

STAND. COM. REP. NO. 1176

Honolulu, Hawaii

**MAR 25 2021**

RE: H.B. No. 826  
H.D. 2  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committees on Health and Commerce and Consumer Protection, to which was referred H.B. No. 826, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ELECTRONIC SMOKING DEVICES,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Expand the purposes for which moneys in the tobacco enforcement special fund may be used to include all functions of the Department of the Attorney General;
- (2) Rename the Electronic Smoking Device Retailer Registration Unit to the Electronic Smoking Device Retailer Registration and Enforcement Unit;
- (3) Expand the scope of the Unit to include enforcement of compliance of electronic smoking devices with the Federal Food, Drug, and Cosmetic Act;
- (4) Establish the electronic smoking device retailer registration and enforcement unit special fund for moneys received from enforcement actions; and



- (5) Amend the fine amount for persons under twenty-one years of age who purchase or possess tobacco products or electronic smoking devices.

Your Committees received testimony in opposition to this measure from the Department of the Attorney General, Department of Health, Hawaii State Teachers Association, American Heart Association, Hawai'i Public Health Institute, American Cancer Society Cancer Action Network, American Vaping Association, Black Lava Vape, Hawaii COPD Coalition, Hawai'i Primary Care Association, Irie Hawaii, Smoke-Free Alternatives Trade Association, AlohaCare, Hawaii Smokers Alliance, Volcano Vape Shops, and thirty individuals. Your Committees received comments on this measure from the Department of Budget and Finance.

Your Committees find that the introduction of flavored e-cigarettes, electronic smoking devices, and other electronic nicotine delivery systems into the marketplace has had a negative impact on Hawaii's youth. Your Committees further find that the Department of the Attorney General requires funding to better regulate and ensure the removal of unsafe, noncertified electronic nicotine delivery systems from the marketplace. This measure provides the Department of the Attorney General with additional funding to expand its electronic smoking device regulatory arm.

Your Committees heard a significant amount of testimony from many stakeholders opposing any increase in the fines levied against persons under twenty-one years of age who purchase or possess tobacco products or electronic smoking devices. The testimony in opposition explained that punishment, such as the fine in this measure, is not an optimal strategy for behavior change and that the fine disproportionately affects low-income communities, youth of color, LGBT youth, youth with disabilities, and boys.

Therefore, your Committees have amended this measure by:

- (1) Removing the proposed amendments to section 712-1258, Hawaii Revised Statutes, in section 6 of this measure with respect to youth fines;
- (2) Inserting, section 3 of S.B. No. 1147, S.D. 2, Legislative Session 2021, which makes unlawful the sale

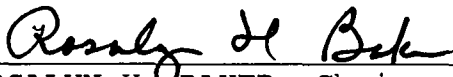


of flavored tobacco products, mislabeling of e-liquid products containing nicotine, and sale of tobacco products other than through retail sales via in-person exchange;

- (3) Inserting into this measure, section 4 of S.B. No. 1147, S.D. 2, Legislative Session 2021, which includes e-liquid and electronic smoking devices within the definition of "tobacco products" as used in the cigarette tax and tobacco tax law;
- (4) Amending section 1 to reflect its amended purpose; and
- (5) 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 Health and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 826, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 826, H.D. 2, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

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



ROSALYN H. BAKER, Chair

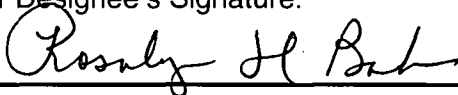


JARRETT KEOHOKALOLE, Chair



The Senate  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Health**  
**HTH**

Bill / Resolution No.:*	Committee Referral:	Date:
HD 820 HD2	HTH/CPN, NAM/JDC	3/19/2021
<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	
KEOHOKALOLE, Jarrett (C)	✓	
BAKER, Rosalyn (VC)	✓	
MORIWAKI, Sharon Y.	✓	
SAN BUENAVENTURA, Joy A.	✓	
FEVELLA, Kurt	✓	
<b>TOTAL</b>	5	—
—	—	—
Recommendation:		
<input checked="" type="checkbox"/> Adopted <span style="margin-left: 200px;"><input type="checkbox"/> Not Adopted</span>		
Chair's or Designee's Signature:		
		
Distribution:		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
Goldenrod Committee File Copy		

\*Only one measure per Record of Votes

The Senate  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:	Committee Referral:	Date:		
HB826 HB2	HTH/CPN/WAM/JDC	03.19.2021		
<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)	/			
MISALUCHA, Bennette E.	/			
NISHIHARA, Clarence K.	/			
RIVIERE, Gil	/			
SAN BUENAVENTURA, Joy A.	/			
FEVELLA, Kurt	/			
<b>TOTAL</b>	7	-	-	-
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Clarence K. Nishihara</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

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