



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

**Testimony in OPPOSITION to SB0550
RELATING TO HEALTH**

SENATOR JOSH GREEN, CHAIR, SENATE COMMITTEE ON HEALTH
SENATOR WILL ESPERO, CHAIR, SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL AND MILITARY AFFAIRS

Hearing Date: February 13, 2015

Room Number: 414

1 **Fiscal Implications:** The Department of Health (DOH) would be fiscally impacted by the
2 measure's requirement that DOH personnel assume law enforcement activities.

3 **Department Testimony:** The DOH opposes this measure which amends §321, HRS to prohibit
4 the possession or consumption of tobacco products and electronic smoking devices (ESDs) by
5 minors in public places. SB0550 specifies that the DOH along with local law enforcement, shall
6 issue a citation to the minor and will be responsible for adopting rules under §91, HRS to
7 effectuate enforcement and penalties for this act. According to the Centers for Disease Control
8 and Prevention (CDC), laws directed at minors' purchase, possession, or use of tobacco products
9 when implemented alone, are not proven to reduce youth smoking rates.¹

10 Smoking and tobacco use remain the leading cause of preventable illness and death in
11 Hawaii, causing over 1,200 deaths annually and resulting in over \$526 million in economic
12 losses. The tobacco industry nationally spends over \$8.5 billion annually on advertising and
13 promotions; \$27 million of which is spent in Hawaii. The industry continues to market their
14 products with images and messages which strongly resonate among children and is aggressively
15 increasing ESD advertising to youth.

16 In the CDC Guide to Community Preventative Services, laws that prohibit possession or
17 use of tobacco products by minors, and require youth to receive citations and participate in

¹ Task force on Community Preventive Services. Tobacco. In: Zaza S, Briss PA, Harris KW, eds. The Guide to Community Preventive Services: What Works to Promote Health? Atlanta (GA): Oxford University Press; 2005:3-79.

1 educational programs were reviewed and not found to be effective.² Purchase and/or Underage
2 Possession (PUP) laws are difficult to enforce and have little or no effect on the rates of youth
3 initiation and youth access to tobacco products.³ Instead, they divert policy attention away from
4 proven tobacco control strategies and relieve the tobacco industry of responsibility for its
5 marketing practices.

6 The DOH supports effective measures to impact youth access to tobacco that include: 1)
7 the passage of laws that impact the time, place, and manner as to how tobacco products and
8 ESDs are marketed and sold; 2) a strong merchant education effort; 3) strong enforcement; 4)
9 consistent adjudication by the courts; and 5) greater public and community awareness. These
10 actions, when taken together, will reduce both the appeal and the access to tobacco products to
11 Hawaii's youth.

12 Thank you for the opportunity to testify.

² (Task force on Community Preventative Services; see footnote 1)

³ Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl):i6-i13, 2003; Jason, LA, et al., "Youth Tobacco Sales-to-Minors and Possession-Use-Purchase Laws: A Public Health Controversy," *J Drug Education*, 35(4):275-290, 2005.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE

RA-YZ

February 13, 2015

The Honorable Will Espero, Chair
and Members
Committee on Public Safety,
Intergovernmental and Military Affairs
State Senate
Hawaii State Capitol, Room 414
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: Senate Bill No. 550, Relating to Health

I am Raymond Ancheta, Major of the Community Affairs Division, Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 550, Relating to Health. This bill includes electronic smoking devices in the definition of tobacco products. Preventing minors' access to tobacco products will hopefully allow them to make the informed decision to stay away from tobacco products and the dreadful illnesses they cause.

The HPD urges you to support Senate Bill No. 550, Relating to Health.

Thank you for the opportunity to testify in support of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond Ancheta", written over a horizontal line.

Raymond Ancheta, Major
Community Affairs Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoha", written over a horizontal line.

Louis M. Kealoha
Chief of Police

HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 702 Honolulu, Hawaii 96813

Phone: (808) 531-2198 Fax: (808) 534-1199

Web site: <http://www.hysn.org> E-mail: info@hysn.org

Robert Olague, President
Judith F. Clark, Executive Director
American Civil Liberties Union of Hawaii
Bay Clinic, Inc.
Big Brothers Big Sisters of Honolulu
Big Island Substance Abuse Council
Blueprint for Change
Bobby Benson Center
Catholic Charities Hawaii
Child and Family Service
Coalition for a Drug Free Hawaii
Domestic Violence Action Center
EPIC, Inc.
Family Programs Hawaii
Family Support Hawaii
Hale Kipa, Inc.
Hale 'Opio Kauai, Inc.
Hawaii Behavioral Health
Hawaii Student Television
Hina Mauka Teen Care
Hui Malama Learning Center
Ka'analike
KEY (Kualoa-Heeia Ecumenical Youth)
Project
Kokua Kalihi Valley
Life Foundation
Marimed Foundation
Maui Youth and Family Services
Palama Settlement
P.A.R.E.N.T.S., Inc.
Parents and Children Together (PACT)
Planned Parenthood of Hawaii
Salvation Army Family Intervention Svcs.
Sex Abuse Treatment Center
Susannah Wesley Community Center
The Catalyst Group
The Children's Alliance of Hawaii
Waikiki Health Center
Women Helping Women
YWCA of Kauai

February 6, 2015

To: Senator Josh Green, Chair
And members of the Committee on Health

Senator Will Espero, Chair
And members of the Committee on Public Safety, Intergovernmental,
and Military Affairs

TESTIMONY IN OPPOSITION TO SB 550 RELATING TO HEALTH

Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, opposes SB 550 Relating to Health.

HYSN strongly supports evidence-based approaches to preventing tobacco use and helping users to quit, but believes that a criminal offense for possession or use of tobacco by minors is an inappropriate and ineffective way to address the problem.

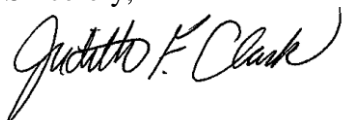
Minors who are convicted of the offence of possession of tobacco products would acquire criminal records that could prevent them from entering college, serving in the military, or practicing their chosen profession.

Making an activity a criminal offense is rarely effective in preventing initiation of use of substances or deterring persons who are already addicted from continued usage.

Hawaii has greatly reduced the number of young people who initiate tobacco use through effective education and prevention programs. For those who are already addicted, support and treatment at low or no cost is the most effective way to help people stop use of tobacco products.

Thank you for this opportunity to testify.

Sincerely,



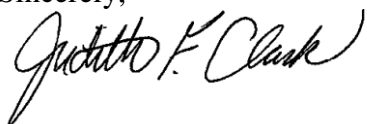
Judith F. Clark, MPH
Executive Director

Emancipation should not be a method used to resolve intrafamilial disputing or conflict.

HYSN encourages legislature to appoint a task force to thoroughly examine the emancipation of minors in Hawaii and provide recommendations on the emancipation process for minors with safeguards to ensure the success of emancipated youth.

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Judith F. Clark". The signature is written in a cursive style with a large, sweeping initial "J".

Judith F. Clark, MPH
Executive Director



Committee: Committees on Health and Public Safety, Intergovernmental & Military Affairs
Hearing Date/Time: Friday, February 13, 2015, 4:30 p.m.
Place: Conference Room 414
Re: Testimony of the ACLU of Hawaii **in Opposition to S.B. 550**, Relating to Health

Dear Chair Green, Chair Espero, and Committee Members:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in **opposition to S.B. 550**, Relating to Health.

While reducing youth tobacco use is a laudable goal, there is no evidence suggesting that criminalizing possession of cigarettes accomplishes that goal. To the contrary, funneling children into the criminal justice is not an effective or appropriate way to address a public health issue. Furthermore, this bill would give police officers a pretext by which to stop and search teenagers, potentially infringing on their constitutional rights and exposing the State to liability. Additionally, this bill does nothing to address the costs of processing all of these children through the criminal justice system, nor does it address the strain on the courts and law enforcement in enforcing this law.

The Centers for Disease Control has outlined a number of effective strategies for combatting youth tobacco use; criminalizing possession by youth is not among the CDC’s recommendations. *See* Centers for Disease Control and Prevention, Key Outcome Indicators for Evaluating Comprehensive Tobacco Control Programs, available at http://www.cdc.gov/tobacco/tobacco_control_programs/surveillance_evaluation/key_outcome/. Hawaii could accomplish its educational and public health goals far more economically, and effectively, through the Departments of Health and Education rather than through the Judiciary and the Department of Public Safety.

Thank you for this opportunity to testify.

Daniel M. Gluck
Legal Director
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

American Civil Liberties Union of Hawaii
P.O. Box 3410
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T: 808-522-5900
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E: office@acluhawaii.org
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Testimony OPPOSING SB 550; “Relating To Health”

The American Heart Association **OPPOSES** SB 550, “Relating To Health.”

Until comprehensive efforts to address the marketing of tobacco products to minors are exhausted, the AHA feels it would be inappropriate to hold youth responsible for behavior encouraged by tobacco marketers’ advertising. The industry spends almost \$27 million in Hawaii annually to recruit new tobacco users, most of them less than 18 years of age.

Evidence indicates that the industry pays retailers exorbitant product placement fees to insure that their products are located where they will become easily recognizable by youths, often next to candy or other sweet items that attract children’s attention. The industry knows that it needs to imprint its brand on minors today to insure that they will eventually become addicted adult tobacco users.

Rather than focus efforts on punishing the victims of tobacco, we need to focus on the victimizers.

By shifting the focus to youth possession of tobacco products, you would be diverting the focus from the root cause of the problem—tobacco industry marketing tactics—and onto children who succumb to the industry’s subliminal advertising messages. You would also be feeding the industry’s advertising and marketing strategy to make tobacco appear to be an adult “privilege” and portray smoking as “cool” to those youths reaching for a “forbidden fruit.” The end effect would help the tobacco industry to lure those children most vulnerable to their marketing messages and those most likely to rebel.

Other states’ that have attempted to address youth tobacco addiction by using laws similar to that proposed by SB 550 have shown no positive effect, and may have actually hurt proven, effective methods outlined under the CDC’s “Best Practices.” The tobacco industry’s own documents show that the strategy outlined in SB 550 was developed by the manufacturers.

Now is not the time to divert from the strategies that have been proven effective at encouraging children to avoid the trappings of tobacco addiction. Those strategies include:

- adequately funding of community tobacco prevention, education and cessation programs to at least the CDC’s recommended minimum for Hawaii, \$13.7 million annually;
- Increasing the unit price of tobacco products;
- Conducting mass media education campaigns when combined with other community interventions;

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diseases and stroke.”*

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Please remember the American Heart Association in your will.





- Mobilizing the community to restrict minors' access to tobacco products when combined with additional interventions (stronger local laws directed at retailers, active enforcement of retailer sales laws, retailer education with reinforcement)
- Implementing school-based interventions in combination with mass media campaigns and additional community efforts.

Please vote **NO** on SB 550.

Respectfully submitted by,

A handwritten signature in black ink that reads "Donald B. Weisman".

Donald B. Weisman
Hawaii Government Relations Director

*"Building healthier lives,
free of cardiovascular
diseases and stroke."*

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Please remember the American Heart Association in your will.





To: The Honorable Josh Green, Chair, Committee on Health
The Honorable Glenn Wakai, Vice Chair, Committee on Health
Members, Senate Committee on Health

The Honorable Will Espero, Chair, Committee on Public Safety, Intergovernmental and
Military Affairs
The Honorable Rosalyn H. Baker, Vice Chair, Committee on Public Safety,
Intergovernmental and Military Affairs
Members, Senate Committee on Public Safety, Intergovernmental and Military Affairs

From: Jessica Yamauchi, Executive Director

Date: February 11, 2015

Hrg: Senate Committees on Health & Public Safety, Intergovernmental and Military Affairs;
Fri., February 13, 2015 at 4:30 p.m. in Rm 414

Re: **Opposition for SB 550, Relating to Health**

Thank you for the opportunity to offer testimony in opposition of SB 550, which prohibits possession or consumption of tobacco products, including electronic smoking devices, by any person under eighteen years of age in public places.

The Coalition for a Tobacco Free Hawaii (Coalition) is a program of the Hawaii Public Health Institute working to reduce tobacco use through education, policy and advocacy. Our program consists of over 100 member organizations and 2,000 advocates that work to create a healthy Hawaii through comprehensive tobacco prevention and control efforts.

The Coalition opposes making youth use and possession of tobacco products, including electronic cigarettes unlawful.

Evidence does not support that legislation making youth use and possession of tobacco products unlawful reduces youth tobacco use. The Centers for Disease Control and Prevention outline a number of proven strategies to prevent youth tobacco use, none of which include criminalizing youth for possession or using tobacco products. Efforts include: anti-tobacco policies and programs in schools; increased restriction and enforcement of restrictions on tobacco sales to minors; reduced tobacco industry influences; decreased access to tobacco products; and increased price of tobacco products.¹

The Coalition recommends consideration of other measures to decrease youth use of tobacco products.

Other options to deter and decrease tobacco youth initiation and continued use includes continued funding for tobacco prevention programs and counter-marketing campaigns;

¹ See Centers for Disease Control and Prevention, KEY OUTCOME INDICATORS FOR EVALUATING COMPREHENSIVE TOBACCO CONTROL PROGRAMS (“Preventing Initiation of Tobacco Use Among Young People” logical model chart and explanations pp. 19-23). May 2005.



increasing the taxes on tobacco products and creating parity between the taxes on other tobacco products and electronic smoking devices with cigarettes; and raising the minimum age to purchase tobacco products, including electronic smoking devices, purchase to twenty-one.

The tobacco industry still market to youth and spend approximately \$23 million per day on marketing.² The Coalition does not want to see youth criminalized for falling victim to a billion dollar industry. This measure is not a proven method of ensuring that our children never use tobacco and we respectfully ask that you hold this measure.

Thank you for the opportunity to testify on this matter.



Jessica Yamauchi, MA
Executive Director

² Centers for Disease Control, Smoking and Tobacco Use, Tobacco Industry Marketing.
http://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/marketing/

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: joyamarshall0416@gmail.com
Subject: *Submitted testimony for SB550 on Feb 13, 2015 16:30PM*
Date: Wednesday, February 11, 2015 12:40:51 PM

SB550

Submitted on: 2/11/2015

Testimony for HTH/PSM on Feb 13, 2015 16:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall	Individual	Support	No

Comments:

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Date: Wednesday, February 11, 2015 12:57:38 PM

SB550

Submitted on: 2/11/2015

Testimony for HTH/PSM on Feb 13, 2015 16:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Stevens	Individual	Oppose	No

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Cc: tandemadams@gmail.com
Subject: *Submitted testimony for SB550 on Feb 13, 2015 16:30PM*
Date: Wednesday, February 11, 2015 6:12:01 PM

SB550

Submitted on: 2/11/2015

Testimony for HTH/PSM on Feb 13, 2015 16:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Adams	Hawaii community pharmacy association	Support	No

Comments:

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From: Patricia Ongcangco
To: HTHT testimony
Subject: Support HB1030
Date : Wednesday, February 11, 2015 5:40 PM

February 11, 2015

To: The Honorable Josh Green, Chair
The Honorable Glenn Wakai, Vice Chair
The Honorable Rosalyn H. Baker, Chair
The Honorable Brian T. Taniguchi, Vice Chair
Members of the Senate Committee on Health
Members of the Senate Committee on Commerce and Consumer Protection

Re: Strong Support for SB1030, Relating to Health

Hrg: February 10, 2015 at 9:00AM in Room 229

Thank you for the opportunity to submit testimony in support of SB 1030 which urges Hawai`i State to raise the age of sales to 21 to purchase tobacco products and electronic smoking devices

I am currently a Senior at Radford High School where the issues of tobacco/use of electronic smoking device has been brought upon our attention. In the last two years the use of electronic cigarettes in High Schools all over the island has tripled from about 5% to 17%, while in middle schools, the numbers have quadrupled from 1.8% to 7.9%. With that said the use of these "e-cigs" have proven to urge more of our youth to go straight to using/purchasing tobacco because big tobacco companies provide ads within these electronic products, preying on these teens and giving them an early start to having health risks.

Delaying the age from 18 to 21 will help enforce the risks of tobacco use, and help our state with healthcare expenditures. By delaying the age, our teens will become less likely to become daily users of tobacco and our state of Hawaii can be one of the first to set this example.

Raising the age is a growing trend nationally where young people are protected in 40 cities/counties in six states. Hawai`i has the opportunity to be the first state to raise the age of sale of tobacco products to 21. We respectfully ask you to pass this measure.

Mahalo,

Patricia Ongcangco
91-12767 Kilipue St.
Ewa Beach, HI 96706

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: 1hawaii4me@gmail.com
Subject: *Submitted testimony for SB550 on Feb 13, 2015 16:30PM*
Date: Thursday, February 12, 2015 7:27:34 AM

SB550

Submitted on: 2/12/2015

Testimony for HTH/PSM on Feb 13, 2015 16:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Dietrich	Individual	Oppose	No

Comments:

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197 Sand Island Access Rd, Suite #213
Honolulu, Hawaii 96819
1-866-866-6370
support@volcanoecigs.com

February 12, 2015

TO: WAKAI, INOUYE, Riviere, Slom, Taniguchi

From: Scott Rasak, VOLCANO Fine Electronic Cigarettes® Vice President

RE: SB550 – oppose.

Thank you for the opportunity to submit testimony.

VOLCANO Fine Electronic Cigarettes® is the largest manufacturer and retailer of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 11 locations statewide and employ over 100 full-time workers to support sales of our products not only here in Hawaii, but to all 50 states as well as Japan and the UK. We stand in opposition to SB550 for the following:

- Although electronic cigarettes emit NO smoke, the bill falsely defines vapor products as “electronic smoking devices” and deceptively redefines “smoking” to include the use of electronic cigarettes in an attempt to restrict their usage in the same places as tobacco cigarettes. Vapor products contain no tobacco, produce no smoke, and have not been demonstrated to have the detrimental effects of combustible tobacco products. In fact, the FDA has taken appropriate and proportional regulation seriously and to date has not issued regulations for the product because they seemingly understand the potential this product has to switch people over from actual tobacco, which kills 480,000 people per year. Further, Mitch Zeller, Director of the Center for Tobacco Products at the FDA recently stated:

- "If a current smoker, otherwise unable or unwilling to quit, completely substituted all of the combusting cigarettes that they smoked with



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an electronic cigarette at the individual level, that person would probably be significantly reducing their risk."

(<http://thedianerehmsshow.org/shows/2014-01-21/new-health-risks-cigarette-smoking/transcript>)

- In sharp contrast to indoor smoke free policies/laws (which are largely self enforced because of broad public support), please note that it is also impossible to enforce an e-cigarette usage ban (since the products can be used discreetly without anyone else knowing). By simply waiting a few seconds before exhaling, no visible vapor is exhaled by e-cigarette users, and as such, nobody will know that anyone is even using an e-cigarette. Despite widespread usage in cities and states that have banned e-cigarette use where smoking is banned, there is no record of any fine or citation being given. Enacting unwarranted and unenforceable regulations carries the risk of unintended consequences like sending former smokers back to combustible tobacco products; harming their health and undermining the mandate of the state to promote viable alternatives to known killers.

- The Food and Drug Administration (FDA) has wisely taken its time on developing regulations for the vapor product industry and has not determined that these products are in fact tobacco products . At this time, with the exception of youth access laws targeted at keeping electronic cigarettes out of the hands of those below the age of 18, we feel that any action by state legislatures with regard to electronic cigarettes is premature.

- Over the years that we have been in business in the state, we have provided a product that tens of thousands of customers use every day to

greatly reduce their tobacco use or quit smoking altogether. This has improved the lives of smokers and ex-smokers in this state. The removal of secondhand smoke has helped non-smokers as well and has cut down on the amount of butt discard in our community.

- Numerous studies conducted on e-cigarettes have found that e-cigarettes emit no hazardous levels of any constituents, and that levels of nitrosamines in e-cigarettes are nearly identical (i.e. very little if any) to those in nicotine gums and patches. Those studies are attached to this presentation.
- Burstyn, I. Peering through the mist: What does the chemistry of contaminants in electronic cigarettes tell us about health risks? BMC Public Health. January 2014. (concluding that there is no risk to bystanders exposed to electronic cigarette vapor)

<http://www.biomedcentral.com/1471-2458/14/18/abstract>

- Goniewicz ML, et al. Levels of selected carcinogens and toxicants in vapour from electronic cigarettes. Tobacco Control. March 2013. (testing of the vapor from twelve different electronic cigarettes, cigarette smoke, and the aerosol of the FDA-approved nicotine inhaler revealed that electronic cigarette vapor contains 9-450x less toxicants and chemicals when compared to secondhand smoke, with the authors noting that the trace levels present were comparable to what is released from the nicotine inhaler)

<http://tobaccocontrol.bmj.com/content/early/2013/03/05/tobaccocontrol-2012-050859.abstract>

- Siegel, M, et. al. Electronic cigarettes as a harm reduction strategy for



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tobacco control:

A step forward or a repeat of past mistakes. Journal of Public Health Policy. December 2010. (reviewing the evidence and concluding that there is no evidence electronic cigarettes pose risks to users and bystanders that is in any way comparable to cigarettes)

<http://www.palgrave-journals.com/jphp/journal/v32/n1/full/jphp201041a.html>

- Trehy, et. al. Analysis of electronic cigarette cartridges, refill solutions, and smoke for nicotine and nicotine related impurities. August 2011. (finding no harmful levels of any chemical in electronic cigarettes)

<http://www.tandfonline.com/doi/abs/10.1080/10826076.2011.572213>

Thank you for your time and consideration. If you have any questions, please feel free to contact me or Volcano's representative Celeste Nip at nipfire@me.com.

Sincerely,

Scott Rasak ,Vice President

VOLCANO Fine Electronic Cigarettes®

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Cc: pk.hitest@spamgourmet.com
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SB550

Submitted on: 2/12/2015

Testimony for HTH/PSM on Feb 13, 2015 16:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
P Kuromoto	Individual	Oppose	No

Comments:

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Date: Thursday, February 12, 2015 6:39:38 PM

SB550

Submitted on: 2/12/2015

Testimony for HTH/PSM on Feb 13, 2015 16:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Individual	Oppose	No

Comments: This kind of bill has never proven to work and only punishes teens.

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