

Honolulu, Hawaii

FEB 17 2023

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

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

Sir:

Your Committees on Health and Human Services and Commerce and Consumer Protection, to which was referred S.B. No. 975 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the criminal offense of unlawful shipment of tobacco products;
- (2) Amend the definition of "tobacco products" under the Cigarette Tax and Tobacco Tax Law to include electronic smoking devices and e-liquids;
- (3) Increase 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; and
- (4) Repeal state laws that establish and govern the Electronic Smoking Device Retailer Registration Unit within the Department of the Attorney General; provisions of the Cigarette Tax and Tobacco Tax Law that govern delivery sales; and state law governing smoking



that preempts and voids local ordinances and regulations conflicting with state law.

Your Committees 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, American Heart Association, Hawai'i Public Health Institute, Hawaii State Teachers Association, University of Hawaii Student Health Advisory Council, Hawaii COPD Coalition, Hawai'i Children's Action Network Speaks!, Hawai'i Nurses Association - OPEIU Local 50, Hawai'i Primary Care Association, Hawaii Dental Association, Opportunity Youth Action Hawai'i, Hawai'i Public Health Association, Hawaii Health & Harm Reduction Center, Coalition for a Tobacco-Free Hawai'i Youth Council, Hawai'i Community Foundation, Fern Elementary School, and thirty-nine individuals. Your Committees received testimony in opposition to this measure from the Cigar Association of America, Inc.; Americans for Tax Reform; Retail Merchants of Hawaii; Consumer Choice Center; Hawaii Smokers Alliance; Consumer Advocates for Smoke-free Alternatives Association; VOLCANO Vape Shops; National Taxpayers Union; and eight individuals. Your Committees received comments on this measure from the Department of Taxation, Taxpayers Protection Alliance, Tax Foundation of Hawaii, and Reason Foundation.

Your Committees find that tobacco use is the single most preventable cause of disease, disability, and death in the United States. The electronic smoking device industry, including the production of e-liquid in a variety of forms, has grown rapidly, particularly in Hawaii, which has led to a youth vaping epidemic. The rapid growth of the electronic smoking device industry, including retail businesses selling electronic smoking devices or e-liquid, necessitates further regulations to protect consumers, such as requiring retailers of e-liquid to obtain a retail tobacco permit. This measure will provide those additional layers of protection to consumers in Hawaii, especially the youth.

Your Committees acknowledge the testimony of the Department of the Attorney General regarding the lack of clarity as to the state of mind required for a person or entity to commit the offense of unlawful shipment of tobacco products. Amendments to this measure are necessary to address this concern.



Therefore, your Committees have amended this measure by:

- (1) Clarifying that a person or entity commits the offense of unlawful shipment of tobacco products if the person or entity is engaged in the business of selling tobacco products and knowingly ships or causes to be shipped any tobacco products to a person or entity in this State that is not a licensee under this chapter; and
- (2) Inserting an effective date of December 31, 2050, to encourage further discussion.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 975, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 975, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

Respectfully submitted on
behalf of the members of the
Committees on Health and Human
Services and Commerce and
Consumer Protection,



JARETT KEOHOKALOLE, Chair

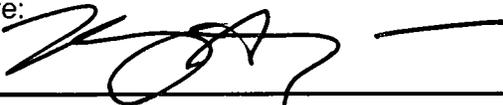


JOY A. SAN BUENAVENTURA, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Health and Human Services
HHS

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 975	HHS/CPN, - WAM/JDC	02/15/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SAN BUENAVENTURA, Joy A. (C)	✓			
AQUINO, Henry J.C. (VC)	✓			
MORIWAKI, Sharon Y.				✓
SHIMABUKURO, Maile S.L.	✓			
AWA, Brenton	✓			
TOTAL	4			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes

The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB975	Committee Referral: HHS/CPN, WAM/JDC	Date: 2/15/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.	✓			
RICHARDS, III, Herbert M. "Tim"		✓		
AWA, Brenton	✓			
TOTAL	4	1	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Carol Fukunaga</div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes