimoot	Individual	Support	Written Testimony Only

Comments:

I support this bill

**SB-2109**

Submitted on: 2/11/2024 10:32:33 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dereck Duarte	Individual	Support	Written Testimony Only

Comments:

In favor of SB2109

**SB-2109**

Submitted on: 2/11/2024 10:50:26 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Justin ono	Individual	Support	Written Testimony Only

Comments:

I am strongly in favor of bill SB2109

**SB-2109**

Submitted on: 2/11/2024 11:42:03 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dawna Duarte	Individual	Support	Written Testimony Only

Comments:

I support SB2109. I feel as legal adults we should be allowed to purchase and ship cigars for ourselves. Like other items we have shipped to ourselves to cut back on the high cost of living. Thank you

**SB-2109**

Submitted on: 2/12/2024 4:43:54 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jordan Kaia	Individual	Support	Written Testimony Only

Comments:

As an avid cigar smoker Ive found the enormous price difference from having the ability to shop online versus locally. As with any online shopping thats available to Hawaii consumers we are always looking for the best deals. I support keeping tobacco and ecigs/vapes out of the hands of our youth but this bill has unintendedly affected a small community that is grossly made up of middle aged males and above. Please consider passing sb2109. Mahalo

**SB-2109**

Submitted on: 2/12/2024 8:33:24 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Justin Bee-Silva	Individual	Support	Written Testimony Only

Comments:

I support this bill

**SB-2109**

Submitted on: 2/12/2024 8:37:52 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Mitchell Ryder	Individual	Support	Written Testimony Only

Comments:

I SUPPORT THIS BILL 2109!

**SB-2109**

Submitted on: 2/12/2024 9:32:28 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Zane Duarte	Individual	Support	Written Testimony Only

Comments:

I am in support of this amendment. I feel as an adult of legal age and in an island where most of our items are shipped. We should be able to purchase and ship our cigars like other items we do to Hawaii. For cost effectiveness. Thank you



**SB-2109**

Submitted on: 2/12/2024 1:20:28 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Drew Duarte	Individual	Support	Written Testimony Only

Comments:

I agree

**SB-2109**

Submitted on: 2/12/2024 11:58:27 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kayd Duarte	Individual	Support	Written Testimony Only

Comments:

i support this amendment we should be allowed to purchase and ship cigars to our hawaii residence as legal adults thank you

**SB-2109**

Submitted on: 2/13/2024 12:05:29 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Hayden Duarte	Individual	Support	Written Testimony Only

Comments:

I support this amendment.Thank you

**LATE**

**LATE**

Date: February 14, 2024

To: The Honorable Jarrett Keohokalole, Chair

The Honorable Carol Fukunaga, Vice Chair

Members of the Senate Committee on Commerce and Consumer Protection

Re: Support of SB 2109, Relating to Unlawful Shipment of Tobacco Products

Hearing: Wednesday February 14, 2024 at 9:30 am Conference Room 229 and  
Videoconference Aloha Senate Committee on Commerce and Consumer Protection

Aloha and Mahalo for the opportunity to provide written testimony in support of SB 2109.  
As a tobacco pipe smoker I fully support this bill for the following reasons:

- (1) Although no form of tobacco use is without risks, the Food and Drug Administration meta data analysis of cigar smokers concluded that although cigar smokers had higher incidence of certain cancers, those elevated risks were dose and inhalation level dependent. The analysis also concluded that the mortality rate for cigar smokers who smoked two or fewer cigars per day was essentially the same as non-smokers. And a bowl of pipe tobacco contains far less tobacco than a cigar. My point is that the FDA concluded that enjoying cigars (and by extrapolation pipes) in moderate amounts did NOT increase mortality. FDA study link below:  
<https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-015-1617-5>
- (2) Cigars and pipe tobacco are legal to consume in the United States. The State is correct in their SB 2109 assumption that government should hesitate to ban consumers from mail ordering a legal product just because some people don't think other should enjoy that product.
- (3) Unlike cigarettes, which are widely available to the public, cigars in general and pipe tobacco in particular are not widely available from Hawaii brick and mortar retail establishments. In fact, there is only one retail store in Honolulu that sells pipe tobacco, and he carries about 20 different brands. However, there are at least 500 pipe tobacco brands available from mainland sellers.
- (4) The Centers for Disease Control study referenced below cited ZERO instances of youths using pipe tobacco. Although the risk of young people acquiring pipe tobacco via mail exists, it is not a product that America's youth is interested in.  
[https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/fast\\_facts/trends-in-tobacco-use-among-youth.html](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/trends-in-tobacco-use-among-youth.html)

Philip J. Valenti  
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