

Honolulu, Hawaii

FEB 14 2020

RE: S.B. No. 2538
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committees on Commerce, Consumer Protection, and Health and Education, to which was referred S.B. No. 2538 entitled:

"A BILL FOR AN ACT RELATING TO THE YOUTH VAPING EPIDEMIC,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit the sale of flavored tobacco products;
- (2) Prohibit the mislabeling of e-liquid products containing nicotine;
- (3) Require the Department of Education to establish a safe harbor program by which persons under twenty-one years of age may dispose of electronic cigarettes in their possession;
- (4) Authorize public school teachers to confiscate electronic cigarettes;
- (5) Increase fines for the purchase or possession of tobacco products and electronic smoking devices by persons under twenty-one years of age;
- (6) Authorize a court to impose, as a penalty on a person eighteen to twenty-one years of age who is convicted of



possession of a tobacco product or electronic smoking device, the requirement to complete a tobacco education program, complete a tobacco use cessation program, or perform community service instead of paying a fine; and

- (7) Require a parent or guardian of a minor to select from among the penalties for a minor convicted of possession of a tobacco product or electronic smoking device.

Your Committees received testimony in support of this measure from the Department of Health; Office of the Prosecuting Attorney, Hawaii County; Hawaii Dental Association; Kapi'olani Smokefree Families; American Cancer Society Cancer Action Network; Hawai'i Public Health Institute; Hawaii Dental Hygienists' Association; American Academy of Pediatrics, Hawaii Chapter; Hawai'i Primary Care Association; Hawai'i Pacific Health; Hawaii COPD Coalition; Hui No Ke Ola Pono; Hawai'i Association of Independent Schools; Flavors Hook Kids Hawai'i; and numerous individuals. Your Committees received testimony in opposition to this measure from the Retail Merchants of Hawaii, Hawaii Smokers Alliance, Hawaii Petroleum Marketers Association, and thirteen individuals. Your Committees received comments on this measure from the Department of Education, Hawaii State Teachers Association, and two individuals.

Your Committees find that there has been a dramatic increase in the use of electronic smoking devices by Hawaii's youth and that a significant driver of this increase is the availability of flavored products. The tobacco industry and electronic smoking device industry have significantly increased the introduction and marketing of flavored non-cigarette tobacco products for electronic smoking devices. Adding flavors to tobacco changes the taste and reduces the harshness of the otherwise unflavored tobacco product, making smoking more appealing and easier for beginners to try. Therefore, to ensure the health and safety of consumers, especially youth and teenagers, it is necessary to further regulate the electronic smoking device industry, particularly the sale of flavored non-cigarette tobacco products.

Your Committees note that the Department of Education already has a zero-tolerance policy for tobacco products and electronic smoking devices and the Department of Health has worked with the Department of Education to offer guidance and advice on the safe



handling, storage, and disposal of electronic smoking devices. Additionally, your Committees further note that research shows that punitive provisions for youth possession or use are ineffective and may have the unintended consequence of stigmatizing youth and exacerbating socioeconomic, racial, gender, and other disparities.

Accordingly, your Committees have amended this measure by:

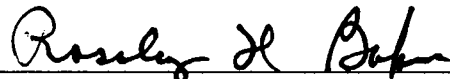
- (1) Deleting language that would have required the Department of Education to establish a safe harbor program by which persons under twenty-one years of age may dispose of electronic cigarettes in their possession;
- (2) Deleting language that would have authorized public school teachers to confiscate electronic cigarettes;
- (3) Deleting language that would have increased fines for the purchase or possession of tobacco products and electronic smoking devices by persons under twenty-one years of age; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Health and Education that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2538, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2538, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committees on Commerce,
Consumer Protection, and Health
and Education,



MICHELLE N. KIDANI, Chair

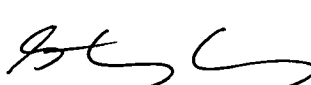


ROSALYN H. BAKER, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

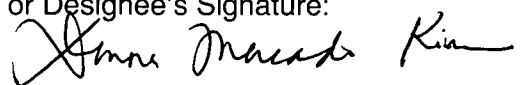
Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB2538	CPH/EDU, JDC	2/5/20		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
CHANG, Stanley (VC)	✓			
NISHIHARA, Clarence K.	✓			
RUDERMAN, Russell E.				✓
THIELEN, Laura H.				✓
WAKAI, Glenn	✓			
FEVELLA, Kurt				✓
TOTAL	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Education
EDU

Bill / Resolution No.:* SB 2538	Committee Referral: CPH/EDU, JDC	Date: 02/05/2020		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KIDANI, Michelle N. (C)	✓			
KIM, Donna Mercado (VC)	✓			
DELA CRUZ, Donovan M.				✓
KANUHA, Dru Mamo	✓			
FEVELLA, Kurt				✓
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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