

STAND. COM. REP. NO.

1594

Honolulu, Hawaii

, 2021

MAR 31

RE: H.C.R. No. 80
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.C.R. No. 80 entitled:

"HOUSE CONCURRENT RESOLUTION REQUESTING THE UNITED STATES FOOD AND DRUG ADMINISTRATION TO PROMOTE TRANSPARENCY AND ENFORCEMENT BY IMMEDIATELY PUBLISHING PREMARKET TOBACCO PRODUCT APPLICATIONS,"

begs leave to report as follows:

The purpose of this measure is to request that the United States Food and Drug Administration promote transparency and enforcement by immediately publishing Premarket Tobacco Product Applications.

Your Committee received testimony in support of this measure from the Coalition for a Tobacco-Free Hawai'i and one individual. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs and Department of Health.

Your Committee finds that electronic smoking devices produce an aerosol by heating a liquid that usually contains nicotine, flavorings, and other chemicals that help make the aerosol. The aerosol is inhaled into the user's lungs and, when exhaled by the user, may be inhaled by bystanders. Your Committee further finds that the federal Centers for Disease Control and Prevention have

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stated that electronic smoking devices are not safe for youth, young adults, and pregnant adults. However, the use of electronic smoking devices has been increasing exponentially among youth in Hawaii. While the use of electronic smoking devices by youth have risen nationally, use in Hawaii by youth is even higher.

Your Committee further finds that the Food and Drug Administration required all sellers and manufacturers of new tobacco products, including e-cigarettes and electronic nicotine delivery systems, to submit a Premarket Tobacco Product Application by September 9, 2020. However, your Committee finds that, to date, only three separate entities have successfully received marketing orders since 2015, leaving a gap between current federally approved e-cigarette sellers and non-compliant sellers or non-applicants.

Your Committee has amended this measure by:

- (1) Deleting the request for the United States Food and Drug Administration to publish the Premarket Tobacco Product Applications;
- (2) Requesting that the Premarket Tobacco Product Application applicant information be provided to the Department of the Attorney General;
- (3) Removing the request for the Department of Commerce and Consumer Affairs to use applicant data to identify businesses not in compliance with federal requirements;
- (4) Urging the Department of the Attorney General to identify Hawaii sellers who do not have a pending or approved Premarket Tobacco Product Application in compliance with the United States Food and Drug Administration requirements and transmit such information to the United States Food and Drug Administration;
- (5) Requesting that the Department of the Attorney General submit a comprehensive report of actions taken pursuant to this measure to the Legislature no later than sixty days prior to the Regular Session of 2022;



- (6) Amending the list of individuals who will receive a certified copy of this measure;
- (7) Amending the title to read, "REQUESTING THE UNITED STATES FOOD AND DRUG ADMINISTRATION TO PROMOTE TRANSPARENCY AND ENFORCEMENT BY PROVIDING INDIVIDUAL PREMARKET TOBACCO PRODUCT APPLICATION APPLICANT INFORMATION OF HAWAII SELLERS TO THE DEPARTMENT OF THE ATTORNEY GENERAL FOR LAW ENFORCEMENT PURPOSES."; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 80, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 80, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



AARON LING JOHANSON, Chair



Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: <i>HCR 80</i>	Committee Referral: <i>HHH, CPC</i>	Date: <i>3/29/21</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. JOHANSON, Aaron Ling (C)	✓			
2. KITAGAWA, Lisa (VC)	✓			
3. AQUINO, Henry J.C.	✓			
4. HAR, Sharon E.	✓			
5. HASHEM, Mark J.	✓			
6. KONG, Sam Satoru	✓			
7. MIZUNO, John M.	✓			
8. MORIKAWA, Dee	✓			
9. ONISHI, Richard H.K.				✓
10. TARNAS, David A.	✓			
11. MATSUMOTO, Lauren	✓			
TOTAL (11)	10	0	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align:center; font-size:small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <i>[Signature]</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				