

STAND. COM. REP. NO. 3441

Honolulu, Hawaii

**MAR 24 2022**

RE: H.B. No. 1570  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committees on Health and Education, to which was referred H.B. No. 1570, H.D. 1, 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) Require the Department of Health to post monthly updates on its website on all deposits into and expenditures from the Tobacco Enforcement Special Fund, Hawaii Tobacco Settlement Special Fund, and Hawaii Tobacco Prevention and Control Trust Fund;
- (2) Require the Department of Health to submit annual reports to the Legislature that provides an accounting of the receipts and expenditures from the Hawaii Tobacco Settlement Special Fund and Hawaii Tobacco Prevention and Control Trust Fund;
- (3) Require the Department of the Attorney General to monitor all online sales of all tobacco products and electronic smoking device products and post monthly updates on its website regarding the estimated number of these products that have entered the State and how many products, by tonnage, have been confiscated;



- (4) Require the Department of Health to establish a standardized and scientific testing process for the presence of flavoring in all tobacco products and synthetic nicotine products and make the testing protocols and results available to the public;
- (5) Prohibit the sale or distribution of all flavored tobacco and synthetic nicotine products in the State;
- (6) Require the Department of Health, in collaboration with the Department of Education, to establish a take back program to collect and destroy all electronic smoking devices, flavored tobacco or synthetic nicotine products, and tobacco products voluntarily disposed of by students on school property; and
- (7) Require the Department of Health, in collaboration with the Department of Education, to establish quarterly meetings with students at all school complex areas and independent schools to seek input on addressing the youth vaping epidemic.

Your Committees received testimony in support of this measure from the Hawaii Association of Independent Schools; Parents for Public Schools of Hawai'i; Advantage Health Care Provider, Inc.; and twenty-six individuals. Your Committees received testimony in opposition to this measure from the Department of Health; Hawaii Primary Care Association; Retail Merchants of Hawaii; Volcano eCigs; Hawaii Cheapest Vape Shop; Hawaii Smokers Alliance; Consumer Advocates for Smoke-free Alternatives Association; R Street Institute; ABC Stores; BLVK, JOCOR Enterprises, LLC; American Cancer Society Cancer Action Network; Cigar Association of America, Inc.; Consumer Choice Center; Smoke-Free Alternatives Trade Association; and sixty-four individuals. Your Committees received comments on this measure from the Department of Education; Department of the Attorney General; Hawaii State Teachers Association; AlohaCare; American Heart Association, Inc.; Hawaii Children's Action Network Speaks!; Hawai'i Public Health Institute; American Lung Association; Coalition for a Tobacco-Free Hawai'i Youth Council; Hawaii COPD Coalition; Hawaii Food Industry Association; Hawaii Petroleum Marketers Association; Honolulu Youth Commission; one member of the Hawai'i County Council; Hawaii



Youth Services Network; Save Medicaid Hawaii; Hawaii Substance Abuse Coalition; Hawaii Dental Hygienists' Association; Hawai'i - American Nurses Association; University of Hawai'i Student Health Advisory Council; We Are One, Inc.; 'Ohana Health Plan; Hamakua-Kohala Health; and forty-nine individuals.

Your Committees find that there has been a dramatic increase in the use of electronic smoking devices by Hawaii's youth. According to the 2019 Hawaii Youth Risk Behavior Survey, thirty-one percent of middle school students and forty-eight percent of public high school students had tried electronic smoking devices, and eighteen percent of middle school students and thirty-one percent of high school students currently vape. Your Committees find that the rates are higher in the neighbor island counties with high school vaping use rates exceeding thirty-five percent for Hawaii, Maui, and Kauai, which rank among the highest in the country. Your Committees also find that in a 2011 modeling study published in the American Journal of Public Health, an estimated 633,252 deaths, nationally, can be averted by the year 2050 if menthol cigarette smoking is banned.

The House Draft No. 1 of this measure added provisions that require:

- (1) The Department of Health to post monthly online updates on certain tobacco enforcement related expenditures, submit annual reports to the Legislature on the receipts of those expenditures, and establish a process for testing the presence of flavoring in tobacco products and synthetic nicotine products and post this information online;
- (2) The Department of the Attorney General to monitor online sales of tobacco products and electronic smoking device products and post online monthly updates; and
- (3) The Department of Health and Department of Education to establish a take back program for students to voluntarily dispose of certain tobacco products and hold quarterly meetings with students on addressing the youth vaping epidemic.



Your Committees acknowledge the overwhelming public outcry, as evidenced by the number of testifiers in opposition or providing comments to this measure particularly with respect to the amendments made by the House Draft No. 1 referenced above that place onerous administrative burdens on various state departments. Your Committees share the concern that these amendments add little to accomplishing the goals of the measure, make the measure untenable, and create a potential legal problem with the measure's title.

Therefore, your Committees have amended this measure by:

- (1) Replacing its contents with the contents of S.B. No. 3118, S.D. 2, Regular Session of 2022;
- (2) Exempting premarket tobacco application products; and
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the records of votes of the members of your Committees on Health and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1570, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1570, H.D. 1, S.D. 1, and be referred to your Committees on Commerce and Consumer Protection and Ways and Means.

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



MICHELLE N. KIDANI, Chair

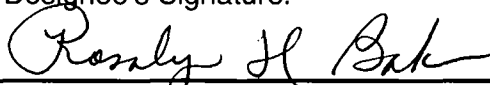


JARRETT KEOHOKALO, Chair



The Senate  
 Thirty-First Legislature  
 State of Hawai'i

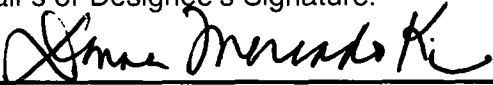
**Record of Votes**  
**Committee on Health**  
**HTH**

Bill / Resolution No.:* <b>HB1970 HDI</b>	Committee Referral: <b>HTH/EDM, CPN/WAM</b>	Date: <b>3-18-2022</b>		
<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 H. (VC)	✓			
MORIWAKI, Sharon Y.	✓			
SAN BUENAVENTURA, Joy A.		✓		
FEVELLA, Kurt				✓
<b>TOTAL</b>	<b>3</b>	<b>1</b>	<b>—</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> 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  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Education**  
**EDU**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1570.HDI	HTH/EDU.CPN/WAM	3/18/22		
<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				/
<b>TOTAL</b>	<b>3</b>			<b>2</b>
Recommendation:				
<input checked="" type="checkbox"/> Adopted				
<input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
<b>Distribution:</b>				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

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