

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:
S.B. NO. 1525, RELATING TO HEALTH.

BEFORE THE:
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Wednesday, February 12, 2025 **TIME:** 9:32 a.m.

LOCATION: State Capitol, Room 229

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

Chair Keohokalole and Members of the Committee:

The Department of the Attorney General (Department) strongly opposes the bill due to concerns about certain provisions in the bill and provides the following comments.

This bill proposes to (1) add a new section to chapter 245, Hawaii Revised Statutes (HRS) (Cigarette Tax and Tobacco Tax Law), to require manufacturers of electronic smoking devices and e-liquids to submit annual certifications to the Department of Taxation (DOTAX), (2) require DOTAX to maintain an electronic smoking device and e-liquid directory of manufacturers whose certifications have been approved, and (3) create civil penalties for violations of the new section.

1. Conflict with Federal Law (The Family Smoking Prevention and Tobacco Control Act, 21 U.S.C. §387

The Family Smoking Prevention and Tobacco Control Act (TCA), 21 U.S.C. §387a, grants the Food and Drug Administration (FDA) the power to regulate tobacco products, including e-cigarettes.¹ The TCA expressly preempts some contrary state or

¹ In August 2016, the FDA finalized a rule deeming e-cigarettes as a tobacco product that is subject to the FDA's regulation. See 21 C.F.R. pts 1100, 1140, and 1143 (2016).

local regulations², while also expressly preserving³ and saving⁴ from preemption other state and local regulatory authority over tobacco.

Under the TCA, manufacturers of e-cigarette products must submit a Premarket Tobacco Product Application (PMTA) and receive FDA authorization to be sold. See 21 U.S.C. §387j(a)(2). If they do not receive a marketing granted order (MGO) from the FDA, the products are considered "adulterated" under 21 U.S.C. §387b(6)(A).

As of February 8, 2025, the FDA has only authorized thirty-four tobacco and menthol flavored e-cigarette products and devices⁵ and twenty-four oral nicotine products.⁶ The FDA has stated that e-cigarettes and oral nicotine pouch products without FDA authorization are not legally authorized for marketing and sale in the United States and are subject to federal enforcement action.⁷ A pending PMTA does not create a safe harbor to sell that product.⁸

This bill permits certification of tobacco products that have not yet received an MGO from the FDA, which contradicts federal law and may be preempted under the TCA's preemption clause.

² The "Preemption Clause" preempts states from enacting laws that are "different from, or in addition to, any requirement . . . relating to tobacco product standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products." See 21 U.S.C. §387p(a)(2)(A).

³ The "Preservation Clause" preserves states' authority to enact laws that are "in addition to, or more stringent than" the TCA's requirements if the law relates to or prohibits the "sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products." See 21 U.S.C. §387p(a)(1).

⁴ The "Savings Clause," which states that the Preemption Clause doesn't apply to "requirements relating to the sale, distribution, [or] possession of . . . tobacco products." See 21 U.S.C. §387p(a)(2)(B).

⁵ E-Cigarettes Authorized by the FDA. FDA, January 2025. Retrieved February 8, 2025, from <https://digitalmedia.hhs.gov/tobacco/hosted/E-Cigarettes-Authorized-FDA-JAN2025.pdf>

⁶ FDA Authorizes Marketing of 20 ZYN Nicotine Pouch Products after Extensive Scientific Review. FDA, January 16, 2025. Retrieved February 8, 2025, from <https://www.fda.gov/news-events/press-announcements/fda-authorizes-marketing-20-zyn-nicotine-pouch-products-after-extensive-scientific-review>

⁷ Dr. Brian King, Director of the Center for Tobacco Products at the FDA, reinforced the FDA's position with this statement at a Subcommittee on Health of the Committee on Energy and Commerce hearing on September 10, 2024: "We regularly engage with retailer orgs and again, we've got a list of authorized products, and if it's not on that list right now, of 34, it's on the market illegally and they shouldn't be selling it." See Energy & Commerce Democrats, *Hearing on Evaluating FDA Human Foods and Tobacco Programs*, YouTube (Sept. 10, 2024), https://www.youtube.com/live/nZYVdY8GgAo?si=NsKcEvN7_6M2K587&t=9170

⁸ Searchable Tobacco Products Database Additional Information. FDA, June 21, 2024. Retrieved February 8, 2025, from <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/searchable-tobacco-products-database-additional-information>

Further, the FDA does not disclose pending applications, citing the need to protect confidential commercial information. The Department of Taxation would have no way to verify the accuracy of submitted certifications regarding the product's FDA status. Thus, managing the directory without verification from the FDA would be incomplete and ineffective.

2. Potential Violation of the Commerce Clause (U.S. Const. art. I, § 8, cl. 3)

This bill requires nonresident and foreign manufacturers to submit a \$25,000 surety bond or other cash security payable to the State (page 12, line 7, to page 14, line 20). The Commerce Clause of the United States Constitution provides that Congress shall have the power to "regulate Commerce . . . among the several States." U.S. Const. art. I, § 8, cl. 3. "Though phrased as a grant of regulatory power to Congress, the Clause has long been understood to have a 'negative' aspect that denies the States the power unjustifiably to discriminate against or burden the interstate flow of articles in commerce." *Or. Waste Sys., Inc. v. Dep't of Env'tl. Quality*, 511 U.S. 93, 98 (1994). This negative aspect of the Commerce Clause is known as the Dormant Commerce Clause; this doctrine prohibits states from "advancing their own commercial interests by curtailing the movement of articles of commerce, either into or out of the state," *Fort Gratiot Sanitary Landfill, Inc. v. Mich. Dep't of Nat. Res.*, 504 U.S. 353, 359 (1992) (internal brackets omitted), to address "economic protectionism," i.e., "regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors." *Dep't of Revenue of Ky. v. Davis*, 553 U.S. 328, 338 (2008).

Requiring the \$25,000 surety bond or other cash security may violate the Dormant Commerce Clause if it is "facially discriminatory, discriminatory in effect, or discriminatory in purpose." See *DIRECTV v. Utah State Tax Comm'n*, 364 P.3d 1036, 1040 (Utah 2015). For example, in *Bacchus Imports Ltd. v. Dias*, 468 U.S. 263 (1984), the United States Supreme Court struck down an exemption from the liquor tax for sales of okolehau and fruit wine brewed in Hawaii from locally grown products upon finding that the exemption bestowed a commercial advantage on locally produced products; see also *New Energy Co. of Ind. v. Limbach*, 486 U.S. 269 (1988) (holding that ethanol tax credit for each gallon of ethanol sold, but only if ethanol produced in Ohio, violated Dormant Commerce Clause).

Similar to the situation in *Bacchus Imports*, the proposed \$25,000 surety bond or other cash security may be challenged under the Commerce Clause because it could be construed by a court as bestowing a commercial advantage to in-state manufacturers versus products manufactured from out-of-state manufacturers or foreign manufacturers.

3. Immediate Removal of Products Denied FDA Authorization

Section 245- (h) and (i) (page 6, line 7, through page 9, line 20) create notice requirements for DOTAX and restrictions on DOTAX from removing a product from the directory. If a product receives a marketing denial order (MDO) from the FDA, however, the product should be immediately removed from the market. This bill would allow products that are illegal to sell to remain on the directory due to the required notice and cure deficiencies process.

4. Inconsistent Use of the Term "E-liquid"

Currently, section 245-1 defines "e-liquid" as "any liquid or like substance, which may or may not contain 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 bill uses the term "e-liquid" as well as the term "e-liquid containing nicotine." There are many products that are on the market that do not contain nicotine, and this bill may capture thousands of products not under the purview of the FDA. This does not appear to be the intent of this bill as the bill contemplates only listing e-liquids that contain nicotine (see e.g. page 1, line 7).

5. Lack of Funding for Implementation

The Department defers to the Department of Taxation regarding the administration of this bill and its impact on the Department of Taxation's resources. We note, however, that this bill does not provide additional funding to the Department of Taxation to manage and enforce the directory.

We respectfully request that the bill be held. Thank you for the opportunity to testify.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

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

TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1525, Relating to Health.

BEFORE THE:

Senate Committee on Commerce and Consumer Protection

DATE: Wednesday, February 12, 2025

TIME: 9:32 a.m.

LOCATION: State Capitol, Room 229

Chair Keohokalole, Vice-Chair Fukunaga, and Members of the Committee:

The Department of Taxation (DOTAX) offers the following comments on S.B. 1525 for your consideration.

S.B. 1525 adds a new section to chapter 245, Hawaii Revised Statutes (HRS), requiring manufacturers of electronic smoking devices or e-liquids containing nicotine sold for retail sale or to a consumer in the State to certify under penalty of perjury that the manufacturer:

- 1) Has received a marketing granted order for the electronic smoking device or e-liquid from the Food and Drug Administration (FDA);
- 2) Submitted a premarket tobacco product application for the electronic smoking device or e-liquid to the FDA; or
- 3) Is not required to submit an additional marketing granted order or premarket tobacco product application for the products solely because of changes to the name, brand style, or packaging.

The measure names DOTAX as the agency responsible for administering the certification requirement, including maintaining a list and directory of all affected manufacturers, enforcing compliance, and reporting to the legislature regarding the status of the administration of these regulations.

The measure has an effective date of July 1, 2025.

DOTAX notes the proposed regulations are a significant departure from its current administration of cigarette and tobacco taxes under HRS chapter 245, and may conflict with DOTAX's core responsibility of administering and collecting taxes due to the State. DOTAX oversees the issuance of licenses and permits to wholesalers, dealers, and retailers in the State and, consistent with its role, prioritizes the collection of taxes rather than the enforcement of health and safety standards for tobacco products. All tobacco products sold in the State, and all income derived therefrom, are subject to State tax unless specifically exempted and regardless of whether the sale is unlawful or complies with federal, state, local, or other requirements. Requiring DOTAX to take on a regulatory and enforcement function, including taking action to prohibit the sale of products in the State, while also requiring DOTAX to continue its core function of collecting taxes, including taxes on unlawfully sold items, will impede DOTAX'S effectiveness and administration capabilities.

Additionally, while this bill is titled as "Relating to Health," DOTAX has no subject matter expertise on tobacco manufacturers' compliance with federal health and safety obligations and recommends an appropriate agency be tasked with the proposed regulation.

In sum, DOTAX is not able to take on the administration and enforcement duties set forth in this bill.

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

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committee on Commerce and Consumer Protection

From: Carlotta Amerino, Director

Date: February 12, 2025, 9:32 a.m.
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 1525
Relating to Health

Thank you for the opportunity to submit testimony on this bill, which would require electronic smoking device and e-liquid manufacturers to submit certifications with the Department of Taxation (TAX) annually. The Office of Information Practices (OIP) **takes no position on the substance of this bill, but has concerns about the overly broad confidentiality provision** on bill pages 3-4.

Proposed subsection 245-___(d) makes confidential a manufacturer's submission to the Department of Health (DOH) of the Food and Drug Administration's (FDA) acceptance letter "for a timely filed premarket tobacco product application," the "marketing granted order issued by the FDA," and the FDA or court order staying a denial of the application if applicable. Subsection 245-___(d) would prohibit the disclosure of this information even to other agencies. In other words, manufacturers are required to give DOH proof that each model or brand they wish to sell is approved by the FDA, but this subsection would make that proof completely confidential and prohibit showing that proof to any other agency, even the Department of the Attorney General. The records showing that a

manufacturer has the FDA's approval to sell a product do not appear to be so confidential that they cannot be disclosed even to law enforcement agencies. There also is no apparent reason why the public should not be allowed to know whether a product sold in Hawaii is FDA-approved. Therefore, OIP respectfully suggests that subsection 245-___(d) is overly broad.

The Uniform Information Practices Act (Modified) (UIPA), chapter 92F, Hawaii Revised Statutes (HRS), provides an exception to public disclosure that applies to confidential commercial and financial information. The exception found in section 92F-13(3), HRS, for "records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function" already protects confidential business information. Therefore if, for example, the FDA acceptance letter for some reason contains confidential marketing plans, then that section of the letter could still be withheld or redacted under the UIPA. **OIP therefore respectfully recommends the deletion of subsection 245-___(d).**

Thank you for considering OIP's testimony.

SB-1525

Submitted on: 2/7/2025 6:41:03 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

Please support this important bill. Mahalo.

SB-1525

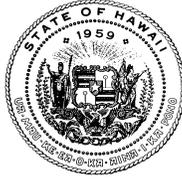
Submitted on: 2/9/2025 1:29:48 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

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

Comments:

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



**Testimony in OPPOSITION to S.B. 1525
RELATING TO HEALTH**

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

Hearing Date: February 12, 2025

Room Number: Conference Room 229

1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of Taxation
2 (DOTAX) regarding any fiscal implications of maintaining a manufacturer and product directory
3 for electronic smoking devices (ESDs) and e-liquids containing nicotine.

4 **Department Position:** The DOH respectfully opposes Senate Bill 1525 (S.B. 1525) and defers to
5 the DOTAX regarding the administrative and enforcement requirements of this measure.

6 **Department Testimony:** S.B. 1525 proposes to require manufacturers of ESD and e-liquid
7 products containing nicotine to submit proof to the DOTAX that they received marketing
8 granted orders (MGO) or have successfully submitted a premarket tobacco product application
9 (PMTA) to the U.S. Food and Drug Administration (FDA) in order to sell their products for retail
10 sale or to consumers in Hawaii.

11 The DOH is concerned about the public health harm that would result from the
12 permissive framework in S.B. 1525 which would allow thousands of ESDs and e-liquid products
13 that do not have official authorization by the FDA to be sold in the State. Currently, the FDA
14 publishes and updates [a list of products](#) with a statement that reads, "As of Jan. 2025, these are

1 the only e-cigarette products authorized to be sold in the U.S.”¹ There are currently only 34
2 products on this list.² Therefore, no other e-cigarette products are authorized for sale and
3 S.B. 1525, by lowering regulatory standards in Hawaii, would be in direct conflict with the FDA.

4 The Public Health Law Center in their review of e-cigarette registry bills across states
5 and municipalities advises exercising caution. Measures that seek to require government
6 agencies to maintain and enforce directories or registries of e-cigarette product manufacturers
7 are often backed by the tobacco industry and may divert resources away from prioritized public
8 health and enforcement mechanisms. Moreover, these registries do not protect youth from
9 accessing flavored e-cigarettes.³

10 The DOH respectfully opposes S.B. 1525 and recommends that the legislature continues
11 to consider evidence-based public health measures such as prohibiting access to flavored ESDs
12 and other tobacco products to protect the next generation from lifelong tobacco use.

13 **Offered Amendments:** None

14 Thank you for the opportunity to testify on this measure.

¹ U.S. Food and Drug Administration. (n.d.). *Searchable Tobacco Products Database*. Retrieved February 9, 2025, from <https://www.accessdata.fda.gov/scripts/searchtobacco/>

² U.S. Food and Drug Administration. (n.d.). *Searchable Tobacco Products Database*. Retrieved February 9, 2025, from <https://www.accessdata.fda.gov/scripts/searchtobacco/>

³ Public Health Law Center. (2024, February 1). *2/1/24—State E-Cigarette Registry Bills and What to Make of Them*. <https://www.publichealthlawcenter.org/commentary/240201/2/1/24-state-e-cigarette-registry-bills-and-what-make-them>



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo



Testimony Presented Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 12, 2025 at 9:32 a.m.

By

Pallav Pokhrel, PhD, Co-Leader
Population Sciences in the Pacific Program, and
Naoto T. Ueno MD, PhD, Director
University of Hawai'i Cancer Center

And

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

SB 1525 – RELATING TO HEALTH

Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

The University of Hawai'i Cancer Center strongly supports SB 1525, which 1) requires electronic smoking device and e-liquid manufacturers to submit certifications with the Department of Taxation annually, stating that the manufacturer's products comply with federal regulations; 2) requires the Department of Taxation to maintain a directory of manufacturers of electronic smoking devices and e-liquids whose certifications the Department approved; and 3) imposes penalties.

We support this bill because of findings from our research on Hawai'i adolescents and young adults conducted over the last several years. Our research shows that use of electronic nicotine devices (ENDs) is quite prevalent among Hawai'i adolescents and young adults and increased retail availability and point-of-sale marketing of these products are associated with increased use of the products among young people. There are concerns regarding mislabeled products being made available to young people. Further, there are concerns that young people are increasingly using disposable flavored ENDs products produced by dubious manufacturers.

SB 1525 is important because requiring ENDs and e-liquid manufacturers to submit certifications with the Department of Taxation and having the Department of Taxation maintain a directory of manufacturers would help better surveil ENDs and related products as well as ensure that only products that comply with federal regulations are made available to the general public. This bill may especially help monitor the type of ENDs products that young people may access in the market. Hence, we strongly support SB 1525 and ask you to pass this out of committee.



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



February 10, 2025

Honorable Chair Senator Jarrett Keohokalole
Honorable Vice-Chair Senator Carol Fukunaga
Members of the Senate Commerce and Consumer Protection

RE: **Strong Opposition to SB1525**

Dear Chair Yamashita, Vice Chair Kitagawa, and members of Finance Committee,

This measure is extremely critical to the health of the children of our state and our entire state as well. **Please strongly OPPOSE and vote AGAINST SB1525**, which will would allow the continued sale of flavored nicotine products and mislabeled e-liquid products, which are harming our youth, community and state.

I am Executive Director of the Hawaii COPD Coalition and serve over 45,000 Hawaii adults diagnosed with COPD in Hawaii (with an estimated equal number still undiagnosed). Chronic Obstructive Pulmonary Disease or COPD is an umbrella of diseases which include emphysema, chronic bronchitis and chronic asthma. Since 2007, I have worked in Hawaii, nationally and internationally with countless people who have had their lungs and lives horribly affected by tobacco and nicotine. Many of these people have become disabled and unable to perform jobs and hobbies they enjoyed, spending a lot more time and resources with healthcare providers and requiring support from society than they or any of us would like.

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

Flavors in tobacco products entice youth, while the nicotine keeps them **hooked for life**. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). ***Our organization is daily working to help those whose lungs have been ruined by exposure to smoke and we are trying to reduce our numbers, NOT increase them.***

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

- Menthol is just as, if not more harmful than, any other flavored tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit.
- We aim to protect our keiki and reduce the burden of tobacco in our communities, and we must include menthol.
- Ending the sale of flavored tobacco will advance health equity - disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color.
- ***In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).***
- Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.

It is well-established that nicotine is a HIGHLY addictive drug and impacts the developing brain. Pediatricians have reported the brain continues to develop and grow until the young adult is 26 years old! Studies have shown that using e-smoking devices result multiple harms to the lungs, as detailed on the John Hopkins website, [What Does Vaping Do to Your Lungs? | Johns Hopkins Medicine](http://www.hopkinsmedicine.org/health/wellness-and-prevention/what-does-vaping-do-to-your-lungs) at www.hopkinsmedicine.org/health/wellness-and-prevention/what-does-vaping-do-to-your-lungs.

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

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

Please help protect the lungs and lives of our children from these very harmful products that are spreading virally in our communities and schools, from elementary through high school and beyond. **We urge you to STRONGLY OPPOSE SB1525, Relating to Health and vote AGAINST it as it harms our keiki, community and state.** 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



LATE

SB1525 Relating to Health

COMMITTEE ON COMMERCE & CONSUMER PROTECTION
Sen. Karrett Keohokalole, Chair
Sen. Carol Fukunaga, Vice Chair
Wednesday, Feb 12, 2025: 9:32A: CR 229 & Videoconference

Hina Mauka OPPOSES SB1525.

*ALOHA CHAIR, VICE CHAIR, AND DISTINGUISHED COMMITTEE MEMBERS.
My name is Brian Baker. I am the Chief Operating Officer for Hina Mauka, a mental health and substance use disorder treatment and prevention agency for thousands of adults and adolescents on Oahu and Kauai, including recovery-oriented services and housing transitional living programs.*

Flavored tobacco products are an enticement for youth to begin using and become lifelong users.

Hina Mauka provides this testimony as a Prevention and Treatment agency, member of the Hawaii Substance Abuse Coalition (HSAC), and as a member of the Tobacco Coalition.

- **ESD registry bills are favorable to the tobacco industry and serve only to allow tobacco industry ESD products to dominate the market.**
- **SB1525 allows ESD products to be sold that are still “under review” by the FDA.**
- **Flavored tobacco products are causing the youth vaping epidemic and also prolonging adult dependence on menthol cigarettes; a better solution is SB972 or SB1435.**
- **A registry of FDA authorized ESD products has been available for years, creating one the state has to manage is a waste of resources**

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



HIPHI Board

May Okihiro, MD, MS
Chair

*John A. Burns School of Medicine,
Department of Pediatrics*

Titimaea Ta'ase, JD
Secretary

State of Hawai'i, Deputy Public Defender

Carissa Holley, MEd
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Debbie Erskine

ARCH-MEPS Consulting LLC, Owner

Camonia Graham - Tutt, PhD
University of Hawai'i - West O'ahu

Jennifer José Lo, MD
Hawai'i Health Partners

Misty Pacheco, DrPH
University of Hawai'i at Hilo

Justin Puckett, CPA, MBA
Humana

Kathleen Roche, MS, RN, CENP
Kaiser Permanente

Dina Shek, JD
Medical-Legal Partnership
For Children in Hawai'i

Garret Sugai
HMSA

JoAnn Tsark, MPH
John A. Burns School of Medicine, Native
Hawaiian Research Office

HIPHI Initiatives

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 Network

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 10, 2025

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

RE: Opposition to SB 1525, Relating to Health

Hrg: Wednesday, February 12, 2025 at 9:32 PM, Room 229

The Coalition for a Tobacco-Free Hawai'i, a program of Hawai'i Public Health Institute,¹ is in **opposition to SB 1525**, which would require the manufacturers of electronic smoking devices (ESDs) and e-liquid to submit certifications with the Department of Taxation annually, stating that the manufacturer's products comply with federal regulations. The intent of this bill is duplicative and does not address the root cause of Hawai'i's youth vaping epidemic.

An FDA-authorized e-cigarette directory already exists.

Hawai'i does not need to create a new directory, as a federal list already exists. Currently, only 34 ESD and e-liquid products are authorized to be marketed and sold in the United States (see attachment). Since 2020, the Food and Drug Administration (FDA) has been reviewing applications from manufacturers of ESDs and e-liquids. The FDA recognizes that all tobacco products are harmful, and admits that FDA authorization does not equate to product safety. The FDA considers the potential benefits to adult smokers who switch to ESDs, while also considering the risks to youth. Through this delicate balance, the FDA has granted marketing orders authorizing only 34 ESDs and e-liquid products. This list is easily found on the FDA's [website](#).

E-cigarette retailer permitting exists.

Hawai'i already has a system for permitting tobacco retailers. In 2023, Hawai'i passed Act 62, which includes ESDs and e-liquids in the Cigarette Tax and Tobacco Tax Law, found in Chapter 245 of the Hawai'i Revised Statutes. Thus, ESD retailers must obtain a tobacco retailer's license in order to sell tobacco products in the state. This law went into effect on January 1, 2024.

The systems that dictate which products are legally allowed to be sold and who can sell those products already exist. A much better solution to our youth vaping epidemic is SB 972, which would end the sale of flavored tobacco products in Hawai'i.



Flavored products are driving youth use.

Flavors in tobacco products entice youth, and nicotine keeps them addicted. In 2024, 8 in 10 youth who use e-cigarettes reported using a flavored product. Of youth e-cigarette users, 87.6% use flavored products, and fruit, candy, and *mint* are reported as the most popular flavors.² Most of the flavored e-cigarette products used by youth contain extremely high levels of nicotine. One 5% strength nicotine e-cigarette marketed as containing 5,000 puffs contains as much nicotine as 30 packs of cigarettes.³ Additionally, the tobacco industry continues to develop, market, and promote new flavored products like nicotine pouches that are growing in popularity among youth. Ending the sale of **all** flavored tobacco products will reduce their appeal and protect our children from a lifetime of addiction.

Hawai'i voters want regulations.

In a December 2024 poll⁴ of registered Hawai'i voters conducted by Ward Research on behalf of the Coalition, 74% support a law prohibiting all flavors, including menthol, of tobacco products, and e-cigarettes. In addition, 73% of respondents said that school-aged children vaping or using e-cigarettes is a major problem and 71% believe that the use of e-cigarettes or vaping devices is harmful for Hawai'i's children, teens and families.

Thank you for the opportunity to submit testimony in **opposition to SB 1525**. This bill is duplicative of systems that already exist. We ask that you consider hearing SB 972, a bill to end the sale of flavored tobacco products in Hawai'i. SB 972 sends a clear message to the public that our state is committed to uplifting the health and well-being of its residents and showing that community health is more important than tobacco products.

Mahalo,

A handwritten signature in black ink that reads 'Kevin Ramirez'.

Kevin Ramirez
Coalition for a Tobacco-Free Hawai'i Program Manager
Hawai'i Public Health Institute

¹ 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.

² Products, C. for T. (n.d.). *Results from the annual National Youth Tobacco Survey (NYTS)*. U.S. Food and Drug Administration.
<https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey>

³ Stanford University Tobacco Prevention Toolkit. (n.d.). *Factsheets*.
<https://med.stanford.edu/tobaccopreventiontoolkit/take-and-teach/toolkit-factsheets.html>

⁴ This study by Ward Research, Inc. summarizes findings from a phone survey among n=700 Hawai'i registered voters (maximum sampling error +/- 3.7%), conducted between October 25 to November 22, 2024.

E-Cigarettes Authorized by the FDA

As of Jan. 2025, these are the only e-cigarettes authorized to be sold in the U.S.



Manufacturer	Product Name	
Logic Technology Development LLC	Logic Regular Cartridge/Capsule Package	Logic Pro Capsule Tank System (1)
	Logic Vapeleaf Cartridge/Capsule Package	Logic Pro Capsule Tank System (2)
	Logic Vapeleaf Tobacco Vapor System	Logic Power Tobacco e-Liquid Package
	Logic Pro Tobacco e-Liquid Package	Logic Power Rechargeable Kit
NJOY LLC	NJOY DAILY Rich Tobacco 4.5%	NJOY ACE POD Classic Tobacco 2.4%
	NJOY DAILY EXTRA Rich Tobacco 6%	NJOY ACE POD Classic Tobacco 5%
	NJOY DAILY EXTRA Menthol 6%	NJOY ACE POD Rich Tobacco 5%
	NJOY DAILY Menthol 4.5%	NJOY ACE POD Menthol 2.4%
	NJOY ACE Device	NJOY ACE POD Menthol 5%
R.J. Reynolds Vapor Company	Vuse Vibe Power Unit (1)	Vuse Replacement Cartridge Original 4.8% G2
	Vuse Vibe Tank Original 3.0%	Vuse Alto Power Unit
	Vuse Vibe Power Unit (2)	Vuse Alto Pod Golden Tobacco 5%
	Vuse Ciro Power Unit (1)	Vuse Alto Pod Rich Tobacco 5%
	Vuse Ciro Cartridge Original 1.5%	Vuse Alto Pod Golden Tobacco 2.4%
	Vuse Ciro Power Unit (2)	Vuse Alto Pod Rich Tobacco 2.4%
	Vuse Solo Power Unit	Vuse Alto Pod Golden Tobacco 1.8%
	Vuse Replacement Cartridge Original 4.8% G1	Vuse Alto Pod Rich Tobacco 1.8%

For the most up-to-date list of authorized e-cigarettes, visit the [Searchable Tobacco Products Database](#).

While these products are authorized to be sold in the U.S., it does not mean these products are safe nor are they "FDA approved." All tobacco products are harmful and potentially addictive. Those who do not use tobacco products shouldn't start.



LATE

SB-1525

Submitted on: 2/10/2025 4:16:08 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Young Park	Testifying for Wawa Village Market	Support	Written Testimony Only

Comments:

Honorable committee members,

I strongly support SB1525 because it prioritizes the health and well-being of Hawaii's youth by creating an e-vapor directory to prevent underage access to harmful tobacco products. By requiring manufacturers to register and certify their products, the state gains a crucial tool for identifying and restricting illicit or unapproved items. This measure directly contributes to reducing youth exposure to unregulated e-cigarettes and flavored products that are often targeted at minors.

Furthermore, a statewide e-vapor directory provides retailers with a clear guide to legal products, reducing the likelihood of underage sales. This measure strengthens enforcement and accountability while ensuring that only products meeting strict safety and quality standards are available. Implementing this system is a proactive step in preventing youth nicotine addiction and promoting responsible retail practices.

Young "Patrick" Park

LATE

SB-1525

Submitted on: 2/10/2025 4:48:17 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Ra Long	Testifying for R&K Liquor	Support	Written Testimony Only

Comments:

Hello Members of the Council,

My name is Ra Long, the owner of R & K Grocery & Liquor store in Honolulu, Hawaii. I ask for your support of S.B. 1525, a product directory in Hawaii.

This bill would create a product directory that would make it possible for Hawaii retailers and wholesalers to know exactly which vapor products are compliant to sell and which are not. Currently, the lack of a comprehensive directory creates confusion and uncertainty among businesses, hindering their ability to comply with the law. By having a centralized resource that lists the e-vapor products that can be lawfully sold, retailers and wholesalers can operate with confidence, knowing they are adhering to all regulations.

Product directories are not new concepts. Cigarette directories exist in almost all 50 states. They have for decades. An e-vapor directory should be modeled off this framework. We should require manufacturers to register with Hawaii and certify the products they are selling in our state comply with federal regulation.

This legislation supports a robust, legal, and fair market for e-vapor products in Hawaii that levels the playing field for retailers, while also strengthening underage prevention and protecting adult consumer product choices. A directory also supports better compliance with state tax laws by ensuring that only legal products are sold. Illicit, illegally imported products are more likely to evade state taxation.

Selling illicit e-vapor products not only undermines the efforts of responsible businesses, like mine, but also creates unfair market conditions. Those who choose to follow the law and sell FDA-compliant products should not be at a disadvantage due to the presence of unauthorized products in the marketplace. Establishing an e-vapor directory will help level the playing field, ensuring that all businesses operate under the same set of rules and regulations.

Furthermore, data from the 2024 National Youth Tobacco Survey consistently shows that youth are much less likely to use FDA-compliant e-vapor products. By implementing an e-vapor directory, we can effectively weed out unauthorized products from the marketplace, making it more difficult for minors to access these potentially harmful substances. This aligns with the ongoing efforts of the FDA, which has been actively issuing warning letters and imposing civil

penalties on retailers for noncompliance. The establishment of an e-vapor directory will complement these efforts and further support underage prevention initiatives.

Other states, like Louisiana and Alabama, have successfully implemented product directories for e-vapor, while still protecting consumer choices. In the case of Louisiana's directory, there are over 300 vapor products listed. Both registries in Alabama and Louisiana list products manufactured by companies both big and small. In addition, there are pod-based, disposable, and open systems on these directories.

In conclusion, this bill would establish a vapor directory for the state of Hawaii and would provide a clear list to all retailers and wholesalers, of products which are legal to sell.

Please support S.B. 1525 and I thank you for your time.

Ra Long

Honolulu Small Business Owner

LATE

SB-1525

Submitted on: 2/10/2025 5:07:24 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Landon Yamamoto	Testifying for Bionic Petroleum	Support	Written Testimony Only

Comments:

Distinguished members of the committee,

I fully support SB1525 as a vital measure to address the growing concern of youth nicotine addiction. While some claim that flavor bans drive youth toward cigarettes, the real issue lies in the accessibility of unregulated products.

By implementing an e-vapor directory, Hawaii can effectively monitor and restrict illegal sales, ensuring that underage individuals do not have easy access to harmful substances.

Moreover, a directory-based approach allows the state to focus enforcement efforts on bad actors who disregard age restrictions and safety regulations. Instead of an unchecked market where youth can easily obtain flavored tobacco products, a structured directory system strengthens oversight and makes it more difficult for minors to acquire these items. SB1525 is a commonsense solution that prioritizes public health while maintaining a responsible marketplace.

Landon Yamamoto

Bionic Petroleum



LATE

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

Hearing Date: Wednesday, February 12, 2025

ACS CAN OPPOSES SB 1525: "RELATING TO HEALTH."

Cynthia Au, Government Relations Director – Hawai'i Guam
American Cancer Society Cancer Action Network

Thank you for the opportunity to OPPOSE SB 1525: "RELATING TO HEALTH" which requires electronic smoking device and e-liquid manufacturers to certify with the Department of Taxation that the manufacturer's products comply with federal regulations. Requires the Department of Taxation to maintain a directory of manufacturers of electronic smoking devices and e-liquids whose certifications the Department approved. Imposes penalties.

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

We appreciate the legislatures desire to address youth e-cigarette use, but this bill is not designed to do that. Directory bills like this are being proposed by Big Tobacco companies as a way to increase their market share while distracting lawmakers away from enacting policies proven to reduce tobacco use and not the public health solution.

The establishment of a state directory of electronic smoking devices and e-liquids would create a duplicative process and be a waste of state resources that would have greater impact if spent on proven tobacco prevention programs and cessation services. The Family Smoking Prevention and Tobacco Control Act gives the U.S. Food and Drug Administration (FDA) unprecedented authority and resources to regulate tobacco products. One of the most powerful tools available

to the FDA is the ability to evaluate whether a new tobacco product can be introduced to the market. The FDA already provides a list of e-cigarette products authorized for sale on its website.

We urge you to oppose SB 1525 and instead support proven tobacco control policies such as increasing the cigarette tax by \$1 per pack with a parallel increase on all other tobacco products, ending the sale of menthol cigarettes and all other flavored tobacco products including e-cigarettes and increasing funding for tobacco control programs that provide public health benefits for our youth. Should you have any questions, please do not hesitate to contact Government Relations Director Cynthia Au at Cynthia.Au@Cancer.org or 808.460.6109.



LATE

**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
FEBRUARY 12, 2025
SB 1525 RELATING TO HEALTH.**

Aloha, 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, RMH is a statewide, not for profit trade organization committed to 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, local, national, and international retailers, chains, and everyone in between.

We Strongly Oppose SB 1525. This measure requires electronic smoking device and e-liquid manufacturers to submit certifications with the Department of Taxation annually, stating that the manufacturer's products comply with federal regulations; requires the Department of Taxation to maintain a directory of manufacturers of electronic smoking devices and e-liquids whose certifications the Department approved; and imposes penalties.

It is our understanding that the majority of electronic smoking device or E-Liquid manufacturers are located outside of the state of Hawaii. Thus the vast majority of electronic smoking devices and e-liquids sold in Hawaii are produced by mainland and international manufacturers. This bill places an unrealistic administrative burden on out-of-state manufacturers, many of whom may choose not to comply, resulting in fewer legal options for Hawaii retailers and consumers.

Because manufacturers are not based in Hawaii, local retailers will ultimately bear the responsibility of ensuring compliance. If manufacturers do not submit the required certifications, their products could be prohibited from sale, hurting local businesses and pushing consumers toward unregulated markets.

Federal agencies, such as the Food and Drug Administration (FDA), already regulate electronic smoking devices and e-liquids under strict federal guidelines. Vape manufacturers cannot market their products without the Federal Drug Administration's authorization. Requiring a separate state-level certification adds bureaucratic red tape without providing any real public benefit.

Many manufacturers may opt out of the Hawaii market rather than go through an additional state-level certification process. This could lead to a limited selection of products, forcing consumers to pay higher prices or turn to the illegal and unregulated market, which poses greater risks. This will not abolish vaping in Hawaii. The black market would benefit from higher sales and Hawaii would see a decrease in tax collection.

This bill does nothing to enhance public health or safety. Instead, it creates unnecessary regulatory burdens, threatens local businesses, and limits consumer access to legal products. Rather than imposing duplicative state requirements, Hawaii should align with existing federal regulations and focus on enforcement against illicit products rather than penalizing compliant businesses.

Mahalo for this opportunity to testify.

SB-1525

Submitted on: 2/11/2025 9:35:26 AM
Testimony for CPN on 2/12/2025 9:32:00 AM



Submitted By	Organization	Testifier Position	Testify
Hee Nam Hwang	Testifying for No. 1 Store	Support	Written Testimony Only

Comments:

Good morning/afternoon, chairman/chairwoman and members of the Committee.

My name is Hee Nam Hwang, and I am here today on behalf of No. 1 to ask for your support of S.B. 1525, a product directory in Hawai‘i. I am a small business owner in Honolulu run by my family, we run a legitimate and responsible business.

This bill would create a product directory that would help me, a tobacco retailer, rein in the illegal vapor products currently flooding the market. Currently, the market lacks any transparency, and it can be close to impossible to distinguish between legal and illegal products.

According to the Associated Press, China-based manufacturers operating under license by the China National Tobacco Company are responsible for brands such as Geek Bar, Elf Bar, Breeze, Mr. Fog, and many more. These brands are, according to the FDA and CDC’s National Youth Tobacco Survey (NYTS), the most popular with our kids. These products are not just popular with youths: the CDC estimates that over 50% of the e-vapor market in the U.S. is made up of flavored disposables.

The FDA’s limited enforcement of the e-vapor market has allowed these illegal products to spread, and has created confusion among wholesalers, retailers, and consumers. Over the past year, many retailers across the U.S. – both online and brick-and-mortar – have received either FDA warning letters or fines exceeding \$20,000.

If S.B. 1525 is implemented and a product directory is established for Hawai‘i, a public list of compliant products will be available to businesses, like mine, and retail store operators will have confidence knowing they are selling legally compliant products. By only selling products on the state directory, retailers mitigate any risks of federal enforcement and fines.

In conclusion, this bill would establish a vapor directory for the state of Hawai‘i and would provide a clear list of products which are legal to sell. This legislation is supported by distributors and convenience stores throughout the state as well as responsible vapor manufacturers who want to ensure products are regulated and legal.

A state e-vapor directory will provide clarity to all retailers and wholesalers that many of the illicit products being shipped into our country are, in fact, illegal. This bill would protect our retailers, distributors, citizens, and most importantly our youth.

Please support S.B. 1525 and I thank you for giving me the opportunity to submit testimony.

Thank you,

Hee Nam Hwang



SB-1525

Submitted on: 2/11/2025 11:38:42 AM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Ken Yonemitsu	Testifying for Ala Wai Service	Oppose	Written Testimony Only

Comments:

Respected Committee Members,

On behalf of Ala Wai Service, a locally owned and operated business, we are in support of SB1525 as a crucial step in increasing state oversight of the e-vapor market. Without proper regulation, illicit and unsafe products can easily infiltrate Hawaii’s marketplace, endangering consumers—especially our youth. Establishing an e-vapor directory will create clear guidelines for manufacturers and retailers, ensuring that only legally compliant and safe products are available for sale. This measure will protect public health while supporting law-abiding businesses like ours.

Some may argue that banning flavored products could push youth toward cigarettes, but research indicates that without regulatory oversight, the black market will thrive, making it even easier for minors to access dangerous products. A state-controlled directory allows for targeted enforcement, reducing illegal sales while preserving access to safer alternatives for responsible adults. By enacting SB1525, Hawaii can set the standard for responsible tobacco regulation and consumer protection.

Thank you for your time and consideration.

Ala Wai Service

Locally Owned & Operated

LATE

SB-1525

Submitted on: 2/10/2025 9:58:59 AM

Testimony for CPN on 2/12/2025 9:32:00 AM

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

Comments:

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

I am in strong opposition to SB 1525 for the following reasons:

- ESD registry bills are favorable to the tobacco industry and serve only to allow tobacco industry ESD products to dominate the market.
- SB1525 allows ESD products to be sold that are still “under review” by the FDA.
- Flavored tobacco products are causing the youth vaping epidemic and also prolonging adult dependence on menthol cigarettes; a better solution is SB972 or SB1435.
- A [registry of FDA authorized ESD products](#) has been available for years; creating one the state has to manage is a waste of resources

Mahalo for your time and attention to oppose SB1525.

Shelly Ogata, RN, MPH

LATE

Date: February 10, 2025

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

Re: **Support for SB1525**, Relating to Health

Hrg: Wednesday February 12, 2025 at 9:32 AM Conference Room 229 & Videoconference

Aloha Senate Committee on Commerce and Consumer Protection,

As a parent, community member and healthcare professional I am writing in **strong opposition to SB1525**, which requires electronic smoking device and e-liquid manufacturers to submit certifications with the Department of Taxation annually, stating that the manufacturer's products comply with federal regulations; requires the Department of Taxation to maintain a directory of manufacturers of electronic smoking devices and e-liquids whose certifications the Department approved; and, imposes penalties.

SB1525 is the tobacco industry's veiled attempt to protect sales of their flavored electronic smoking device (ESD) products.

SB1525 allows any ESD product to be sold for which an application has been submitted to FDA *before a determination is made* on whether the product receives, or fails to receive, FDA authorization for sale.

Flavored tobacco products are the cause of, and continue to fuel, the youth vaping epidemic in Hawai'i. Additionally, flavored products prolong adult dependence on menthol cigarettes; a significantly better solution is **SB972** or **SB1435**.

A registry of FDA authorized ESD products is available and has been for years. Creating another that the state has to manage is redundant and wastes limited resources.

I **strongly oppose SB1525**, respectfully ask you to reject this bill.

Many thanks for your consideration,

Forrest Batz, PharmD
Keaau, HI

LATE

**Testimony in Opposition to SB 1525
Relating to
February 12, 2025**

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

My name is Julian Lipsher, a member of the Hawaii Public Health Institute's Coalition for a Tobacco Free Hawaii and formerly with the Hawaii State Department of Health's Tobacco Prevention and Control Program, testifying as an individual in opposition to SB 1525.

SB 1525 Requires electronic smoking device and e-liquid manufacturers to submit certifications with the Department of Taxation annually, stating that the manufacturer's products comply with federal regulations. Requires the Department of Taxation to maintain a directory of manufacturers of electronic smoking devices and e-liquids whose certifications the Department approved. Imposes penalties.

This bill would duplicate what the Department of Taxation already does and what the Federal Food and Drug Administration already has in place. It is unclear what the passage of this measure would accomplish to the systems currently operational.

SB 1525 would not provide realistic protections, particularly to youth, from tobacco industry efforts to promote products that entice youth to begin a harmful, addictive and potentially deadly habit.

SB 1525 does not offer any proven strategies that could reduce the impact of tobacco industry products or provide any public health benefits to Hawaii's youth.

I encourage the committee to oppose this measure.

Thank you for the opportunity to testify.

Julian Lipsher, MPH

LATE

SB-1525

Submitted on: 2/10/2025 5:11:13 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Jake J. Watkins	Individual	Oppose	Written Testimony Only

Comments:

Over-regulation.

LATE

SB-1525

Submitted on: 2/10/2025 5:22:44 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Linda Weiner	Individual	Oppose	Written Testimony Only

Comments:

I am writing to strongly oppose SB1525 regarding State E-cigarette Registries. This bill is being pushed by tobacco companies to:

- Permit continued sale in Hawaii of all tobacco products, including flavored ones, that have been approved or are "under review" by the FDA
- Remove competition from unauthorized tobacco products in order to gain a greater market share.
- Create a registry of FDA authorized tobacco products that has been available for years, thereby creating unnecessary time and effort to create a new one.

The real problem is that flavored tobacco products continue to addict youth and prolong adult dependence with their very high nicotine concentrations. Please do not carry out the Big Tobacco agenda by creating this unnecessary and counterproductive proposal.

Sincerely,

Linda Weiner, MD

Kauai

LATE

SB-1525

Submitted on: 2/10/2025 10:56:42 PM
Testimony for CPN on 2/12/2025 9:32:00 AM

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

Comments:

Aloha,

As a parent, pediatrician, and medical director of the Kapi’olani Smokefree Families Program, I urge you to carefully review the possible unintended impacts of SB1525, which implements a registry for electronic smoking devices (ESD’s). Of note, ESD registry bills are supported by the tobacco industry, especially since they can introduce products under an infinite number of new names and continue to sell them since they are “under review” by the FDA.

The American Academy of Pediatrics has strongly supported elimination of flavored tobacco products, including menthol. These products have been shown to be disproportionately used by young people, especially teenagers, as the menthol and other flavors make it easier to start using tobacco and nicotine. Other bills that completely eliminate flavored tobacco products are the appropriate and best action to keep youth safe.

Please oppose this faulty and misleading bill. Instead, please support comprehensive ESD regulations, including complete flavor and menthol bans.

Mahalo for your consideration and opposition to this misleading bill.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

Medical Director, Kapi'olani Smokefree Families

LATE

SB-1525

Submitted on: 2/10/2025 11:29:24 AM

Testimony for CPN on 2/12/2025 9:32:00 AM

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

Comments:

I, Shani Carvalho oppose SB1525 as flavored tobacco products continue to be the cause of Hawaii's youth vaping epidemic and therefore a better solution would be SB972 or SB1435 that would ultimately save thousands of youth lives from the Big Tobacco and vaping companies.

LATE

February 12, 2025

Aloha Chair Keohokalole, Vice Chair Fukunaga and members of the Senate Committee on Commerce and Consumer Protection. I appreciate this opportunity to offer written testimony in **strong OPPOSITION of SB 1525 “Relating to Health.”**

SB 1525 is a tobacco industry-promoted bill aimed at perpetuating its ability to lure young people into tobacco addiction through its use of flavors added to its nicotine products. Flavors are also used to make it harder for already addicted adults from quitting. Similar bills have popped up in state legislatures nationwide as part of an orchestrated effort by the major tobacco companies to eliminate competition from upstart manufacturers, and to allow it to focus its financial influence over federal policymakers to continue allowing flavored tobacco products to remain on the market. In effect, it would cede our state’s control over this vital health issue to federal legislators and regulators where the industry has its strongest financial influence. This analysis by the Public Health Law Center helps to clarify the tobacco industry’s intention of this type of legislation ([2/1/24 - State E-Cigarette Registry Bills and What to Make of Them | Public Health Law Center](#)).

Tobacco use among kids is driven by youth-friendly e-cigarette flavors like mint, fruit, and candy. From 2017 to 2019, e-cigarette use more than doubled among high school students (from 11.7% to 27.5%) and tripled among middle school students (from 3.3% to 10.5%), according to the CDC’s 2019 National Youth Tobacco Survey. While those numbers decreased during the COVID pandemic and societal restrictions that limited youths’ opportunities to gather publicly, the numbers began to climb again when COVID restrictions were removed and youths again had easier access to tobacco/nicotine products. Numbers among Hawaii youths are even higher, especially on neighbor islands.

E-cigarettes are available in thousands of youth-appealing flavors, including fruit, candy, mint and menthol. The overwhelming majority of youth e-cigarette users report using flavored products. Tobacco companies target youth and adolescents with million-dollar marketing campaigns and thousands of appealing flavors that are specifically designed to attract and hook kids.

Mint and menthol flavored tobacco products are heavily marketed to kids, especially those from communities of color and the LGBTQ community with products specifically designed to entice them. A 2019 Stanford study found that JUUL’s initial advertising campaigns were “patently youth oriented.” Nearly two-thirds of high school students who use e-cigarettes use mint or menthol flavors. Menthol products, with their cooling and soothing effects, entice kids to use tobacco products. More than half of all youth and young adult smokers smoke menthol cigarettes.

Though e-cigarettes are the most commonly used tobacco product among middle and high school students, they are also using other flavored tobacco products such as cigars, cigarettes, hookahs, chewing tobacco, and most recently, as mentioned in this bill’s preamble, the newest

product being promoted by the tobacco industry--oral nicotine pouches that come in different flavors and strengths, many with levels of nicotine several times higher than a full pack of traditional cigarettes.

And even though e-cigarettes are often marketed as a less harmful alternative to traditional cigarettes, there's no evidence on the long-term health impact of their use. What is known is that nicotine can have adverse health effects on kids, such as causing addiction to dangerous tobacco products, harming their brain development, and increasing the risk of heart disease. Recent studies have found that e-cigarettes decrease blood flow in the heart even more than traditional cigarettes and can worsen heart disease risk factors such as high cholesterol. Tobacco industry (and its front groups) claims that alternative nicotine products are "safer" than traditional cigarettes is like comparing the relative safety of jumping off a 20 story building vs. jumping off a 50 story building. All tobacco and nicotine products offer varying levels of health risks all of which impact on our state's healthcare costs and the lives of our people and their families.

Current FDA tobacco flavor policy falls short of what is necessary to address youth tobacco use, state and local governments need to move forward to address loopholes. Under the FDA's guidance, thousands of e-cigarette flavors will remain on the market since the policy exempts menthol e-cigarettes and allows fruit, candy, and mint flavored liquid nicotine used in refillable open tank systems or in disposable e-cigarettes (like the popular brand Puff Bar), to stay on the market. In addition, other flavored tobacco products such as menthol cigarettes and flavored smokeless tobacco and cigars are still allowed to be sold.

I respectfully urge you to not be hoodwinked by this tobacco industry ruse and **OPPOSE SB 1523**.

Mahalo for this opportunity to testify,

Respectfully submitted,

Don Weisman
Kailua, HI

LATE

SB-1525

Submitted on: 2/11/2025 8:53:37 AM
Testimony for CPN on 2/12/2025 9:32:00 AM

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

Comments:

Aloha Chair, Vice Chair and Committee Members,

As a Tobacco Treatment Specialist here in the state of Hawaii for over 20 years I am opposed to Bill SB1525. There is still much that we do not know about what is considered approved and possibly still under review. Lets not rush forward and continue to support what might possibly be tobacco industry products ESD products which are dominating the market. Please reconsider bills that would minimize flavors and deter our youth and adults from starting, such as SB972 or SB1435.

There is to much at stake and thank you for your consideration

Valerie Smalley

LATE

SB-1525

Submitted on: 2/11/2025 12:22:00 PM

Testimony for CPN on 2/12/2025 9:32:00 AM

Submitted By	Organization	Testifier Position	Testify
Sabrina Spencer	Individual	Oppose	Written Testimony Only

Comments:

Flavors for adults need protection.

February 11, 2025

LATE

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

My name is **Malia Lehua Ball**, and I am a **Certified Tobacco Treatment Specialist with over 11 years of experience** helping individuals quit tobacco and vaping. I am writing in **strong opposition** to SB1525.

While this bill may appear to provide a solution for regulating e-cigarettes, it is, in reality, a **strategic move by the tobacco industry** to clear the market of unauthorized products so that their own flavored e-cigarettes can dominate. If passed, this bill would allow all **current and future flavored products authorized by the FDA** to be legally sold in Hawai'i, including menthol e-cigarettes and nicotine pouches like ZYN, which come in flavors that are highly attractive to youth.

Flavored tobacco is fueling youth addiction.

In my work throughout the Waianae community, I have seen firsthand how flavored vaping products are affecting our keiki. Recently, I visited **four elementary schools and one intermediate/high school** on the Waianae Coast. When I spoke with students about vaping, many of them admitted to trying it. They told me they like it because of the **taste and smell**. However, when I asked if they liked the smell of cigarettes, **every single one of them said no**. This highlights how flavors are intentionally used to hook a new generation on nicotine.

Adults are also being impacted by flavored products.

Every **Saturday at the Waianae Farmers' Market**, I speak with people who smoke or vape. Many who vape tell me they **prefer it over cigarettes** because it **doesn't smell bad** and they enjoy the **fun, fruity, and tasty flavors**. These conversations reinforce what we already know: **flavors are keeping people addicted.**

We need real solutions, not industry-backed policies.

Instead of SB1525, I urge the committee to support **HB756 HD1 or HB380 HD1**, which aim to **prohibit flavored tobacco products** rather than regulate them under a system that benefits the tobacco industry. The only true way to **end the youth vaping epidemic and reduce nicotine addiction** in our community is to **remove flavored products from the market altogether.**

I respectfully ask you to **oppose SB1525** and stand with our keiki, our community, and the future of a healthier Hawai'i.

Mahalo for your time and consideration.

Malia Lehua Ball, BA, CTTS, NCNTT, CHW
Cell# (808)230-5450 malialehua@gmail.com

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TOBACCO; Certifications to Department of Taxation

BILL NUMBER: SB 1525, HB 1289

INTRODUCED BY: SB by HASHIMOTO, HB by TAKAYAMA, AMATO, BELATTI, CHUN, EVSLIN, GARRETT, KILA, MARTEN, PERRUSO, POEPOE, TARNAS, TEMPLO

EXECUTIVE SUMMARY: Requires electronic smoking device and e-liquid manufacturers to submit certifications with the Department of Taxation annually, stating that the manufacturer's products comply with federal regulations. Requires the Department of Taxation to maintain a directory of manufacturers of electronic smoking devices and e-liquids whose certifications the Department approved. Imposes penalties.

SYNOPSIS: Adds a new section to Chapter 245, HRS, for electronic smoking devices and e-liquid manufacturer disclosures, fees and penalties.

New subparagraph (a) requires every manufacturer of an electronic smoking device or e-liquid containing nicotine, sold for retail sale or to a consumer, shall certify under penalty of perjury on a form that the manufacturer agrees to comply with this chapter.

The certification form shall contain information as required under subparagraph (b) and (c).

The certification must be completed annually and submitted with a \$250 payment.

New subparagraph (f), beginning October 1, 2025, the Department of Taxation, ("Department"), shall maintain and make publicly available on the Department's website a directory that lists all manufacturers of electronic smoking devices and e-liquids containing nicotine and all electronic smoking devices and e-liquids containing nicotine for which forms have been submitted and approved by the Department.

Electronic smoking devices and e-liquids containing nicotine not included in the directory can not be sold for retail sale in the State or to a consumer in the State.

New subparagraph (j) provides civil penalties for violations of this section by:

- 1) A retailer, dealer, distributor, wholesaler or importer who sells or offers for sale an electronic smoking device or e-liquid containing nicotine that is not included in the directory, and
- 2) A manufacturer whose electronic smoking devices or e-liquids containing nicotine are not listed in the directory and who causes the products not listed to be sold for retail sale in the State or to a consumer.

New subparagraph (n), each retailer, wholesaler, and dealer under this chapter shall be subject to at least two unannounced compliance checks annually for purposes of enforcing this section.

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The Department shall have the authority to enforce compliance and may adopt rules.

EFFECTIVE DATE: July 1, 2025.

STAFF COMMENTS: The new section in Chapter 245, HRS, Cigarette and Tobacco Tax; appears to be a comprehensive monitoring and compliance statute directed at electronic smoking devices and e-liquid manufacturers. We doubt that the Department of Taxation has the institutional expertise to monitor and enforce these requirements, and we suggest that another department might be more appropriate.

Digested: 2/11/2025