

STAND. COM. REP. NO.

1303

Honolulu, Hawaii

, 2023

MAR 17

RE: S.B. No. 975  
S.D. 2  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawaii

Sir:

Your Committee on Health & Homelessness, to which was referred S.B. No. 975, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish the criminal offense of unlawful shipment of tobacco products;
- (2) Amend the definition of "tobacco products" as used in the State's cigarette tax and tobacco tax law to include e-liquids and electronic smoking devices;
- (3) Increase license fees for wholesalers or dealers of cigarettes or tobacco products;
- (4) Increase the retail tobacco permit fee for retailers of cigarettes or tobacco products;
- (5) Repeal the Electronic Smoking Device Retailer Registration Unit in the Department of the Attorney General; and

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- (6) Repeal prohibitions on delivery sales of electronic smoking devices to persons under the age of twenty-one.

Your Committee received testimony in support of this measure from the Department of Health; Department of the Attorney General; one member of the Hawai'i County Council; Hawaii State Teachers Association; American Heart Association; Campaign for Tobacco-Free Kids; Hawaii Medical Service Association; American Lung Association in Hawai'i; Hawaii COPD Coalition; Hawai'i Primary Care Association; Hawai'i Public Health Association; Papa Ola Lokahi; We Are One, Inc.; Coalition for a Tobacco-Free Hawaii Youth Council; Hawaii Dental Association; Parents and Children Together; University of Hawai'i Student Health Advisory Council; University of Hawai'i John A. Burns School of Medicine; Hawaii Association of Independent Schools; Coalition for a Tobacco-Free Hawai'i; Hawaii Dental Hygienists' Association; and numerous individuals. Your Committee received testimony in opposition to this measure from the Cigar Association of America, Consumer Choice Center, Americans for Tax Reform, National Taxpayers Union, Premium Cigar Coalition, and four individuals. Your Committee received comments on this measure from the Department of Taxation, Taxpayers Protection Alliance, Reason Foundation, and Tax Foundation of Hawaii.

Your Committee finds that twenty states have adopted a reduced tax for vape products such as electronic smoking devices and e-liquids on the rationale that these products are a harm reduction tool, while ten states have enacted a tax on vape products at the same rate as their tax on other tobacco products. Your Committee further finds that an additional twenty states have not imposed any taxes on vape products.

Your Committee additionally finds that H.B. No. 537, H.D. 2 (Regular Session of 2023), a similar measure, was previously passed by the House.

Your Committee has amended this measure by:

- (1) Deleting its contents and inserting the contents of H.B. No. 573, H.D. 2, a measure that:
  - (A) Includes electronic smoking devices and e-liquids under the definition of "tobacco products" for purposes of the cigarette tax and tobacco tax law;



- (B) Repeals the Electronic Smoking Device Retailer Registration Unit in the Department of the Attorney General; and
- (C) Contains an effective date of January 1, 3000;
- (2) Exempting electronic smoking devices and e-liquids from the excise tax of seventy percent of the wholesale price imposed on all tobacco products other than large cigars;
- (3) Imposing an excise tax of an unspecified amount on the wholesale price of each electronic smoking device or e-liquid sold, used, or possessed by a wholesaler or dealer on and after January 1, 2024; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Health & Homelessness that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 975, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 975, S.D. 2, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on  
behalf of the members of the  
Committee on Health &  
Homelessness,



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DELLA AU BELATTI, Chair



