

STAND. COM. REP. NO. 756

Honolulu, Hawaii

MAR 06 2015

RE: S.B. No. 1220
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred S.B. No. 1220, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CHAPTER 245, HAWAII REVISED STATUTES, "

begs leave to report as follows:

The purpose and intent of this measure is to implement an excise tax on nicotine products.

More specifically, this measure:

- (1) Expands the definition of "tobacco products" under section 245-1, Hawaii Revised Statutes, to include any product containing nicotine, but not containing tobacco;
- (2) Imposes an excise tax equal to eighty per cent of the wholesale price of any tobacco product, other than large cigars, sold by a wholesaler or dealer on and after January 1, 2016, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (3) Requires any increase in the excise tax rate imposed on cigarettes or little cigars on or after January 1, 2016, to trigger an automatic excise tax increase on other tobacco products, other than large cigars, on or after January 1, 2016; and



- (4) Requires the moneys collected under the excise tax on tobacco products, other than large cigars, to be deposited to the credit of the Hawaii cancer research special fund.

Your Committee received written comments in support of this measure from the Department of Health, University of Hawaii Cancer Center, American Cancer Society Cancer Action Network, American Lung Association of the Mountain Pacific, Coalition for a Tobacco-Free Hawaii, and one individual. Your Committee received written comments in opposition to this measure from 808 Smokes LLC, PC Gamerz, Vapor Etc., Volcano Fine Electronic Cigarettes, and fifteen individuals. Your Committee received comments on this measure from the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee finds that the United States Food and Drug Administration recently issued a proposed rule to expand the scope of its tobacco regulating authority to include, among other things, products containing nicotine derived from tobacco. In order to include nicotine products under the state cigarette tax and tobacco tax law, codified as chapter 245, Hawaii Revised Statutes, an amendment to the definition of "tobacco products" in section 245-1, Hawaii Revised Statutes, is necessary.

Your Committee also finds tobacco use is the single most preventable cause of disease, disability, and death in the United States. Despite this fact, tobacco products other than cigarettes are currently taxed at a lower rate than cigarettes, even though their use carries similar health risks. Your Committee believes that a similar tax rate for cigarettes and tobacco products is needed to act as a deterrent for all forms of tobacco use. However, your Committee also believes that the provision of the measure that requires an automatic excise tax rate increase is unnecessary. If, in the future, the Department of Taxation determines that the excise tax rate on tobacco products, other than large cigars, should be increased, it may propose specific statutory amendments to the Legislature at that time.

Your Committee has amended this measure by:

- (1) Deleting the provision requiring an automatic excise tax rate increase;



- (2) Changing the effective date to July 1, 2053, to facilitate further discussion on the measure; and
- (3) Making technical nonsubstantive amendments for the purposes of consistency.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1220, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1220, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



JILL N. TOKUDA, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB1220 SD1</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">OPN, WAM</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/27/15</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
TOKUDA, Jill N. (C)	✓			
KOUCHI, Ronald D. (VC)	✓			
CHUN OAKLAND, Suzanne				✓
DELA CRUZ, Donovan M.		✓		
ENGLISH, J. Kalani	✓			
GALUTERIA, Brickwood	✓			
HARIMOTO, Breene	✓			
INOUE, Lorraine R.		✓		
RIVIERE, Gil	✓			
RUDERMAN, Russell E.				✓
SLOM, Sam			✓	
TOTAL	6	2	1	2
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; text-align: center;">M. D. M.</div>				
Distribution: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="text-align: center;">Original File with Committee Report</div> <div style="text-align: center;">Yellow Clerk's Office</div> <div style="text-align: center;">Pink Drafting Agency</div> <div style="text-align: center;">Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes