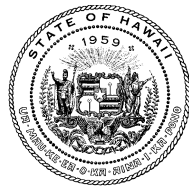


JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR OF TAXATION

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

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

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 537, Relating to Electronic Smoking Devices

BEFORE THE:

House Committee on Consumer Protection & Commerce

DATE: Thursday, February 2, 2023

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 329

Chair Nakashima, Vice-Chair Sayama, and Members of the Committee:

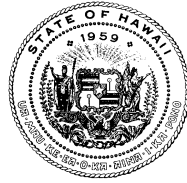
The Department of Taxation ("Department") offers the following comments regarding H.B. 537 for your consideration.

H.B. 537 adds a new chapter to the Hawaii Revised Statutes (HRS) providing for the taxation of electronic smoking devices to be administered by the Department. The new chapter includes provisions that: (1) establish a tax equal to 70 percent of the manufacturer's list price for electronic smoking devices and e-liquid products; and (2) requires electronic cigarette wholesalers to register with the electronic smoking device retailer and wholesaler registration unit. H.B. 537 is effective upon approval and shall apply to taxable years after December 31, 2023.

The Department appreciates the intent of the measure, but prefers the Administration bill, H.B. 1077, which amends the definition of "tobacco products" to include electronic smoking devices and e-liquids, thus taxing them at the same rate as other tobacco products under chapter 245, HRS.

Implementation of an initiative of this size will require resources and ample time to define the requirements, forms, and processes. Accordingly, the Department requests that the effective date of the measure be amended to January 1, 2025.

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



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

**Testimony COMMENTING on H.B. 537
RELATING TO ELECTRONIC SMOKING DEVICES**

REPRESENTATIVE MARK M. NAKASHIMA, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: February 2, 2023

Room Number: Conference Room 329
and Videoconference

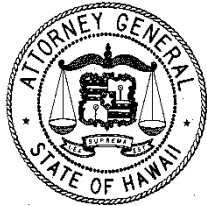
1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of Taxation
2 (DOTAX) and to the Office of the Attorney General (AG) on the fiscal implications for
3 implementing and enforcing the proposed measure.

4 **Department Testimony:** The DOH provides comments and appreciates the concept of House
5 Bill 537 (H.B. 537) as a public health approach to mitigate Hawaii's youth vaping epidemic by
6 taxing electronic smoking devices (ESD). H.B. 537 proposes to add a new chapter to the tax
7 code in the Hawaii Revised Statutes (HRS) to impose an excise tax equal to 70% of the
8 manufacturer's list price on wholesalers and dealers of ESD or e-liquid products, and requires
9 ESD wholesalers to register with the AG.

10 The DOH supports regulating and taxing ESDs and respectfully refers the Committee to
11 [H.B. 1077](#) for definitions, content, and structure that was developed and reviewed in coordination
12 across the Executive Branch, DOTAX, AG, and DOH. H.B. 1077 amends the existing tax code
13 in Chapter 245, HRS by including ESDs in the definition of tobacco products, and creates parity
14 regulating all tobacco products and repeals certain existing sections in the HRS to avoid conflict.

15 Thank you for the opportunity to testify.

16 **Offered Amendments:** Respectfully refers to [H.B. 1077](#) for definitions, content, and structure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

H.B. NO. 537, RELATING TO ELECTRONIC SMOKING DEVICES.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Thursday, February 2, 2023 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

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

Chair Nakashima and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments on the bill.

This bill seeks to address the health dangers caused by the rapidly growing use of electronic smoking devices and e-liquids in Hawaii, including among the youth. The bill establishes a tax equal to 70% of the manufacturer's list price for electronic smoking devices and e-liquid products; requires electronic cigarette wholesalers to register with the Electronic Smoking Device Retailing Registration Unit (ESDRRU) (to be renamed as the Electronic Smoking Device Retailer and Wholesaler Registration Unit); and expands the ESDRRU's duties to include enforcement of wholesaler registration violations.

While the Department wholeheartedly supports the intent of this bill, we believe that the bill's goal of subjecting electronic smoking devices to taxation and regulation will be most effectively achieved by amending chapter 245, HRS, and repealing part XII of chapter 28, HRS. The ESDRRU was established within the Department under part XII of chapter 28, HRS, and currently has 695 electronic smoking device retailers registered with this unit. Approximately 90% of those retailers concurrently hold a tobacco retail permit with the Department of Taxation. The Department of Taxation also licenses wholesalers and dealers of tobacco products. Just as imposing a tax on electronic smoking products could be integrated and administered by the Department of Taxation as part of the existing cigarette tax and tobacco tax law, the same integration could be

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

To combine the regulation of electronic smoking devices with the retail tobacco permitting process and the wholesale licensing process under the Department of Taxation, the Department recommends (1) amending chapter 245, HRS, by adding definitions of "electronic smoking devices" and "e-liquids," (2) amending the definition of tobacco products to the existing cigarette tax and tobacco tax code found in chapter 245, and (3) repealing part XII of chapter 28, HRS. By including "e-liquid" and "electronic smoking devices" within the definition of "tobacco products" as used in chapter 245, HRS, it would (1) subject e-liquids and electronic smoking devices to the excise tax on tobacco products; (2) require retailers of electronic smoking devices or e-liquids to obtain a retail tobacco permit to sell, possess, keep, acquire, distribute, or transport e-liquids or electronic smoking devices; (3) prohibit persons from engaging in the business of a wholesaler or dealer of e-liquids or electronic smoking devices without first obtaining a license from the Department of Taxation; and (4) apply other requirements of chapter 245, HRS, to electronic smoking devices and e-liquids. Section 3 of House Bill No. 1077 (on pages 9-11), adds new definitions for "electronic smoking devices" and "e-liquid" to section 245-1, HRS, and amends the definition of "tobacco products" in section 245-1, HRS. The Committee may wish to adopt those definitions to incorporate amendments proposed in section 1 of this bill into chapter 245, HRS.

If the Committee wishes not to amend chapter 245, HRS, and propose a new chapter, as in section 1 of the bill, the Department makes the following suggestions.

Section 231-7, Hawaii Revised Statutes (HRS), currently provides procedures for the Director of Taxation to conduct audits, investigations, and hearings, and issue

subpoenas, which may conflict with the proposed section -9, on page 8, line 15, through page 10, line 15, of the bill. For clarity and consistency, the Department recommends amending section -9 to track the current wording in section 231-7, HRS.

Alternatively, the Committee may wish to amend section -9 to read as follows:

§ -9 **Investigations; contempt; fees.** The director of taxation, and any representative of the director duly authorized by the director, has the authority to conduct any civil audit or criminal investigation, investigation, or hearing relating to the taxes in this section in the manner provided in section 231-7.

We respectfully ask the Committee to pass this bill with the suggested amendments. We are eager to work with the Committee on this matter.

Thank you for this opportunity to provide written comments.



Date: February 2, 2023

To: Rep. Mark Nakashima, Chair and Rep. Jackson Sayama, Vice Chair
Members of the House Committee on Consumer Protection and Commerce

From: Liza Ryan Gill, Campaign Manager, Campaign for Tobacco-Free Kids HI

Re: **Comments for HB537, Relating to Electronic Smoking Devices**

Hrg: February 2nd, 2023 at 2:00pm

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

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

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

¹ Campaign for Tobacco-Free Kids:

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

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

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

Reducing Tobacco Use: A Report of the Surgeon General, Atlanta, Georgia: HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2000, http://profiles.nlm.nih.gov/NN/B/B/L/Q/_/nnbblq.pdf.

While we strongly support taxation and regulation of electronic cigarettes, implementation of such policies is far smoother and enforceable if done through the already existing infrastructure for other tobacco products. By establishing the tax on e-cigarettes, lives will be saved, the economic burden as a result of tobacco use will be lessened, and revenue generated.

Mahalo,



Liza Ryan Gill, Campaign for Tobacco-Free Kids HI

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, New tax on electronic smoking devices

BILL NUMBER: HB 537, SB 1214

INTRODUCED BY: HB by MATAYOSHI, AMATO, COCHRAN, GARRETT, KAPELA, KILA, KITAGAWA, LOWEN, MARTEN, NAKASHIMA, NISHIMOTO, PERRUSO, SAYAMA, TARNAS, Chun, Ganaden; SB by SAN BUENAVENTURA

EXECUTIVE SUMMARY: Establishes a tax equal to 70% of the manufacturer's list price for electronic smoking devices and e-liquid products. Expands the electronic smoking device retailer registration unit to include wholesalers. Requires electronic cigarette wholesalers to register with the electronic smoking device retailer and wholesaler registration unit.

SYNOPSIS: Adds a new chapter to the HRS called the Electronic Smoking Devices Tax Law.

Imposes, for the privilege of conducting business and other activities in the State, an excise tax equal to 70% of the manufacturer's list price of each electronic smoking device or e-liquid product sold by the wholesaler or dealer on or after _____, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer. This tax is only paid once with respect to the same electronic smoking device or e-liquid product.

Requires a monthly return, due on the 20th of the following month. The administrative powers of the Department of Taxation with respect to auditing and assessing taxes are similar to those enumerated under the Income Tax Law and General Excise Tax Law.

Amends the name of Chapter 28, Part XII, and several sections thereunder to make the electronic smoking device registration unit under the Department of Attorney General applicable to wholesalers as well.

EFFECTIVE DATE: Taxable years beginning after December 31, 2023.

STAFF COMMENTS: The question that should be asked is the purpose of the new tax. If the goal is to make people stop vaping by making it cost-prohibitive to vape, then it shouldn't be expected to raise revenue, because if people stop vaping, there will be fewer or no people paying the tax. If the goal is really to stop the behavior, why are we not banning it?

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

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

Probably the best example is what people like to call sin taxes, those excise taxes that are levied on tobacco and alcohol products. After all, smoking causes cancer and alcohol

causes all sorts of problems including driving under the influence. Lawmakers and community advocates shake their heads and push for higher tax rates, arguing that making these products more expensive will deter folks from using these products.

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

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

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

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

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

Do we really need an elaborate study to tell ourselves that fiscal reliance on funds from a sin tax is inadvisable or outright dangerous? If the goal is to affect social behavior, use of the tax law is not the most effective way to do so.

The following technical error appears in the bill:

- Section 2 of the bill recites that it is amending Chapter 28, part XIII. It should read Chapter 28, part XII, Hawaii Revised Statutes.

Digested: 1/31/2023

Hawaii State Legislature
House Consumer Protection & Commerce Committee
Testimony: H.B. 537
Guy Bentley, Director of Consumer Freedom, Reason Foundation
February 2, 2023

Chair Nakashima, members of the committee, thank you for the opportunity to submit testimony on H.B. 537.

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

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

Since e-cigarettes do not involve combustion, they've been found to be substantially safer.² According to modeling conducted by David Levy and colleagues at Georgetown University Medical Center, replacement of cigarette use by e-cigarette use over ten years would yield 6.6 million fewer premature deaths with 86.7 million fewer life years lost nationwide.³

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

¹ Royal College of Physicians. "Promote e-cigarettes widely as substitute for smoking says new RCP report." 28 April 2016.

<https://www.rcplondon.ac.uk/news/promote-e-cigarettes-widely-substitute-smoking-says-new-rcp-report>

² Stephens WE. "Comparing the cancer potencies of emissions from vapourised nicotine products including e-cigarettes with those of tobacco smoke." Tobacco Control 2018;27:10-17.

<https://tobaccocontrol.bmj.com/content/27/1/10>

³ Levy DT, Borland R, Lindblom EN, et al. *Potential deaths averted in USA by replacing cigarettes with e-cigarettes*. Tobacco Control 2018;27:18-25. <https://tobaccocontrol.bmj.com/content/27/1/18>

⁴ Hajek, Peter et al. "A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy." N Engl J Med 2019; 380:629-637 <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

e-cigarettes are substantially more effective at helping people stop smoking compared to nicotine replacement therapies.⁵

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

Half to three-quarters of American smokers are from low-income communities, so any price increase will necessarily present a more significant barrier to poorer smokers looking to switch to vaping than those on higher incomes. Vapers who use the products to replace traditional cigarettes are highly sensitive to price changes. According to a working paper published by the National Bureau of Economic Research, the price elasticity for e-cigarettes is -1.3 , so for every 10 percent increase in the price of e-cigarettes, sales fall by 13 percent.⁶ By contrast, cigarettes are highly inelastic, ranging from -0.3 and -0.7 , so for every 10 percent increase in the price of cigarettes, sales decline between three and seven percent.

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

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

⁵ Cochrane Review. "Electronic cigarettes for smoking cessation." November 2022.
<https://www.cochrane.org/news/updated-cochrane-review-shows-electronic-cigarettes-can-help-people-quit-smoking>

⁶ Cotti, Chad D and Courtemanche, Charles J and Maclean, Johanna Catherine and Nesson, Erik T and Pesko, Michael F and Tefft, Nathan. "The Effects of E-Cigarette Taxes on E-Cigarette Prices and Tobacco Product Sales: Evidence from Retail Panel Data." National Bureau of Economic Research. August 2020.
<https://www.nber.org/papers/w26724>

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

Thank you again for the opportunity to comment on H.B. 537, and please do not hesitate to reach out if we can provide additional information or insights on this subject.

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



Feb. 2, 2023

Testimony supporting the **INTENT** of HB 537, “Relating to Electronic Smoking Devices”

Chairman of the Board
Jason Fujita

President
Zia Khan, MD

Board Members
Rick Bruno, MD, FACEP
Greg Christian
Jackie De Luz
Michael Lui, MD
Michael Rembis, FACHE
Andrew S. Rosen
Ben Salazar
David Underriner
Jennifer Walker

Mahalo for this opportunity to testify on HB 537 which would establish a tax on electronic smoking devices (ESDs).

While the American Heart Association supports this bill’s intent, we prefer the language offered in HB 833, which in addition to establishing a tax on ESDs that would create parity with taxes charged on traditional tobacco products in Hawaii, but would also establish a ESD retailer licensing requirements (also comparable to licenses required by traditional tobacco retailers) which would allow for more effective enforcement of the law. The language in HB 833 better aligns with the existing Dept. of Taxation tobacco tax structure, and it offers clear penalties and effective penalties for non-payment of taxes. HB 833 also provides the added benefit of making it unlawful to ship ESDs to anyone not possessing a tobacco license which would effectively reduce illegal sales to underage purchasers.

Serving Hawaii since 1948

Our Mission:
“To be a relentless force for a world of longer, healthier lives.”

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

Even though e-cigarettes are often marketed as a less harmful alternative to traditional cigarettes, there’s limited 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, increasing susceptibility to other addictions, 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.

For more information on the AHA’s educational or research programs, visit www.heart.org or contact your nearest AHA office.

Several new studies published in late 2022 added new concern to ESD use and increased risk for cardiovascular health.

One study found that using pod-based electronic cigarettes may lead to exposure to volatile organic compounds (VOCs, a broad group of gases found in many common items, such as cleaning products, paint, cigarettes, vehicle exhaust, pesticides and other substances) that may negatively affect cardiovascular health in a similar manner to smoking traditional cigarettes. The study found that:

- Pod-based e-cigarette users and combustible cigarette users had 8% higher blood pressure compared to non-users.

- Participants who used pod-based e-cigarettes and people who smoked traditional cigarettes also had increased heart rates compared to non-users of any tobacco product.
- Elevated levels of VOCs in users of e-cigarettes and combustible cigarettes were associated with changes in vascular health measures. These included decreased artery dilation, which is important for circulation and vascular health.

The findings demonstrated that pod-based e-cigarette use had long- and short-term effects on the vascular system in healthy young adults, including in those who have only smoked e-cigarettes and have never smoked combustible cigarettes. The results indicated that e-cigarettes release chemicals that are toxic to blood vessels, and the use of pod-based e-cigarettes may be associated with harm.

Another related study found that the cardiovascular effects of cigarettes and e-cigarettes are strikingly similar, and these harmful effects on blood vessel function are likely caused by airway irritation due to inhalation of a foreign substance, rather than a specific component of the cigarette smoke or e-cigarette vapor (aerosol). The analysis found that prolonged vaping and cigarette smoking both cause changes in the blood that affect endothelial function, although in differing ways.

- Endothelial cells submerged with blood serum from both the people who had regularly smoked and those who regularly vaped released less nitric oxide indicating that the endothelial cells were functionally impaired.
- Condensed e-cigarette aerosol did not directly reduce nitric oxide production, indicating that the substances in the blood that impaired nitric oxide production did not come directly from the aerosol and instead was produced by the body in response to the inhalation.
- The blood serum from the people who regularly vaped, although not from those who regularly smoked, increased endothelial cell permeability allowing for more substances to pass through the cells and making them behave more like those in leaky blood vessels, which can cause tissue edema.
- Blood serum from the participants who regularly vaped also caused endothelial cells to produce molecules that cause oxidative stress, which is the imbalance of free radicals and antioxidants in the body and may lead to cell and tissue damage.
- People who regularly used e-cigarettes and those who smoked combustible cigarettes exhibited changes in circulating biomarkers of inflammation, blood clotting factors and cell adhesion when compared to people who did not regularly smoke or vape.
- Certain inflammatory biomarkers were elevated in the blood serum of people who regularly smoked combustible cigarettes, although not among those who used e-cigarettes. However, other inflammatory biomarkers

were elevated in the blood serum of the people who regularly vaped although not in those who regularly smoked combustible cigarettes.

The findings suggest that vaping, although not smoking combustible cigarettes, causes changes in the blood that increase the potential for leakage in the blood vessels and that both smoking and vaping cause changes in the blood that lead to endothelial dysfunction and an increased risk of future cardiovascular events in otherwise healthy people.

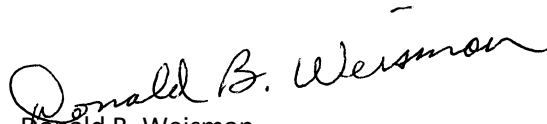
“It’s important for regulators, clinicians and the public to realize that vaping is not harmless,” said the lead researcher of the study Matthew L. Springer, Ph.D., a professor of medicine in the division of cardiology at the University of California, San Francisco. “Smoking and vaping can have similar harmful cardiovascular effects, but each condition causes some potentially harmful effects that the other does not. These differences indicate that dual product use, meaning smoking combustible cigarettes and also using e-cigarette products, may actually be worse for vascular health than either smoking or vaping alone.”

It clearly is time that ESDs be treated as harmful to the health of their users, especially underage users. E-cigarettes are now the most popularly used tobacco product among Hawaii’s youth. According to recent Department of Health data, over 40 percent of Hawaii’s youths have tried e-cigarettes, and 30 percent are now regular users. On neighbor islands, regular use of e-cigarettes by youths tops 30 percent.

Tobacco taxes are a proven way to reduce and prevent usage of dangerous and addictive tobacco products, particularly among young people and in communities that have been aggressively targeted by tobacco marketing. Tobacco tax revenue can and should be directed towards tobacco prevention and control programs and other health programs.

We request that HB 833 be prioritized to achieve the intended outcomes of this bill.

Respectfully submitted,



Donald B. Weisman

Government Relations/Communications and Marketing Director



February 1, 2023

To:

[COMMITTEE ON COMMERCE AND CONSUMER PROTECTION](#)

Rep. Mark M. Nakashima, Chair

Rep. Jackson D Sayama, Vice Chair

From: Scott Rasak

COO, VOLCANO Vape Shops

RE: HB537 – oppose

Thank you for the opportunity to submit testimony.

VOLCANO Fine Electronic Cigarettes is the largest independent retailer & wholesaler of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 16 locations statewide and employ over 90 full-time workers.

We have been in the industry of vaping products since 2009 and speak from experience in the marketplace that a 70% tax is not a viable means for business to operate. **Vaping products do NOT carry the same cost structure as cigarettes** and are incredibly more expensive so the 70% tobacco tax parody approach makes these items unaffordable for consumers and impossible to do business with.

In addition, we have huge concerns over if these taxes can even be enforced at the state level for all the estimated 250 small business who make up the vast majority of the vapor market.

We stand in **opposition** to HB537 for the following:

- Vapor products and e-liquids contain NO tobacco, often times contain NO nicotine, and ultimately emit NO smoke when vaporized; yet HB537 deceptively refers to vapor products as “Electronic Smoking Devices” to mislead the public and creates a false perception of the nature of these products. This misclassification establishes the idea that vapor products are the same as tobacco products and thus, should be viewed, controlled, and perceived the same way as traditional tobacco products. This is a complete disregard of the fact that vapor products are fundamentally different from tobacco products in every way.

- HB537 states in its justification that the bill and its regulations are needed to curb youth usage. It states “in 2018 the Surgeon General made the unprecedented move of classifying the danger of youth usage of e—cigarettes as an epidemic.”. However, it fails to mention the latest available CDC report that shows youth use of all tobacco products, including e-cigarettes are at the lowest levels ever. Furthermore, a study done the following year at the University of Michigan found that the majority of youth who have reported using e-cigarettes are not using e-liquids that contain nicotine - further suggesting that youth who do use ecigarettes are doing so to replace the use of traditional tobacco.

o <https://www.cdc.gov/media/releases/2017/p0615-youth-tobacco.html>

o <https://www.psc.isr.umich.edu/events/archive/feature-detail/1833>



- The most Recent CDC report has shown e-cigarettes have supplanted all other traditional nicotine replacement therapies and are now the most commonly used product by consumers to quit using traditional tobacco cigarettes

- o http://www.journalnow.com/business/business_news/local/cdc-report-shows-moresmokers-try-to-quit-with-e/article_a33383f3-5300-5178-9f14-28b52884c45c.html

- A recent study published by the New England Journal of Medicine concluded that ECigarettes are twice as effective for smoking cessation than traditional nicotine replacement therapy products which are not taxed or controlled the same way this bill proposes to tax and control E-Cigarettes. The state should be creating easier access for these products, not tighter regulations that steers vapers back towards tobacco cigarettes

- o <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

- A recent study by the National Academy of Sciences, Engineering, and Medicine stated: "there is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users' exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes." The findings add to the already weighty body of evidence showing vaping to be far less hazardous than smoking.

- o <http://www.washingtonexaminer.com/landmark-e-cigarette-report-explodes-myththat-vaping-is-as-toxic-as-smoking/article/2646804>

- o http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-ecigarettes.aspx?utm_source=Hootsuite&utm_medium=Dashboard&utm_campaign=SentviaHootsuite

- HB537 States in its justification that the use of licensing and permit fees will help “protect consumers, such as requiring retailers of e-liquids to obtain a retail tobacco permit”. We fail to see how requiring retailers to obtain a permit will translate to ‘protecting the public’. Rather, it will simply burden the 50+ small businesses operating in the vapor products industry with unnecessary fees and bureaucratic hurdles.

- Vapor Products are not the same as tobacco products, and thus, should not be regulated in the same fashion. Vapor products have not been demonstrated to have the same detrimental effects of combustible tobacco products and have otherwise been shown in recent studies to be as much as 95% less toxic than traditional Cigarettes. Creating extraneous regulations that aim to limit access only serves to protect deadly tobacco markets.

- o https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/ECigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

- HB537's justification states that without taxing vapor products, “smokers may be tempted to purchase less expensive products such as e-liquid”. This is false. Virtually all e-cigarette starter kits and bottles of e-liquid are already higher priced in comparison to tobacco cigarettes. An average reusable electronic cigarette starter kit ranges in price from \$30 to upwards of \$300 depending on the device.

- Most troubling is the fact that by subjecting vapor products to this proposed tax, the additional costs to consumers will likely result in the state seeing less tax revenue, and even worse, former smokers returning to tobacco use. The tax will result in current vapor users purchasing from online vendors



who would not be subject to state taxes. Local manufacturers, wholesalers and retailers would be put at a massive competitive disadvantage and most retail customers would send their money out-of-state effectively lowering the tax revenue already being generated by sales of vapor products here in the state. We would be unable to compete in other out-of-state and international markets with competitors who are not subjected to the same tax, which would put our local operations in severe jeopardy meaning an immediate loss of jobs and existing revenues. This bill would also effectively reduce access to a modified risk product that has been a public health win and would simply prop up and protect the proven deadly tobacco market.

It is our belief that this continuing unjustified classification and requirements are not in the best interests of the State of Hawaii. Thank you for your time and consideration. If you have any questions, please feel free to contact me directly.

Sincerely,

Scott Rasak
COO
VOLCANO Vape Shops
330 Sand Island Access Rd. #400
Honolulu, HI 96819
scott@volcanoecigs.com

HB-537

Submitted on: 2/1/2023 9:30:43 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Steven Greenhut	R Street Institute	Oppose	Remotely Via Zoom

Comments:

Dear Committee members,

I am the Western region director for the R Street Institute, a free-market think tank that does extensive work in tobacco harm-reduction. I am writing to oppose Hawaii House Bill 537, which significantly raises e-cigarette taxes. The bill includes some praiseworthy enforcement mechanisms, but we fear that raising taxes on vaping will discourage people who smoke from switching to a less-dangerous product.

As a colleague and I noted in a recent paper, [experts in the field](#) often repeat the conclusions from Britain’s top public-health agency (Public Health England), [finding](#) that vaping is at least 95 percent less harmful than smoking combustible cigarettes. I understand why Hawaii policymakers are trying to stamp out vaping to protect teens, but they risk leaving adults who smoke with fewer, less-dangerous options.

Raising e-cigarette prices via tax rates serves only to make more dangerous cigarette smoking a likely alternative. Pricing is a top determinant in one’s decision about which product to buy. The issue isn’t the overall price of e-cigarettes so much as it is their overall price in comparison to combustible cigarettes. It’s poor public health policy to use taxation in a way that incentivizes use of the latter. To deal with underage vapers, states should [strictly enforce age-21 laws](#).

The fear of e-cigarettes leading to combustible cigarette use among youth is not supported by data. Research shows that [youth who vape are not more likely to start](#) smoking in the long term, although youth should not ever vape or smoke. Period. Similarly, the percentage of [teen vapers who never smoked cigarettes prior to vaping is extremely small](#). Most young people who vape have smoked combustible products prior to vaping.

While vaping does not generally lead to smoking among teens, it does lead to less smoking among adults. Studies have shown that cigarette use in the general population has [continued to decline](#), as it has for decades. Among young adults (18-29 years old), the decline in smoking is even more pronounced, [falling by 23 percent in the last 20 years](#). These positive shifts come [as vaping has gained traction in the United States](#). E-cigarette usage is not a gateway to combustible cigarette usage. It is a preferable, far-less damaging alternative to traditional combustibles even though abstinence from nicotine products always remains the safest choice.

In fact, some studies show that as officials clamp down on the availability of e-cigarettes, youth smoking rates have increased. Research from an updated 2021 *JAMA Pediatrics* report [concluded](#): “San Francisco’s partially implemented flavor ban was associated with higher odds of recent smoking among underage high school students relative to concurrent changes in other districts.”

Hawaii lawmakers must recognize that harm reduction must focus on risk mitigation, not solely risk elimination. E-cigarettes provide a promising off-ramp for nicotine-addicted combustible cigarette users, and overtaxing the e-cigarette will not reduce nicotine addiction in the United States.

Best regards,

Steven Greenhut

R Street Institute



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

January 31, 2023

Honorable Chair Representative Mark M Nakashima
Honorable Vice-Chair Jackson D Sayama
Members of the Senate Commerce and Consumer Protection Committee

RE: **Strong Support for HB537, WITH Amendments, Relating to Electronic Smoking Devices**

Dear Chair Nakashima, Vice Chair Sayama, and members of the Commerce and Consumer Protection Committee,

This measure is extremely critical to the health of the children of our state and our entire state as well. **Please amend the bill HB537 to match the language of HB833**, which would achieve comprehensive regulation as well as ensure that the system of taxation for Electronic Smoking Devices (ESDs) become a part of our existing tobacco tax structure.

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

Sadly, our state is in the middle of a youth vaping epidemic! In Hawai'i one in three high school students and on in five middle school students reported "current use of e-cigarettes according to the Hawai'i YRBSS 2019! ESDs are now THE most popular tobacco/nicotine product among youth, largely because these products are NOT regulated (unlike regulations on other tobacco/nicotine products).

- Comprehensive regulation (including taxation, licensing, and prohibiting online sales of ESDs is needed to address the continued increase in ESD use among Hawaii's youth.
- Although HB537 creates a taxation system for ESDs, it does NOT create needed comprehensive regulation to include licensing and permitting for retailers and wholesalers, restricting online sales directly to consumers.
- Amending HB537 to adopt the language of HB833 can help achieve needed comprehensive regulation.
- ESDs are the ONLY tobacco products without a tax. Taxing tobacco products, nicotine and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco and nicotine products to quit. We support this bill because it creates a taxation system for ESDs.

Please help protect the lungs and lives of our children from these very harmful products that are spreading virally in our communities and schools, from elementary through high school and beyond. We urge you to please **amend HB537, to mirror the language of HB833, and pass it out of committee so our keiki and community will be protected from ESDs**. 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



HIPHI Board

Misty Pacheco, DrPH
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University of Hawai'i at Hilo

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University of Hawai'i - West O'ahu

Carissa Holley, MEd
Hale Makua Health Services

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

Garret Sugai
HMSA

Kathleen Roche, MS, RN, CENP
Kaiser Permanente

May Okihiro, MD, MS
John A. Burns School of Medicine,
Department of Pediatrics

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

HIPHI Initiatives

Coalition for a
Tobacco-Free Hawai'i

Community Health
Worker Initiative

COVID-19 Response

Hawai'i Drug & Alcohol Free
Coalitions

Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Collective

Date: February 2, 2023

To: Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair
Members of the Committee on Consumer Protection & Commerce

Re: Comments for HB 537 Relating to Electronic Smoking Devices

Hrg: Thursday, February 2, 2023, at 2:00 PM, Conf Rm 329

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **support of the intent of HB 537** which (1) imposes a tax on e-liquids and e-smoking devices; (2) expands the electronic smoking device retailer registration unit to include wholesalers, and; (3) requires electronic cigarette wholesalers to register with the electronic smoking device retailer and wholesaler registration unit.

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

In 2019, 1 in 3 (30.6%) public high school students and more than 1 in 6 (18%) public middle school students in Hawai'i reported that they are regularly vapingⁱⁱ Hawai'i has the third-highest high school e-cigarette rate in the Country. Because Electronic Smoking Devices (ESDs) remain unregulated, e-cigarette companies have aggressively marketed their products by glamorizing their use, using celebrities and young adults as endorsers, and making false health claims. E-cigarettes often contain nicotine, which is addictive and harmful, particularly to adolescents whose brains are still developing.

The Coalition supports establishing a tax on ESDs. They are the only tobacco product without a tobacco tax. In 2016, the FDA deemed e-cigarettes, including their components and parts, as tobacco products. In a pollⁱⁱⁱ conducted by Ward Research Inc. for the Coalition in November 2022, 91% of registered Hawai'i voters supported taxing e-cigarettes at the same rate as cigarettes or other tobacco products.

Because ESDs are not subject to current State tobacco tax laws, they are seen as lower-priced tobacco alternatives with virtually no restrictions that can appeal to the youth. Raising taxes and increasing the price of tobacco products is a proven strategy to reduce consumption for both adults and youth.

HIPHI supports the taxation of electronic smoking devices, but **recommends the language found in HB 833**, Relating to Health. This language would create comprehensive regulations of ESDs, which includes taxation, addresses the unlawful shipment of tobacco products, and requires licensing and permitting to engage in the sale of electronic smoking devices within the current tobacco tax chapter.

Taxation of Tobacco Products, including ESDs

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

Need to stop the unlawful online sales of ESDs

The "Preventing Online Sales of E-Cigarettes to Children Act" expands the 2009 Prevent All Cigarette Trafficking (PACT) Act to cover electronic smoking devices, requiring age verification by online retailers and private delivery companies; labeling on packaging to indicate they contain tobacco products; compliance with state and local tobacco taxes; and prohibiting shipments of electronic smoking devices through USPS. However, it exempts intrastate shipments in Hawai'i and Alaska. States have the authority to impose stricter regulations, and at least six states have laws that prohibit direct-to-consumer shipments of e-cigarettes. The language found in HB 833 would restrict shipments of tobacco products, including ESDs, solely to those entities licensed to sell tobacco products, including ESDs, therefore drastically limiting access to these products to underage youth.

ESD licensing and permits protect both consumers and merchants.

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

Hawai'i has made enormous progress on tobacco control, and we ask the legislature to take the necessary steps to protect our youth from a lifetime of addiction. We respectfully ask you to consider the language provided in HB 833 to comprehensively address the taxation and regulation of ESDs.

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

Mahalo,

Peggy Mierzwa

Peggy Mierzwa
Policy and Advocacy Director
Hawai'i Public Health Institute

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

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

ⁱⁱ 2019 Youth Risk Behavior Surveillance System (YRBS). Available at: www.cdc.gov/yrbs.

ⁱⁱⁱ This study by Ward Research, Inc. summarizes findings from a phone survey among n=719 Hawaii registered voters (maximum sampling error +/- 3.6%), conducted between November 4-29, 2022.



**Testimony to the House Committee on Consumer Protection and Commerce
Thursday, February 2, 2023; 2:00 p.m.
State Capitol, Conference Room 329
Via Videoconference**

RE: HOUSE BILL NO. 0537, RELATING TO ELECTRONIC SMOKING DEVICES.

Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** House Bill No. 0537, RELATING TO ELECTRONIC SMOKING DEVICES.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

The bill, as received by your Committee, would establish an excise tax on the sale of 70 percent of the manufacturer's list price of each electronic smoking device or e-liquid product sold by a wholesaler or dealer in the State of Hawaii.

FQHCs have long seen first-hand how tobacco has literally destroyed the lives of our patients and their families. Because of the ubiquity of cigarettes, chewing tobacco, and now electronic smoking devices, the impacts of tobacco harms our citizenry on a generational basis with people experimenting at even earlier ages. Because of this, the HPCA supports efforts that would create disincentives for consumers to use these products.

Accordingly, the HPCA urges your favorable consideration of this measure.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.

HB-537

Submitted on: 2/1/2023 8:37:54 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Donita Garcia	Hawaii Health & Harm Reduction Center	Support	Written Testimony Only

Comments: E-cigarettes are the only tobacco products without a tax, and taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. We support this bill because it creates a taxation system for e-cigarettes: Applying a meaningful tax on e-cigarettes is important because research shows that significant price increases reduce tobacco use among youth. In Hawai‘i, one in three high school students and one in five middle school students report that they currently use e-cigarettes, or “vapes.” E-cigarettes are now the most popular tobacco product among youth – and that’s largely because these products are not subject to many of the regulations other tobacco products are subject to.



TO: The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair
House Committee on Consumer Protection and Commerce

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

RE: **HB 537 – RELATING TO ELECTRONIC SMOKING DEVICES
In Support**

DATE: Thursday, February 2, 2023
2:00 p.m.; conference room 329 & videoconference

Aloha Chair Nakashima, Vice Chair Sayama and Members of the Committee:

My name is Philip Bossert, and I am the Executive Director of the Hawaii Association of Independent Schools.

The Hawaii Association of Independent Schools (HAIS) strongly supports HB 537.

HAIS is a membership organization that currently represents as members 100 of Hawaii's independent K-12 schools; and, through its subsidiary, the Hawaii Council of Private Schools (HCPS), licenses all 114 private K-12 schools in the State.

Approximately 33,000 students attend Hawaii's private and parochial schools and all of them – especially those students of middle school and high school age – are endangered by the current vaping epidemic plaguing Hawaii. Vaping not only endangers the health of students in the present, but likely also for the rest of their lives.

HAIS and its member schools support HB 537 because, in creating effective regulations for the sale of e-cigarettes and flavored tobacco products to persons under the age of 21, it will make vaping both less attractive and more difficult to pursue by elementary and secondary school students and help to protect the current and future generations of Hawaii's citizens.

Thank you for the opportunity to submit testimony.



HB537 Tax e-Liquid and E-Cigarette

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Thursday, Feb. 2, 2023: 2:00:

Hawaii Substance Abuse Coalition Supports HB537:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

HSAC is in full support to tax, both for the economic recovery and out of major concern for our children:

- Given the Surgeon General's warning about the dangers of vaping, especially by the historic rise in its use by youth, allocating taxes can help to reduce consumption and increase revenues for economic recovery.
- The danger to children is a growing major public health concern.
- Excise taxes and the continuing increase in taxes has proven to help people quit or sustain cessation.

HSAC recommends that some of the tax could support the much needed youth tobacco prevention programs.

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



February 1, 2023

To: Committee Chair Mark N. Nakashima
Committee Vice Chair Jackson D. Sayama
House Committee on Consumer Protection and Commerce

Re: Testimony in Support of HB537, Relating to Electronic Smoking Devices; E-Liquids; Electronic Smoking Device Retailer Registration Unit; Wholesalers; Tax

Hrg: **HB537** Hearing 2 Feb 2023, 2:00PM, House Conference room 329 via Videoconference

The Hawai'i Public Health Association (HPHA) is a group of over 450 community members, public health professionals, and organizations statewide dedicated to improving public health. Our mission is to promote public health in Hawai'i through leadership, collaboration, education and advocacy. Additionally, HPHA aims to call attention to issues around social justice and equity in areas that extend beyond the traditional context of health (e.g., education, digital equity, cultural sensitivity), which can have profound impacts on health equity and well-being. Therefore, as stewards of public health, HPHA is also advocating for equity in all policies.

We strongly support HB537 to establish a tax on e-cigarettes at seventy percent of the manufacturer's list price. E-cigarettes are the only tobacco products without a tax. Extensive research has demonstrated that taxing tobacco products and cigarettes reduces tobacco use and saves lives. When considering e-cigarettes, keiki are especially vulnerable as e-cigarettes are now the most popular tobacco product among youth. In Hawai'i 1 in 3 high school students and 1 in 5 middle school students report current use of e-cigarettes or vaping. Yet, e-cigarette products are not subject to many of the regulations that other tobacco products are subject to. This bill would create the necessary regulations on e-cigarettes in Hawaii and keep them out of the hands of our keiki.

We strongly support HB537 and respectfully ask that you pass this measure to reduce e-cigarette use among keiki.

Thank you for the opportunity to provide testimony on this important public health issue affecting youth in our communities.

Respectfully submitted,

Holly Kessler
Executive Director

HB-537

Submitted on: 2/1/2023 9:53:21 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tommy Noyes	The Friends of Kamalani & Lydgate Park	Support	Written Testimony Only

Comments:

Aloha Committee on Consumer Protection & Commerce Members,

Please move HB 537 forward, preferably with stronger provisions that will better address comprehensive regulation (as set forth in HB 833).

There is a clear and pressing need to reduce the rapidly spreading epidemic of nicotine addiction caused by e-cigarette use, particularly among the young student population.

Mahalo,

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



Hearing on 2-2-23

Testimony in Strong Opposition to House Bill 537

Dear House CPC, Chair Nakashima and Vice Chair Sayama,

The Hawaii Smokers Alliance STRONGLY OPPOSES HB 537) relating to the ridiculous taxation and regulation on retailers, constituents, and visitors that enjoy e-cigarette.

The pernicious House Bill 537 is strongly opposed for the following reasons:

1. A 70% or similar tax rate will place local retailers at a massive disadvantage when they now have to compete with online, smuggled, or person to person transactions. The vape products have a much higher value to volume ratio than most traditional tobacco products making them highly prone to smuggling, mailing, or in person transport in luggage from the mainland. HB537 will close many a retailers' door which is what the professional anti-smoking lobbyists want since they are being paid to eliminate the competition to drug company products.
2. Apparently the 70% tax rate will be applied to products seeking FDA approval but not those who have already obtained approval. Where is the fair and equal protection under the law since the existing products were never taxed at 70%?
3. This bill is undoubtedly a companion bill to a flavored vapes ban. The anti-smoking lobbyists had to split it up because a prior unsuccessful bill covered too many topics at once. Combined with the flavor ban and this tax increase, local vape retailers as well as more of our rapidly disappearing civil liberties are doomed.

Respectfully request that this shameful and bigoted bill not leave the CPC committee. Thank you for your time.

Sincerely,

Michael Zehner, Co-chair of the Hawaii Smokers Alliance.

808-952-0275. Hawaiiismokersalliance.net



The
Store
With
Aloha

ABC Stores
766 Pohukaina Street
Honolulu, Hawaii 96813-5391
www.abcstores.com

Telephone: (808) 591-2550
Fax: (808) 591-2039
E-mail: mail@abcstores.com

Testimony 2/2/23

Re: HB537 Relating to Electronic Smoking Devices

Good afternoon Chairperson Mark Nakashima, Vice Chair Jackson Sayama and committee members of the Consumer Protection & Commerce committee. I am Curtis Higashiyama Government Affairs Manager and I appreciate this opportunity to testify.

ABC Stores is in **opposition** to HB537. Establishes a tax equal to seventy per cent of the manufacture's list price for electronic smoking devices and e-liquid products. Expands the electronic smoking device retailer registration unit to include wholesalers. Requires electronic cigarette wholesalers to register with the electronic smoking device retailer and wholesaler registration unit.

This measure would cause hardship for many retailers. Retailers are selling these products to age qualified purchasers and with such a tax would quickly reduce our ability to sell to those individuals. Competition through online buying would significantly put retailers in Hawaii at a disadvantage. For Hawaii retailers to remain competitive, lower margins will be needed which will put many businesses in a difficult position to cover costs of business and to stay in business.

While we continue to offer goods at a fair price, this bill would quickly increase the cost to the consumer through increased pricing. As with many other products which become overpriced for consumers, consumers may seek replacement products, this could include reverting to traditional tobacco. Not to mention encouraging the behavior of individuals to obtain these products from other suppliers such as online sources or even illicit sights- illicit sellers do not collect taxes.

If this bill is meant to discourage the youth from possessing vape products, understand that as retailers selling age restricted products responsibly is our top priority. As a business we are committed to this responsibility with training, weekly operational visits covering many areas, specifically following procedures on selling age restricted products, age verification technology and consequences. To discourage sales to underage individuals, we ask the State to look at how we can better enforce the law for those under 21, in public settings, in schools, events etc.

In closing, I urge you **not** to move forward on the proposed taxation. Thank you for considering my testimonial.

Sincerely,

Curtis Higashiyama
Employee Relations & Government Affairs
ABC Stores.

HB-537

Submitted on: 2/1/2023 12:32:37 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Miles	Hi supply smoke shop	Oppose	Written Testimony Only

Comments:

I would like to oppose hb537 in regards to the 70% wholesale tax. The tax is entirely to excessive and this bill will completely devastate the industry and will further unregulated black market sales coming into our state. We have employee's that obviously pay taxes out of their checks and this tax will directly affect their livelihoods which affect their family's. Businesses will be forced to close which will increase unemployment. Hawaii citizens have a hard enough time staying afloat as is and this will just be 1 more nail in the coffin for multiple business owners and employees. Shops should have the right to conduct good business practices while allowing adults to make choices for themselves with out the state getting involved and infringing on their rights. Vape products are a good alternative to tobacco products which study after study shows are hands down dangerous. Adult's having another option other than burning a tobacco leaf is in order. Shops who violate the age restrictions should be punished accordingly. I'm sure I speak for majority of businesses but we require id from every customer. Again I/we oppose bill hb537.



Vape Element, LLC dba BLVK
1718 Potrero Ave #A
South El Monte, CA 91733
United States

Official Opposition Comment to HB537 Relating to Electronic Smoking Devices

To Whom It May Concern:

On behalf of Vape Element, LLC dba BLVK, a California-based e-liquid manufacturer with a significant presence in the state of Hawaii, we strongly oppose HB537 and its proposed legislation to pool tobacco vapor products under the state's existing 70% wholesale tax. Beyond having a vested interest as a business in the state, it is not a good idea to impose even stricter tax standards on an already heavy-regulated product for several reasons.

The first reason ultimately affects the end user. An increase in taxes means an increase in the cost of goods for the tobacco product. With the country as a whole going through substantial changes in the cost of living, rising interest rates, and lower spending power, users are more likely barely keeping their heads (and finances) above water. By heavily taxing a vapor product which, by design, exists as an alternative to traditional cigarettes, the government is effectively limiting consumer choice and gatekeeping potentially safer alternatives from an otherwise unhealthy habit.

While the end user ultimately pays the price of an increase in taxes, businesses that are already struggling to survive in the industry suffer as well. Unlike smoke shops that offer a wide variety of alternative products to continue to thrive, vape shops, which exist to distribute exclusively tobacco vapor products are likely to die out completely. This spells disaster for an entire industry sector and individual tax paying adults like you and I to lose their jobs.

Lawmakers have a tendency to push laws without fully developing a method and process on how to remain compliant. HB537 is no different. According to the bill, the term *enforcement* is mentioned three times – all of which do not go into any detail on how both manufacturers and wholesalers are to

abide by the tax. Should this bill pass, what are the next steps? Who is in charge of receiving the tax reports? What are the consequences for failure to pay? How often are these taxes remitted and on what tax schedule?

Like most tobacco laws, the intent of bans and restrictive taxes is to curb youth access to an otherwise adult-only product. According to federal law, the legal smoking age is 21, and increasing taxes does not help that cause. Instead of placing access restrictions on adults, why not develop a bill that places severe sanctions on businesses that still, to this day, distribute tobacco products to underage users?

From the standpoint of not only a business that operates in the state of Hawaii, but a collective of individuals with a heavy emphasis in the freedom of choice, HB537 is a social contract that fails to act in favor of the people. Rather, it stands to destroy an industry, cut jobs, limit access to adults that are of smoking age to consume these products, and adds another useless law with no infrastructure around it to provide a net benefit to society. On behalf of Vape Element, LLC dba BLVK, we strongly oppose HB537.

Riley Legaspi
Chief Compliance Officer at BLVK
888-392-2585
riley@blvk.com



February 2, 2023

RE: HB 537 - Opposed

Thank you for the opportunity to write on behalf of our more than 2000 members in Hawai'i expressing our concerns and opposition to House Bill 537, which would impose a cigarette-style wholesale tax of 70% on low-risk, smoke-free vapor products. The Consumer Advocates for Smoke-free Alternatives Association (CASAA) is a 501(c)(4) nonprofit public health and education NGO and is the leading representative of consumers who use or might in the future use smoke-free tobacco and nicotine products. It is a U.S. membership organization with over 250,000 members. CASAA advocates on behalf of consumers, and does not represent the interests of industry.

Ostensibly, extra taxes on tobacco products, cigarettes in particular, are intended to reduce consumption and improve public health. But applying cigarette-style taxes and policies to products that are recognized by the US FDA as low on the continuum of risk sends a confusing and inaccurate message to consumers that smoke-free products are just as or more harmful than smoking. Moreover, tax equalization across tobacco products risks protecting sales of combustible cigarettes as reduced harm products lose any cost advantage they may have prior to being subject to an extra tax. Research is showing that treating low-risk, smoke-free products, such as vaping and nicotine pouches, in the same manner as combustible tobacco products actually discourages people from quitting smoking and does not prevent youth experimentation with nicotine in a meaningful way.

Counter to claims typically made by supporters of similar legislation, analysis of smoking prevalence across all age groups reveals that the availability of vapor products is contributing to *accelerated* declines. According to a report published by the Progressive Policy Institute, the availability of vapor products can be credited with 60% to 80% of the accelerated decline in smoking.¹ Indeed, research is confirming that people who use vapor products as a means to quit smoking are more likely to succeed.²

¹ PPI, "The Impact of Electronic Cigarettes on Cigarette Smoking By Americans and Its Health and Economic Implications." July 2019. Accessed from

<https://www.progressivepolicy.org/wp-content/uploads/2019/08/ECigaretteStudy.pdf> on Feb. 1, 2023.

² Hajek, P., Phillips-Waller, A., Przulj, D., Pesola, F., Myers Smith, K., Bisal, N., Li, J., Parrott, S., Sasieni, P., Dawkins, L., Ross, L., Goniewicz, M., Wu, Q., & McRobbie, H. J. (2019). A randomized trial of e-cigarettes versus nicotine-replacement therapy. *New England Journal of Medicine*, 380(7), 629–637. <https://doi.org/10.1056/nejmoa1808779>

Anti-cigarette-style regulation will deprive people who smoke access to life saving products.

- **The availability of affordable smoke-free nicotine products is helping millions of people quit smoking.**

It is very disappointing that some of the comments the committee will hear on this legislation callously dismiss the experiences of millions of people who quit smoking³, or are on their way to living smoke-free by switching to a safer nicotine product like vaping and nicotine pouches. You are being asked to disbelieve the experiences of surgical patients who will have better outcomes after switching to vaping,⁴ parents and grandparents who will be around longer for their children, and young adults who are quitting before lasting damage is done, or who will never take up smoking because vaping is a better, safer alternative to combustible cigarettes.⁵

You are right to be skeptical of claims that smoke-free nicotine products are unhelpful because just as we all know someone who has died early due to smoking, we are also increasingly more likely to know someone who quit by switching. Enjoyable, flavored products are being linked to positive outcomes in both people trying to quit^{6 7} and those who quit by accident.⁸

- **Extra Taxes on smoke-free products discourage smoking quit attempts and protect sales of cigarettes.**

According to a working paper published by the National Bureau of Economic Research (NBER), Minnesota's 2009 imposition of a 95% tax on just nicotine in vapor products is linked to discouraging more than 32,000 people who smoke from quitting.⁹ Moreover, punitive actions such as imposing extra taxes and burdensome regulations risks consolidating the alternative nicotine market into the hands of incumbent and massive cigarette companies--something we

³ Clive Bates, The Counterfactual, E-cigarette risk perceptions – an American crime scene, February 3, 2022. Accessed from <https://clivebates.com/e-cigarette-risk-perceptions-an-american-crime-scene/>, February 8, 2022.

⁴ Nolan M, Leischow S, Croghan I, et al. Feasibility of Electronic Nicotine Delivery Systems in Surgical Patients. *Nicotine Tob Res.* 2016;18(8):1757-1762. doi:10.1093/ntr/ntw003

⁵ Zhu S, Zhuang Y, Wong S, Cummins S E, Tedeschi G J. E-cigarette use and associated changes in population smoking cessation: evidence from US current population surveys *BMJ* 2017; 358 :j3262 doi:10.1136/bmj.j3262

⁶ Friedman AS, Xu S. Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation. *JAMA Netw Open.* 2020;3(6):e203826. doi:10.1001/jamanetworkopen.2020.3826

⁷ Eva C. Rest, Kristin N. Brikmanis, Robin J. Mermelstein, Preferred flavors and tobacco use patterns in adult dual users of cigarettes and ENDS, *Addictive Behaviors*, Volume 125, 2022, 107168, ISSN 0306-4603, <https://doi.org/10.1016/j.addbeh.2021.107168>.

(<https://www.sciencedirect.com/science/article/pii/S0306460321003531>)

⁸ Kasza KA, Edwards KC, Kimmel HL, et al. Association of e-Cigarette Use With Discontinuation of Cigarette Smoking Among Adult Smokers Who Were Initially Never Planning to Quit. *JAMA Netw Open.* 2021;4(12):e2140880. doi:10.1001/jamanetworkopen.2021.40880

⁹ Saffer, et. al. "E-Cigarettes and Adult Smoking: Evidence from Minnesota." NBER Working Paper 26589, December 2019. Accessed from <https://www.nber.org/papers/w26589>, Feb. 1, 2023.

are already witnessing at the national level due to FDA's roll-out of new tobacco regulations. The products made by these companies do not support a vibrant, independent, consumer-driven market, which is responsible for helping millions of people around the world quit smoking.

- **Vapor product specialty shops (vape shops) play a vital role in helping people who smoke switch to a low-risk alternative.**

Vape shops are a source of peer-to-peer support that is not effectively replicated by current tobacco control interventions. Vape shops provide knowledgeable staff who offer individualized attention to help customers find devices and e-liquid flavors that will help them successfully make the switch. Just as important, vape shops provide a space for peer-to-peer support for people who used to smoke and people who are transitioning to a smoke-free product.

By way of background, vapor retailers and manufacturers in the United States are prohibited by federal law from marketing e-cigarettes as smoking cessation products or even less harmful than cigarettes.¹⁰ Customers, however, are bound by no such law. It is not uncommon to hear customers exchange successful quit smoking stories between one another in a vape shop. To the casual observer, sharing such a story might not seem like much, but between people who are recovering from a multiyear or multi-decade cigarette addiction, it can mean the difference between living a smoke-free life or returning to the devil they know.

By comparison, vapor retailers in the United Kingdom are not subject to the same limitations on marketing communication in face-to-face transactions. Research conducted in the UK demonstrates that people who shop for vapor products in specialty vapor shops have a remarkable quit rate of >40% after 12 months.¹¹ Other than quitting "cold turkey," no other smoking cessation intervention comes close to the success rate found in the UK. And while the retail environment studied in the UK is not a 1:1 match with vapor shops in the United States, when we consider customer-to-customer interactions within the retail environment, which are not regulated by federal law, it stands to reason that the results found in the UK may be generalizable to consumers in the United States.

¹⁰ 21 USC 387k: Modified risk tobacco products, accessed from <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title21-section387k&num=0&edition=prelim>

¹¹ Polosa, Riccardo et al. "Quit and smoking reduction rates in vape shop consumers: a prospective 12-month survey" *International journal of environmental research and public health* vol. 12,4 3428-38. 24 Mar. 2015, doi:10.3390/ijerph120403428

Recommendations

- We urge committee members to refocus their attention on the most pressing concern of reducing the early death and disease attributed to smoking by seeking ways the state can help promote safer alternatives to people who smoke.
- Effective substance use prevention starts by empowering young people with strong social skills, critical thinking, and healthy coping strategies. People are generally resourceful and, historically, find ways to circumvent prohibitions on tobacco, drugs, and alcohol. Strong life skills training during adolescence has a greater potential to positively shape a young person's life well into adulthood.
- Hawai'i consistently spends only a small fraction of the amount recommended by the Centers for Disease Control on tobacco prevention.¹² Arguably, the state hasn't given existing tobacco prevention strategies a chance to succeed. We assert here that if the State of Hawai'i believes that traditional tobacco control strategies are effective, then compliance and enforcement should be fully funded.

Thank you for considering our comments.

Sincerely,



Alex Clark

CEO

The Consumer Advocates for Smoke-free Alternatives Association

¹² Lindsey Stroud, Taxpayers Protection Alliance, "Tobacco & Vaping 101: Hawaii." Feb. 2022, accessed from <https://www.protectingtaxpayers.org/analysis/tobacco-vaping-101-michigan-2/>, Feb. 1, 2023.

HB-537

Submitted on: 2/1/2023 1:35:37 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
adrian	choke smoke	Comments	Written Testimony Only

Comments:

the huge increase in taxes will make revert people back to cigarettes.

vape sales will substantially dwindle, causing layoffs and possible closure

we believe spending more money on regulation to ensure 21 and over sales, and increasing youth awareness of nicotine and stiffer measures for those who are caught with underage use or possession.



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 2, 2023**

Re: HB 537 RELATING TO ELECTRONIC SMOKING DEVICES

Good afternoon, Chair Nakashima and members of the House Committee on Consumer Protection & Commerce. 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.

While we understand the want for equality in shipping charges from national and international sellers, RMH is Strongly Opposed to HB 537 Relating to Electronic Smoking Devices. This measure establishes a tax equal to seventy per cent of the manufacturer's list price for electronic smoking devices and e-liquid products. Expands the electronic smoking device retailer registration unit to include wholesalers. Requires electronic cigarette wholesalers to register with the electronic smoking device retailer and wholesaler registration unit.

This measure penalizes legitimate retailers by increasing the retail tax on electronic smoking devices and e-liquids by an absorbent amount. Many retailers statewide are already operating on a thin margin and face stiff competition. Retail is one of the hardest hit industries during this pandemic. We see almost daily stores closing around our neighborhoods due to the affects this pandemic is having on our economy. **Raising the tax by 70% will truly hurt businesses throughout Hawaii, especially the small locally owned convenient corner store and locally owned vape stores who may potentially be forced to close.** With the closing of the store, the state would not only lose tax revenue, but it would be leaving our friends, family, and neighbors out of work.

Any time there is an increase in retail operations albeit raising of taxes and implementation of fees or increase in shipping and goods, the cost is passed down to the consumer. **While the assumption is that if tobacco products are too expensive, less people will purchase them. This is not the case.** We will see more people finding ways to purchase them from military facilities where there are no taxes charged, furthermore these pushes vape products to be even more desirable on the black market where prices are lower. Tobacco and vape products are one of the most desirable items that shoplifters target, even when we have them behind the registers or behind lock and key. And many of the goods sold on the black market have been stolen from retailers.

If raising the tax 70% is to is meant to deter people from vaping it may have the opposite effect and have them turn to back to cigarettes. In 2021 The New England Journal of Medicine published an article that found that e-cigarettes were nearly twice as effective as conventional nicotine replacement products, like patches and gum, for quitting smoking. The study was conducted in Britain and funded by the National Institute for Health Research and Cancer Research UK

If the raising of tax is to deter youth from obtaining vape products, then the focus should be on cracking down on those who are illegally and intentionally letting minors obtain these products. Hawaii already has a law in place that states that it is unlawful for a person under the age of 21 years to purchase electronic vaping devices, e-liquids and tobacco products. The majority of the shops on our islands are responsible and have a policy that they will Not sell a vape device or products to anyone 21 years old and under. Many of whom are underage are obtaining their cigarettes and vaping devices from their parents or older friends who purchase it for them or the minors are purchasing them on the black market. Retailers often go as far as to not selling to the adult that accompanies the minor into the store if it is revealed that the device or product that they are seeking to purchase is for the minor. Retailers have no control over their products once they are sold and the customer walks out the door with them. It is often the case that an adult family member or friend that purchases the vape devices or tobacco products for the minors and gives it to the minor away from the retail store.

Retailers like many businesses are struggling to survive and keep their employees employed. Many cannot afford an increase in doing business with astronomical higher fees which is essentially a tax. We hope that you will hold this bill.

Mahalo again for this opportunity to testify.

HB-537

Submitted on: 2/1/2023 5:15:18 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Danelle Watson	Alexander Academy of Performing Arts	Support	Written Testimony Only

Comments:

We should be thinking of our Keiki not our pockets. This bill would create necessary regulations on e-cigarettes in Hawai'i to keep vaping out of the hands of keiki.

It is not ok that in Hawai'i, one in three high school students and one in five middle school students report that they currently use e-cigarettes, or "vapes". E-cigarettes are now the most popular tobacco product among youth – and that's largely because these products are not subject to many of the regulations other tobacco products are subject to. These are not taxed, therefore more affordable for children and teens.

E-cigarettes are the only tobacco products without a tax, and we know that taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. We support this bill because it applies regulations to e-cigarettes:

Applying a meaningful tax on e-cigarettes is important because research shows that significant price increases reduce tobacco use among youth. Requiring registration of tobacco wholesalers will help implement and enforce current laws and regulations.

Thank you for doing your work on helping keep our keiki off of the temptation of vaping.



ADA

HAWAII

AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS		MAILING ADDRESS	
John Bickel, President	Melodie Aduja	Jan Lubin	Bill South	P.O. Box 23404
Alan Burdick, Vice President	Keola Akana	Shannon Matson	Michael Vernon	Honolulu
Dave Nagajji, Treasurer	Juliet Begley	Jenny Nomura		Hawaii 96823
Doug Pyle, Secretary	Stephanie Fitzpatrick	Stephen O'Harrow		

February 1, 2023

TO: Chair Nakashima and Members of the CPC Committee

RE: HB 537 Relating to Electronic Smoking Devices

Support for Hearing on Feb. 2

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support this bill as it would heavily tax vaping devices and regulate wholesalers. We find there are many negative health effects to vaping products. Discouraging them is good policy. Thank you for your consideration.

Sincerely,

John Bickel, President



To: Representative Nakashima, Chair
Representative Sayama, Vice Chair
House Committee on Consumer Protection & Commerce

Re: HB537, relating to electronic smoking devices
2:00 p.m., Feb. 2, 2023

Aloha Chair Nakashima, Vice Chair Sayama and committee members:

On behalf of Hawai'i Children's Action Network (HCAN) Speaks!, mahalo for the opportunity to **testify in STRONG SUPPORT of House Bill 537, relating to electronic smoking devices.**

We cannot let the epidemic that is youth vaping continue any longer. **One in three high school students and one in five middle school students report "current use" of e-cigarettes.**

E-cigarettes are now the most popular tobacco product among youth. That's largely because these products are not subject to many of the regulations other tobacco products are subject to.

In addition to the harms e-cigarettes may have for adolescents and youths, they are also a risk to young children. **The CDC reports that approximately half of all calls to poison control centers for e-cigarettes are for children 5 years of age or younger.**

We have spent the last few decades eradicating cigarettes from ubiquitous use. We know what will work. **Taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit.** This measure is important in particular because it applies a meaningful tax on e-cigarettes that will increase cost, which is proven to reduce youth tobacco use. It also requires registration of tobacco wholesalers, which will help implement and enforce current laws and regulations.

Please support HB537. It creates necessary regulations on e-cigarettes in Hawai'i to keep them out of the hands of keiki of all ages.

Mahalo,

Ke'ōpū Reelitz
Director of Early Learning and Health Policy

HB-537

Submitted on: 1/30/2023 4:47:14 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicholas Winters	Individual	Oppose	Written Testimony Only

Comments:

Vapes are not dangerous. If they are taxed at this unfair rate, more people will smoke.

HB-537

Submitted on: 1/31/2023 10:44:59 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Violet Yates	Individual	Oppose	Written Testimony Only

Comments:

To Whom it May Concern:

I oppose his outrageous tax on vape products. I smoked for 34 years. I was very sick, had chronic bronchitis and COPD as well as interstitial lung disease. I finally quit with the aid of vaping in 2019. Without vape products, I'd be smoking right now and be severely ill, or could be dead from respiratory failure. Nicotine is very addictive and is so hard to quit. I at least am using a less harmful form of it. It doesn't cause me respiratory problems like smoking did. Please reconsider this tax. I am on a fixed income and wouldn't be able to afford it. I would possibly go back to smoking, rolling my own cigarettes, which is cheap but terrible for my lungs.

HB-537

Submitted on: 1/31/2023 1:44:26 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alan Watanabe	Individual	Oppose	Written Testimony Only

Comments:

That's strong opposition to this abusive bill.

HB-537

Submitted on: 1/31/2023 2:06:12 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Erin Alicia Wiggins	Individual	Oppose	Written Testimony Only

Comments:

I oppose

HB-537

Submitted on: 1/31/2023 2:54:08 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Asia mcnarney	Individual	Oppose	Written Testimony Only

Comments:

This has helped me quit cigarettes and do not want to go back to thag

HB-537

Submitted on: 1/31/2023 2:27:07 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

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

Comments:

Dear Committee,

Overtaxing a tax base destroys the tax base over time and creates a black market. Also if the plan was to make enemies out of people that use these products at election time, you're doing a great job of it.

HB-537

Submitted on: 1/31/2023 2:10:00 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Autumn Masi	Individual	Oppose	Written Testimony Only

Comments:

- The substantial increase in cost may cause consumers to revert to smoking traditional tobacco instead of vaping.
- This measure would cause hardship for many businesses.
- It is unclear how enforcement and compliance would work.
- The state should instead focus on enforcing the ban on vaping and tobacco for those under 21 years of age instead.

HB-537

Submitted on: 1/31/2023 3:11:24 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Callie Racelo	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB537. You're forcing me to go back to cigarettes and smell stinky in front of my nieces and nephews. There are other bills to worry about that are important than this.

HB-537

Submitted on: 1/31/2023 3:20:23 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
ellen benton	Individual	Oppose	Written Testimony Only

Comments:

I am writing as a voter, taxpayer, and your constituent urging you to reject HB 537 which would impose a 70% tax on low-risk, smoke-free vapor products. This additional tax on vaping is unjustifiable and would negatively affect my access to low-risk, smoke-free products. It does not make sense that Hawai'i would want to make it more difficult for people who smoke to switch to demonstrably safer alternatives to cigarettes. Subjecting smoke-free vapor products to a sin tax is punitive and discourages people from switching to safer nicotine products.

This unnecessary extra tax would actually protect sales of traditional cigarettes and encourage people who smoke to continue smoking. This is counter to modern advice from The Royal College of Physicians (a 500-year old professional organization and one of the most respected in the world) which endorses promoting vapor products widely to smokers as an alternative to combusted cigarettes.

Hawai'i residents would be better served by promoting innovative products--like vapor products and snus--that advance the public health goal of reducing the early death and disease attributed to smoking. There is overwhelming evidence--ranging from systematic studies to thousands of detailed testimonials--showing that smoke-free vapor and tobacco products help people who smoke to quit or reduce their smoking habit, even after they have unsuccessfully tried every other method. The 70% excise tax proposed by HB 537 would punish people for making better health choices and make it more likely they continue or return to smoking.

I, along with my fellow members of The Consumer Advocates for Smoke-free Alternatives Association (CASAA) urge you to resist calls for increased taxes and overregulation from misguided activists that seek to impede adult access to far less hazardous alternatives to smoking. I look forward to your response on this issue and I am available for any questions you might have.

HB-537

Submitted on: 1/31/2023 3:20:01 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Amanda Gardner	Individual	Oppose	Written Testimony Only

Comments:

I am writing as a voter, taxpayer, and your constituent urging you to reject HB 537 which would impose a 70% tax on low-risk, smoke-free vapor products. This additional tax on vaping is unjustifiable and would negatively affect my access to low-risk, smoke-free products. It does not make sense that Hawai'i would want to make it more difficult for people who smoke to switch to demonstrably safer alternatives to cigarettes. Subjecting smoke-free vapor products to a sin tax is punitive and discourages people from switching to safer nicotine products.

This unnecessary extra tax would actually protect sales of traditional cigarettes and encourage people who smoke to continue smoking. This is counter to modern advice from The Royal College of Physicians (a 500-year old professional organization and one of the most respected in the world) which endorses promoting vapor products widely to smokers as an alternative to combusted cigarettes.

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I, along with my fellow members of The Consumer Advocates for Smoke-free Alternatives Association (CASAA) urge you to resist calls for increased taxes and overregulation from misguided activists that seek to impede adult access to far less hazardous alternatives to smoking. I look forward to your response on this issue and I am available for any questions you might have.

HB-537

Submitted on: 1/31/2023 3:21:55 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Karyne	Individual	Oppose	Written Testimony Only

Comments:

I am writing as a voter, taxpayer, and your constituent urging you to reject HB 537 which would impose a 70% tax on low-risk, smoke-free vapor products. This additional tax on vaping is unjustifiable and would negatively affect my access to low-risk, smoke-free products. It does not make sense that Hawai'i would want to make it more difficult for people who smoke to switch to demonstrably safer alternatives to cigarettes. Subjecting smoke-free vapor products to a sin tax is punitive and discourages people from switching to safer nicotine products.

This unnecessary extra tax would actually protect sales of traditional cigarettes and encourage people who smoke to continue smoking. This is counter to modern advice from The Royal College of Physicians (a 500-year old professional organization and one of the most respected in the world) which endorses promoting vapor products widely to smokers as an alternative to combusted cigarettes.

Hawai'i residents would be better served by promoting innovative products--like vapor products and snus--that advance the public health goal of reducing the early death and disease attributed to smoking. There is overwhelming evidence--ranging from systematic studies to thousands of detailed testimonials--showing that smoke-free vapor and tobacco products help people who smoke to quit or reduce their smoking habit, even after they have unsuccessfully tried every other method. The 70% excise tax proposed by HB 537 would punish people for making better health choices and make it more likely they continue or return to smoking.

I, along with my fellow members of The Consumer Advocates for Smoke-free Alternatives Association (CASAA) urge you to resist calls for increased taxes and overregulation from misguided activists that seek to impede adult access to far less hazardous alternatives to smoking. I look forward to your response on this issue and I am available for any questions you might have.

HB-537

Submitted on: 1/31/2023 5:39:15 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Eric Heaukulani	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill.

HB-537

Submitted on: 1/31/2023 6:01:01 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

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

Comments:

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HB-537

Submitted on: 1/31/2023 6:26:53 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Amy Lau	Individual	Oppose	Written Testimony Only

Comments:

Strong Opposition. Can't believe someone would introduce a bill like this. Flavored vape products are safe and helping me cut back on tobacco.

HB-537

Submitted on: 1/31/2023 8:36:29 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
ASHLEY MATTOS	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill.

HB-537

Submitted on: 1/31/2023 8:39:24 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Chelsey Leialoha	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill

HB-537

Submitted on: 1/31/2023 8:40:05 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alameahokulani	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-537

Submitted on: 1/31/2023 8:41:07 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dejen	Individual	Oppose	Written Testimony Only

Comments:

i strongly oppose this bill.

HB-537

Submitted on: 1/31/2023 8:41:16 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Naomi Muronaka	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-537

Submitted on: 2/1/2023 9:14:31 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Caedence Pang-Ching	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill

HB-537

Submitted on: 2/1/2023 9:14:19 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lauri Orta	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill

HB-537

Submitted on: 2/1/2023 9:14:18 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Juliette Devost	Individual	Oppose	Written Testimony Only

Comments:

Electronic smoking products have helped me quit cigarettes.

HB-537

Submitted on: 2/1/2023 8:39:48 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
P Kuromoto	Individual	Oppose	Written Testimony Only

Comments:

Vaping continues to be the best method of quitting smoking ever made available to smokers and presents a tiny risk profile compared to combustible tobacco. The idea that taxation should be used to discourage uptake is irresponsible and continues to be bad for public health. The ongoing effort to portray vaping to be as dangerous as smoking is misguided and dangerous.

Millions of lives around the world have been improved by vaping, including tens of thousands in Hawaii. There are youth possession and purchase laws on the books already, enforce those but keep this lifesaving product available to Hawaii's smokers.

HB-537

Submitted on: 2/1/2023 8:36:33 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
naomi yadao	Individual	Oppose	Written Testimony Only

Comments:

leave vaping or anything to do with vapes alone. You guys don't realize how much vapes help people from stop smoking cigarettes, drugs. Sometimes vaping helps people anxiety and it helps them calm down !

don't ruin it for us!

HB-537

Submitted on: 2/1/2023 7:57:19 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cara valenzuela	Individual	Oppose	Written Testimony Only

Comments:

Hi strongly oppose !!

HB-537

Submitted on: 1/31/2023 8:46:01 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Micah Orr	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill!!

HB-537

Submitted on: 1/31/2023 9:20:36 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ailanna lagmay-josiah	Individual	Oppose	Written Testimony Only

Comments:

70 percent of the manufacturers list price for electronic smoking devices and e-liquid products? are you guys serious? this bill is ridiculous so will cigarettes be set at the same standards as well? Find better bills to try to make rather raising tax. Like legalizing weed how much more tax income hawaii would benefit off that. Opposed all the way!

HB-537

Submitted on: 1/31/2023 9:29:05 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

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

Comments:

I oppose the bill!

HB-537

Submitted on: 2/1/2023 9:56:18 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kathy Kim	Individual	Oppose	Written Testimony Only

Comments:

Very strongly opposed. I'm not going to pay your outrageous tax! Local retails will not get my money anymore and you won't get my sales tax either. People can buy online or ship P2P.

HB-537

Submitted on: 2/1/2023 1:32:46 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jason Grehawick	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I would like to submit my testimony in opposition of Bill HB537

A 70% wholesale tax on vape products would cause extreme hardship for the small businesses that responsibly sell vape products.

Why are we trying to tax the hard working tax payers?!?!?

You would be killing an entire industry by doing so.

Please think about all the jobs and people you would be affecting by allowing such an unreasonable tax law to pass.

TAXATION DOESN'T STOP UNDERAGE VAPING!!! ENFORCEMENT DOES.

HB-537

Submitted on: 2/1/2023 12:29:24 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jaycelin Mwarey-Sojot	Individual	Oppose	Written Testimony Only

Comments:

I Jaycelin Mwarey-Sojot oppose the HB 537 Bill .

HB-537

Submitted on: 2/1/2023 11:39:41 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
dillon rellez	Individual	Oppose	Written Testimony Only

Comments:

Vaping is a great alternative to smoking cigarettes. Stop trying to hurt your community by raising prices. I strongly oppose this bill.

HB-537

Submitted on: 2/1/2023 11:34:53 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
VALENTINO MIRANDA-KEPA	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

Please be respectful and realistic about A tax I can understand a tax but be reasonable

HB-537

Submitted on: 2/1/2023 10:52:47 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cheyenne DeVera	Individual	Oppose	Written Testimony Only

Comments:

I am writing to express my strong opposition to House Bill 537. This tax would have serious consequences for the vapor industry and its customers.

Vapor products have been proven to be a safer alternative to traditional tobacco products, and many people use them as a tool to quit smoking. Imposing such a high tax on vapor products would make them significantly more expensive, effectively pricing them out of reach for many people who are trying to quit smoking. This would be detrimental to public health, as it would discourage people from using a less harmful product and instead drive them back to traditional tobacco products.

Furthermore, the high tax rate would likely lead to increased prices for consumers, which would discourage them from purchasing vapor products and drive them towards the black market. This would result in a significant loss of revenue for the state, as these sales would go untaxed.

In conclusion, I respectfully urge you to reconsider this proposal and to find alternative solutions that will not negatively impact public health and the state's revenue.

Thank you for your consideration.

Date: January 31, 2023

To: The Honorable Mark M. Nakashima, Chair
The Honorable Jackson D. Sayama, Vice Chair
Members of the House Committee on Consumer Protection and Commerce

Re: **Support with amendments for HB 537**, Relating to Electronic Smoking Devices

Hrg: Thursday February 2, 2023 at 2:00 pm via Videoconference

Aloha House Committee on Consumer Protection and Commerce,

As a parent, community member and healthcare professional I am writing in **support of the intent of HB 537** which establishes a tax equal to seventy per cent of the manufacturer's list price for electronic smoking devices and e-liquid products; expands the electronic smoking device retailer registration unit to include wholesalers; and, requires electronic cigarette wholesalers to register with the electronic smoking device retailer and wholesaler registration unit.

One in three Hawaii high school students and one in five middle school students report that they currently use e-cigarettes, or "vapes." E-cigarettes are now the most popular tobacco product among our youth – largely because these products are not subject to many of the regulations to which other tobacco products are subject.

E-cigarettes are the only tobacco products in Hawaii that are untaxed and unregulated. While **HB 537** establishes a tax on e-cigarettes, it would be a more comprehensive and effective bill were it to also require licensing and permitting for retailers and wholesalers and restrict online sales directly to consumers, similar to other tobacco products.

I respectfully ask you to amend the language of **HB 537** for comprehensive e-cigarette taxation and regulation, and pass it out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Keaau, HI

HB-537

Submitted on: 1/31/2023 6:32:32 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John A. H. Tomoso	Individual	Support	Written Testimony Only

Comments:

RE: HB537

- I know that this bill would create necessary regulations on e-cigarettes in Hawai'i to keep them out of the hands of keiki.. As a parent and grandfather, I know this is important for the health of our younger generations and even all of us.

Mahalo for hearing this bill.

John A. H. Tomoso+, MSW

51 Ku'ula St.

Kahului, HI 96732-2906

808-280-1749

john.a.h.tomoso@gmail.com

HB-537

Submitted on: 1/31/2023 6:02:59 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lee Buenconsejo-Lum	Individual	Support	Written Testimony Only

Comments:

- In Hawai‘i, one in three high school students and one in five middle school students report that they currently use e-cigarettes, or “vapes”. E-cigarettes are now the most popular tobacco product among youth – and that’s largely because these products are not subject to many of the regulations other tobacco products are subject to.
- E-cigarettes are the only tobacco products without a tax, and we know that taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. We support this bill because it applies regulations to e-cigarettes:
 - Applying a meaningful tax on e-cigarettes is important because research shows that significant price increases reduce tobacco use among youth.
 - Requiring registration of tobacco wholesalers will help implement and enforce current laws and regulations.

HB 537. RELATING TO ELECTRONIC SMOKING DEVICES

I am writing as a Kauai pediatrician in support of **HB 537**, which is a first step in e-cigarette regulation, establishing a 70% tax on ESD's and e-liquid products. This is an excellent first step in regulating e-cigarettes, but in fact stops short of comprehensive regulation of ESD's, which ought to include licensing and permitting of retailers and wholesalers and restrict direct on-line sales of ESD's and liquids to consumers. In addition, a portion of the collected taxes ought to be dedicated to tobacco education and cessation efforts, such as that provided by the Tobacco Prevention and Control Trust Fund. All of these provisions would address the dramatic increase in preteen and teen e-cigarette use in Hawaii, which has one of the highest rates of vaping in the country. The disincentive created by increasing taxes on electronic nicotine products and creating mechanisms for licensing and permitting the sellers of vaping products will increase the costs of ESD's, much as increasing taxes on ordinary cigarettes did 20 years ago, to great success. A proposal to utilize ESD taxes for education and cessation efforts will guarantee the continuation of the efforts which have successfully addressed tobacco use for the past 20 years, and are just now starting to address electronic nicotine use as well.

Electronic nicotine use by Hawaii's middle and high schoolers has reached epidemic proportions and our children deserve all of our efforts to prevent further spread of these products and to help our keiki, who have been targeted by tobacco companies for years, to quit using them.

Linda Weiner, MD
Pediatrician
Kalaheo, Kauai

HB-537

Submitted on: 1/31/2023 10:57:45 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

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

Comments:

Aloha,

My name is Bryan Mih and I am a parent, pediatrician, and the medical director of the Kapi'olani Smokefree Families Program. For the health of our keiki and their families, it is vitally important to support HB 537. This bill improves regulations on e-cigarettes or "vapes" in Hawai'i and helps keep them out of the hands of keiki.

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

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

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

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

Please support this important measure. Mahalo for your consideration.

Sincerely,

Bryan Mih, MD MPH FAAP

Pediatrician

Medical Director, Kapi'olani Smokefree Families

HB-537

Submitted on: 2/1/2023 8:05:32 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cheryl Reeser	Individual	Support	Written Testimony Only

Comments:

Aloha,

E-Cigarettes have created an urgent health epidemic for our youth. After everything we now know of the dangers of tobacco use, we've got to do everything within our power to curb this crisis immediately and HB537 is one of the tools we can use to do this. I urge you to support HB537.

Mahalo.

HB-537

Submitted on: 2/1/2023 7:19:56 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gracie Flores	Individual	Support	Written Testimony Only

Comments:

- This bill would create necessary regulations on e-cigarettes in Hawai‘i to keep them out of the hands of keiki.
- In Hawai‘i, one in three high school students and one in five middle school students report that they currently use e-cigarettes, or “vapes”. E-cigarettes are now the most popular tobacco product among youth – and that’s largely because these products are not subject to many of the regulations other tobacco products are subject to.
- E-cigarettes are the only tobacco products without a tax, and we know that taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. We support this bill because it applies regulations to e-cigarettes:
 - Applying a meaningful tax on e-cigarettes is important because research shows that significant price increases reduce tobacco use among youth.
 - Requiring registration of tobacco wholesalers will help implement and enforce current laws and regulations.

HB-537

Submitted on: 2/1/2023 9:56:55 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

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

Comments:

- I support HB 537 because in Hawai‘i, one in three high school students and one in five middle school students report that they currently use e-cigarettes, or “vapes.” E-cigarettes are now the most popular tobacco product among youth – and that’s largely because these products are not subject to many of the regulations other tobacco products are subject to. Applying a meaningful tax on e-cigarettes is important because research shows that significant price increases reduce tobacco use among youth
 - E-cigarettes are the only tobacco products without a tax, and taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. I support this bill because it creates a taxation system for e-cigarettes:
- Thank you for considering taking an important step in taking a step to stop this epidemic that is impacting our youth and also adults here in the state.

HB-537

Submitted on: 2/1/2023 12:01:41 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

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

Comments:

HB537 – Taxing electronic smoking device

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

As a parent and health educator for the Hawaii State Department of Health, this is extremely concerning as there are numerous health impacts from e-cigarettes. Nicotine addiction affects kids’ ability to focus and learn at school, it affects their physical health and mental / emotional health, it affects their relationships, and it affects their self-confidence. The list goes on. Further, once teens become addicted to nicotine, it’s very difficult to quit. Teens are also particularly vulnerable to nicotine, which permanently impacts their still developing brain.

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

I support HB537. In addition to taxing electronic smoking devices, we also need to regulate online sales.

Our youth deserve to have their health protected from these devices! Our youth deserve to remain addiction free. Please help protect our youth by supporting HB537.

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

H.B.537
February 2, 2023

Committee on Consumer Protection & Commerce
Chair: Rep. Nakashima
Vice Chair: Rep. Sayama

Testimony in Support of H.B.537, Relating to Electronic Smoking Devices

Chair Nakashima, Vice Chair Sayama, Members of the Committee on Consumer Protection & Commerce, I am Julian Lipsher, Chair of the Hawaii Public Health Institute's Coalition for a Tobacco Free Hawaii testifying as a private citizen in support of H.B.537.

H.B.537 would create a system for the taxation of Electronic Smoking Devices (ESD), e-cigarettes, or vapes. Although this measure would provide for the ability of the state to collect revenue from the sale of ESD's which is needed as a source of revenue and a strategy to reduce tobacco use, it represents only a portion of what would be considered a comprehensive approach to regulation.

The proposed measure would not provide for the aspects of licensure, permitting and the prohibition of online sales which comprise a more comprehensive approach not to just collect revenue, but to reduce the use of ESD's which are now epidemic among Hawaii's youth. Language proposed in H.B.833 would incorporate those aspects of a comprehensive approach which would more likely achieve a reduction in use among the now more than one in five middle school and one in three Hawaii high school students who report using ESD's.

Currently ESD's are the only tobacco product not subject to taxation. Taxing tobacco products has shown to be a proven strategy to reduce initiation among youth and overall tobacco use among adults. Yet taxation alone leaves potential holes in the overall field of regulation. ESD's/vapes are now the most widely used tobacco product among youth, largely due to the fact that they are cheap and untaxed.

I urge the committee to support H.B.537 in that applying a meaningful tax to ESD's commensurate with other tobacco products will create parity and would reduce use of these products now rampant among Hawaii's youth.

Thank you for the opportunity to provide testimony.

Julian Lipsher
jdlipsher@hawaii.rr.com

To: Mark Nakashima, Chair and members of the Committee on Consumer Protection & Commerce

My name is Karena and I'm from Mililani, Oahu. I am submitting testimony in support of the intent of HB 537 to apply a tobacco tax to e-cigarettes, but believe we also need to restrict online sales of tobacco products, and require licensing for retailers to sell tobacco products. This will reduce the amount of lives lost from tobacco usage and complications due to tobacco, especially among children. Did you know that if this problem is not addressed, 21,000 children alive today will die from tobacco usage? We must protect our children from tobacco and the only way we can do that is by regulating tobacco sales.

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

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

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

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

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

To: Chair Nakashima and members of the Committee on Consumer Protection and Commerce

From: Jaelyn Natividad

Re: Support for HB537

I believe that we need to regulate e-cigarettes the same as other tobacco products because it includes a common unsafe component, nicotine. Nicotine is known to quickly reach one's brain within a span of 10 seconds. Once your brain is impacted, the nicotine causes your brain to release adrenaline resulting in creating pleasure and energy. Thus is the reason as to why people get quickly hooked and affected.

Within my community, there are many students that use e-cigarettes. This does not only impact their bodies and personal health but it impacts the environment and community around them. It may start with one student with an e-cigarette, but then another will become a follower and so on and so forth, and a classroom of students will be trying them by the end of the week.

My athletically and academically minded cousin started vaping. It hurts to see my cousin throwing years away from their future. The reason being is because e-cigarettes provide detrimental effects to one's body, mentally and physically. My cousin may not show the effects just yet, but in the future my cousin will experience negative impacts. As a blood cousin, it hurts to see him do this to himself because of stress or whatnot. I love my cousin too much to see my cousin throw their life away!

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

Chair Mark Nakashima
Committee on Consumer Protection and Commerce
February 2, 2023

Support for HB537

I support the intent of HB537. My name is Kinohi and I am from Hau'ula O'ahu and a member of the Coalition for a tobacco-free Hawaii youth council.

I support this bill because I see the effects tobacco and e-cigarettes have on the world around me. E-cigarettes are highly addictive product that contains nicotine, and nicotine is a highly addictive chemical that can have bad bad effects on your brain in several ways. I support this bill because the tobacco industry targets people like me and people in my community.

My community is mostly made up of native Hawaiians and pacific islanders. These companies are targeting people like me, people in my community, low-income native Hawaiians, and pacific islanders, not only are these companies targeting certain people by their ethnicity and social class but they are also targeting people my age. I am 17 years old and I see kids as young as 10 years old vaping. A Philip Morris executive once said "Students are tremendously loyal. If you catch them, they'll stick with you like glue." and this is true. Hawaii is known for having the highest rates of youth vaping and 1 in 3 Hawai'i high school students report using e-cigarettes on a regular basis.

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

Kinohi
Hau'ula, O'ahu

Chair Mark Nakashima
Committee on Consumer Protection and Commerce

I'm Samantha Lay, a junior at Roosevelt High School and I **support** the intent of HB537 as it calls for taxing e-cigarettes similar to other tobacco products.

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

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

Chair Mark Nakashima

Members of the Committee on Consumer Protection and Commerce

Support for HB 537

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

Vapes are just as addictive and harmful as other tobacco products. And for our generation we would rather vape than smoke cigarettes. Because cigarettes give an unpleasant taste and scent. Im a junior in high school and my first encounter with a vape was freshman year, In my head they smelt better, looked cooler and everyone did it. So most of the people I hang with do it. But it never came across me to try it because I know it's wrong. Every day I'm pressured to try.

Vaping heavily impacts my community, we have a vape shop 4 minutes away from our school and over 100 kids walk by it every day on their way home. By making the price higher through tax fewer would stop and try to buy them.

Carmine

Kealakekua, Hawaii

To: Mark Nakashima, Chair and members of the Committee on Consumer Protection & Commerce

From: Daniel Valera

Re: Support for HB 537

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

One of my uncles recently passed away from lung cancer because he smoked cigarettes all his life. My peers are addicted and constantly needing to leave class to get a hit. Kids are constantly going up to each other and asking if they have a vape like it's a normal thing.

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

Chair Mark Nakashima
Members of the Committee on Consumer Protection and Commerce
HB537

I believe it's important to regulate e-cigarettes the same as other tobacco products and **support the intent of HB537**. It's not okay for these tobacco companies to target young audiences with these cheap products, ruining their futures, they shouldn't be in the hands of teenagers or young adolescents. Making them more expensive by taxing them like other tobacco products will make them less attractive.

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

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

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

Maui
Hilo, Hawaii

To: Chair Nakashima and members of the Committee on Consumer Protection & Commerce

From: Destin

Date: 2/1/2023

Re: Support for HB537

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

I have a fear of going to the bathroom at school because most people that go to the bathroom use it as an excuse to vape in there. I sometimes have to go and risk it and go and use the bathroom. I also got in trouble multiple times because I had the scent of the product cuz of people vaping around me.

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

Pa'auilo, Hawaii

Chair Mark Nakashima

Members of the Committee on Consumer Protection and Commerce

I'm Zoey, a local youth from Nu'uaniu/Liliha, and I support HB537.

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

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

Therefore, I urge the committee to support HB537, so that we can truly prevent the dangers of tobacco from affecting both my generation and our future generations.

Mahalo,
Zoey Duan

HB-537

Submitted on: 2/1/2023 2:24:13 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kelsey Chuckovich	Individual	Support	Written Testimony Only

Comments:

This testimony is in support of HB 537, which creates a taxation system for e-cigarettes. Taxing tobacco products is a proven strategy to reduce youth initiation of tobacco use and encourages tobacco users to quit. Raising prices through taxation has shown to reduce youth tobacco use, which would address the rising number of youth using e-cigarettes in the State of Hawaii.

HB-537

Submitted on: 2/1/2023 3:51:04 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cheryl Nelson	Individual	Oppose	Written Testimony Only

Comments:

I am opposing Bill #HB537 for the following reasons:

- The substantial increase in cost may cause consumers to revert to smoking traditional tobacco instead of vaping. Perhaps a lower tax percentage could be at least considered.
- This measure would cause hardship for many businesses. As a small business, we are already struggling.
- The state should instead focus on enforcing the ban on vaping and tobacco for those under 21 years of age instead. I suggest that efforts should be used to educate the parents of the minors that are purchasing it for their kids.

Regards,

C.Nelson

HB-537

Submitted on: 2/1/2023 4:15:58 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mark Nelson	Individual	Oppose	Written Testimony Only

Comments:

Aloha, As a small business owner I am opposed to the 70% Tax Rate, the same as the current Tobacco Tax Rate in Hawaii.

I am in favor of and would support a Tax of 25% on Vape Products, that contain nicotine or not. The Vape companies must register with the State of Hawaii, same as Tobacco Distributors, and Tax would be collected at the Point of Sale between a licensed business and it's supplier / distributor. Audits can be performed same as they are currently. The Tax can also be open to future increases as well. I believe there is a common ground solution, that can be achieved for this simple situation.

Mahalo

Mark Nelson

HB-537

Submitted on: 2/1/2023 5:16:59 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jason Park	Individual	Oppose	Written Testimony Only

Comments:

Dear CPC,

My girlfriend works at a vape shop. Bills like this one will put her out of work. HB537 is not acceptable.

Mahalo for your consideration

CLIFFORD CHANG, MPH

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Date: February 2, 2023
To: Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair
Members of the Committee on Consumer Protection and Commerce
Re: Support, with comments, to HB 537 Relating to Electronic Smoking Devices
Hrg: Thursday, February 2, 2023; 2:00 pm; Conference Room 329 and Videoconference

My name is Clifford Chang, testifying today both as the principal in my public health consulting business, Clifford Chang Consulting, and as a private individual with over 40 years of public health experience. I have been professionally involved in tobacco prevention and control for almost ten years and have continued my direct involvement on a voluntary basis for over fifteen years.

I am testifying in **support, with comments, to HB 537**, which establishes a tax equal to seventy per cent of the manufacturer's list price for electronic smoking devices and e-liquid products.

While HB 537 creates a taxation system for e-cigarettes, it does not create comprehensive regulation, which also includes licensing and permitting for retailers and wholesalers, and restricts online sales directly to consumers. Such comprehensive regulation, which includes taxation, licensure, and the prohibition of online sales of e-cigarettes, is very much needed to address the continued increase of e-cigarette use among our youth.

Instead of HB537, I would like to recommend that HB 833; Relating to Health, which focuses on tobacco products; e-liquid; electronic smoking devices; unlawful shipment; license fee; and retail permit fee, will accomplish the goals of HB537 and do more to help achieve comprehensive regulation

In addition to regulations, it is important to dedicate a portion of the collected taxes to educational, preventative and cessation services. E-cigarettes are the only tobacco products without a tax, and taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. Applying a meaningful tax on e-cigarettes is important because research shows that significant price increases reduce tobacco use among youth. I support this bill because it creates a taxation system for e-cigarettes, but again, recommend that HB833 is a much more comprehensive bill.

In Hawai'i, one in three high school students and one in five middle school students report that they currently use e-cigarettes, or "vapes." E-cigarettes are now the most popular tobacco product among youth – and that's largely because these products are not subject to many of the regulations other tobacco products are subject to.

On March 25, 2021, the wife of my best friend from high school died after a long, over 10 year struggle against lung cancer caused by smoking that also metastasized to her brain. Davina was only 62 years of age, leaving behind her husband of 35 years, Paul, their two daughters, and her first granddaughter who was born just prior to her death. Davina was able see and hold her granddaughter just once before passing away.

Davina started smoking in high school and tried to quit repeatedly throughout her life, cut way too short by the

insidious, addictive nicotine in tobacco. Davina was one of the strongest people I know. Despite this, it took her multiple attempts to quit, the pull of the nicotine addiction outweighing her resolve. With professional cessation treatment assistance she was finally able to quit, but not before she developed a malignant carcinoma in her lung which also metastasized to her brain. She underwent multiple surgeries, including a lobectomy and lung removal, numerous bouts of chemotherapy, and numerous clinical trials, before her body succumbed to fluid accumulation in the pleural space of her remaining lung. With the assistance of hospice and palliative care, Davina was able to pass away peacefully and without pain.

Please do what is necessary this legislative session, in part via the language in HB 537, but more comprehensively in HB 833, to help keep so many more of our youth from dying, like my friend Davina, from tobacco-related illnesses.

Thank you very much for this opportunity to testify.

Aloha,

A handwritten signature in black ink, appearing to read 'Clifford Chang', with a stylized flourish at the end.

Clifford Chang