

SB802 SD1

Measure Title: RELATING TO SMOKING.

Report Title: Smoking; Condominiums; Cooperative Housing Corporations; Prohibition by Rule; Electronic Cigarettes

Description: Allows condominiums and cooperative housing corporations to adopt rules prohibiting smoking in units, common elements, or limited common elements. Effective 7/1/2050. (SD1)

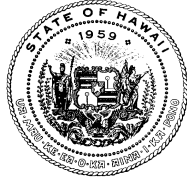
Companion:

Package: None

Current Referral: HTH, CPN

Introducer(s): GREEN, BAKER, Dela Cruz, English, Nishihara, Ruderman, Taniguchi, Wakai

<u>Sort by Date</u>		Status Text
1/23/2015	S	Introduced.
1/26/2015	S	Passed First Reading.
1/28/2015	S	Referred to HTH, CPN.
2/10/2015	S	The committee(s) on HTH has scheduled a public hearing on 02-13-15 1:35PM in conference room 414.
2/13/2015	S	The committee(s) on HTH recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in HTH were as follows: 5 Aye(s): Senator(s) Green, Wakai, Baker, Riviere, Ruderman; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Gabbard, Slom.
2/20/2015	S	Reported from HTH (Stand. Com. Rep. No. 402) with recommendation of passage on Second Reading, as amended (SD 1) and referral to CPN.
2/20/2015	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to CPN.
2/20/2015	S	The committee(s) on CPN will hold a public decision making on 02-25-15 9:45AM in conference room 229.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
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WRITTEN ONLY

**Testimony in SUPPORT of SB0802,SD1
RELATING TO SMOKING**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date: February 25, 2015

Room Number: 229

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health (DOH) supports this measure to protect the
3 tenants in condominiums and housing corporations from exposure to secondhand smoke (SHS).

4 SHS incursions in multi-unit housing, such as condominiums and apartments, are a
5 common and pervasive problem in Hawaii and the United States. A nationally representative
6 study published in August 2014 of the American Journal of Public Health, "Tobacco Incursions
7 in Multi-Unit Housing," found that approximately 30% of survey respondents reported smoke
8 incursions in their buildings, and 16% of these reported incursions in their own unit. In Hawaii,
9 approximately 40% of the complaint calls received by the DOH, regarding SHS exposure, are
10 about infiltration in multi-unit housing. Moreover, the U.S. Census data indicates that 38% of
11 housing in Hawaii is represented by multi-unit structures as compared to the national average of
12 26%.

13 Smoke-free policies in housing are increasing as a protective strategy around the country.
14 Between 2000 to 2014, the number of public housing authorities with smoke-free policies
15 increased from 2 to 500, and this number continues to grow. As of 2015, all tax credit and
16 affordable housing to be constructed will be smoke-free according to Hawaii Housing and
17 Finance Development Corporation policy. Furthermore, many market-rate properties are also
18 adopting voluntary policies for their communities.

19 SHS contains 7,000 chemicals, of which 69 are known carcinogens. The scientific
20 findings from the 2006 U.S. Surgeon General's Report, "The Health Consequences of

1 Involuntary Exposure to Tobacco Smoke,” disclosed that there is no safe level or amount of
2 exposure to SHS; even small amounts can be harmful, especially to the cardiovascular and
3 respiratory systems. SHS can lead to heart disease, lung cancer and can also trigger heart
4 attacks. Exposure is associated with asthma, ear infections and Sudden Infant Death Syndrome
5 in children.

6 Smoke-free policies are evidence-based strategies recommended to completely eliminate
7 exposure to SHS. According to the American Society of Heating, Refrigerating, and Air-
8 Conditioning Engineers, ventilation and other air filtration technologies cannot eliminate all the
9 health risks caused by SHS exposure. The Center for Energy and the Environment, confirms that
10 approximately 65% of the air is shared between units in apartment buildings. In other words, if
11 one person smokes, SHS can potentially affect all other units in the building.

12 The 2014 Hawaii State Legislature enacted a groundbreaking law that prohibits smoking
13 in all public housing across the state, affecting approximately 23,000 residents in Hawaii. The
14 DOH supports this measure that will enable providers of market-rate and affordable housing to
15 provide similar health and safety protections for tenants in other types of multi-unit housing.
16 Hawaii has an above average number of multi-unit dwellers and dwellings as compared to the
17 rest of the nation. By passing this measure, many individuals in Hawaii will be given a greater
18 opportunity to choose a home without the threat of being exposed to the hazards of SHS.

19 **Offered Amendments:** The DOH suggests amending the measure to use the term “electronic
20 smoking device” in place of “e-cigarette.”

21 Thank you for the opportunity to testify.



COALITION FOR A
TOBACCO-FREE HAWAII

To: The Honorable Rosalyn H. Baker, Chair, Committee on Commerce & Consumer Protection
The Honorable Brian T. Taniguchi, Vice Chair, Committee on Commerce & Consumer Protection
Members, Senate Committee on Commerce & Consumer Protection
From: Jessica Yamauchi, Executive Director
Date: February 24, 2015
Hrg: Senate Committee on Commerce & Consumer Protection; Wednesday, February 25, 2015 at 9:45 a.m. in Rm 229

Re: **Support for SB 802, SD1, Relating to Smoking, with recommendation**

Thank you for the opportunity to offer testimony in **support of SB 802, SD1**, which allows condominiums and cooperative housing corporations to adopt rules to prohibit smoking in units, common elements, or limited common elements and offers a recommendation to define e-cigarettes.

The Coalition for a Tobacco Free Hawai'i (Coalition) is a program of the Hawai'i 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 Hawai'i through comprehensive tobacco prevention and control efforts. The Coalition also supports the public through its Smoke-Free Homes Initiative, designed to create smoke-free apartments and condos through voluntary policy adoption.

The Coalition supports SB 802, SD1 and recommends amending the definitions of "tobacco product" and "e-cigarette" to be consistent with HB 940.

To provide continuity and avoid disparities among ESD definitions in the Hawaii Revised Statutes, the Coalition recommends amending the proposed definitions of "tobacco product" and "e-cigarette" to the definitions for "tobacco product" and "electronic smoking device" in HB 940, an Administration bill regulating ESDs. This language is consistent with bills relating to "electronic smoking device".

Secondhand smoke has killed 2.5 million Americans and should be eliminated.

Secondhand smoke is dangerous; the 50th Anniversary U.S. Surgeon General Report released on January 17, 2014 states that any level of exposure to secondhand smoke is dangerous and can be harmful, and over 2.5 million people have died from secondhand smoke.¹ The International Agency for Research on Cancer and the U.S. Environmental Protection Agency both note that

¹ U.S. Department of Health and Human Services. (2014). "The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General." Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.



environmental tobacco smoke (or secondhand smoke) is carcinogenic to humans. Secondhand smoke contains 7,000 identifiable chemicals, 69 of which are known or probable carcinogens.

The Coalition receives calls from residents who reside in multi-unit housing and who have asthma and other health issues affected by secondhand smoke exposure. The Coalition supports efforts that will encourage any multi-unit dwelling to go smoke-free. Currently, condominiums usually vote on bylaws to create smoke-free policies which can be a long and costly process. A law allowing condominium boards to adopt smoke-free policies through house rules will give the condominium boards and residents stronger legal support should they be interested in pursuing a smoke-free policy. Through our efforts we have learned that all residents—regardless if they have asthma, COPD or other health issues—are impacted by the hazards of secondhand smoke.

All families deserve to live free of second-hand smoke. The only way to ensure this is to prohibit smoking in units.

The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) adopted a position that states, “At present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity. . . No other engineering approaching, including current and advanced dilution ventilation or air cleaning technologies, have demonstrated or should be relied upon to control health risks from ETS [environmental tobacco smoke] exposure in spaces where smoking occurs.”²

The Coalition supports SB 802, SD1 and respectfully asks the committee to pass the measure.

Respectfully,

Jessica Yamauchi, MA
Executive Director

² ASHRAE Position Document on Environmental Tobacco Smoke Reaffirmed by ASHRAE Technology Council, June 25, 2013.

[file:///C:/Users/jyamauchi/Downloads/ASHRAE_PD_Environmental_Tobacco_Smoke_2013%20\(1\).pdf](file:///C:/Users/jyamauchi/Downloads/ASHRAE_PD_Environmental_Tobacco_Smoke_2013%20(1).pdf)

Testimony for Senate Bill 802

My name is John Mason. I have owned a condo in Hawaii at Makaha Valley Towers for eight years. We have had a bad second hand smoking problem for all that time. There has been pipe, cigar and cigarette smoke from the unit below. My wife suffers from respiratory problems. The two units above smell the smoke too, and one lady there is a lung cancer survivor and her husband suffers from chronic pulmonary disorder (COPD).

The smoke keeps coming. I have tried talking to the offending smoker to no avail. I have written him and the condo board to no avail.. The condo manager tries to mediate the problem, and the smoke will stop or lessen for a while, but has always returned. Sometimes it can come in the middle of the night and has even made my wife sick.

Our condo and Hawaii Condo law have the standard nuisance clause that provides what SB 802 also has to the effect that a person can do what he or she wants in their own unit unless it unreasonably affects another owner. The United States Department of Health, and the Hawaii Department of Health, both classify second hand smoke as a danger to public health, especially to children but also to the public generally. I have pointed this out to our condo board in several letters but they have taken no action. Our condo manager, who is very competent, informs me that a house rule on second hand smoke would be very hard to enforce because it is not always easy to trace the source of the smoke and their general policy on not entering individual units except for maintenance. The U.S Dept. of Health takes the position that the only way to eliminate the health risk of second hand smoke is to eliminate it, not try to contain it. The heating and ventilating people say the same thing.

I have come to the conclusion that this problem exists in condos all over Hawaii and the United States generally. I do not see any reasonable solution except for condos to go non smoking, with maybe a special place for smokers to go which could be where the smoke does not bother other people in there own units. Which is better - for the smoker to have to go somewhere else nearby to smoke or for another unit owner to endure unhealthful unwanted smoke?

Courts have held there is no constitutional right to smoke, and there is a Hawaii Attorney General's opinion that condos can amend their bylaws to go non smoking even in individual units. It is very difficult to amend the bylaws because it requires a two thirds vote of all owners. If 80% of owners vote, only a little over 10% of no votes defeat the attempted bylaw. If legislators are reluctant to pass Senate Bill 802 in its present form, an amendment to existing law to make a bylaw amendment possible by a two thirds majority of people actually voting would help.

For the above reasons I favor passage of Senate Bill 802.

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To: [CPN Testimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB802 on Feb 25, 2015 09:45AM*
Date: Friday, February 20, 2015 5:03:52 PM

SB802

Submitted on: 2/20/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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Cc: npheatt@hotmail.com
Subject: Submitted testimony for SB802 on Feb 25, 2015 09:45AM
Date: Tuesday, February 24, 2015 11:04:23 AM
Attachments: [As a condo owner in Kona.docx](#)

SB802

Submitted on: 2/24/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Nan Pheatt	Individual	Comments Only	No

Comments: As a condo owner in Kona, Big Island, I enthusiastically support SB 802 SD1. Associations must have the right to limit smoking tobacco products, as well as electronic cigarettes, in all units, common areas, or limited common areas. Restrictions should extend to owners, tenants, and guests. Smoking has been established as a health hazard (to both smokers and nonsmokers), a fire hazard, a source of odor, and a source of littering. I have had guests tell me that their stay in my condo was spoiled by having to endure smoke drifting from a neighboring lanai. They had to go inside to escape it. Smoking hurts my rental appeal and my property value. Please approve SB 802 SD1.

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Cc: michrobins3@myself.com
Subject: *Submitted testimony for SB802 on Feb 25, 2015 09:45AM*
Date: Saturday, February 21, 2015 4:19:12 PM

SB802

Submitted on: 2/21/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Robinson	Individual	Oppose	No

Comments:

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Cc: surfmaster008@gmail.com
Subject: Submitted testimony for SB802 on Feb 25, 2015 09:45AM
Date: Monday, February 23, 2015 12:12:59 PM

SB802

Submitted on: 2/23/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Higa	Individual	Oppose	No

Comments: This bill is completely ignorant about the great health benefits of electronic smoking. The people backing this bill need to DO A LITTLE OBJECTIVE READING on this topic and stop their fear and hate of these products just because they don't understand them. Also this bill is an assault on our RIGHT TO PRIVACY at home!!!!

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Subject: *Submitted testimony for SB802 on Feb 25, 2015 09:45AM*
Date: Monday, February 23, 2015 7:32:47 AM

SB802

Submitted on: 2/23/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Kim	Individual	Oppose	No

Comments:

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Date: Friday, February 20, 2015 11:19:54 PM

SB802

Submitted on: 2/20/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Chang	Individual	Oppose	No

Comments:

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Date: Tuesday, February 24, 2015 11:45:48 AM

SB802

Submitted on: 2/24/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jake J. Watkins	Individual	Oppose	No

Comments: The condo owners should make this choice.

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Date: Friday, February 20, 2015 5:22:44 PM

SB802

Submitted on: 2/20/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Wells	Individual	Oppose	No

Comments:

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Date: Tuesday, February 24, 2015 9:01:19 AM

SB802

Submitted on: 2/24/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Anton	Individual	Oppose	No

Comments: I strong oppose sb802. YOU BETTER NOT BE TALKING ABOUT WHERE I LIVE!!!!!!

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Date: Tuesday, February 24, 2015 7:21:21 AM

SB802

Submitted on: 2/24/2015

Testimony for CPN on Feb 25, 2015 09:45AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Michael S. Nakasone	Individual	Oppose	No

Comments:

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