

JOSH GREEN, M.D.
GOVERNOR



KEITH T. HAYASHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/09/2023

Time: 02:30 PM

Location: 309 VIA VIDEOCONFERENCE

Committee: House Education

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: HB 1492 RELATING TO PUBLIC SCHOOLS.

Purpose of Bill: Expanding the statutory prohibition on the use of tobacco at public schools and public school functions to be a prohibition on the use and possession of electronic smoking devices and tobacco products.

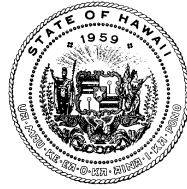
Department's Position:

The Hawaii State Department of Education (Department) offers comments on HB 1492.

The Department is fully supportive of reducing the use of electronic smoking devices and tobacco products at schools and recognizes that schools play a role in preventing youth from using potentially harmful tobacco products, including electronic smoking devices, by helping them to develop health literacy skills, providing a healthy and safe school environment, and utilizing restorative practices when students are found in possession of or using these products.

However, prohibiting the possession and use of tobacco products and electronic smoking devices would be a difficult task for schools to enforce, particularly amongst adults who may be on campus. Furthermore, penalties for use and possession have not been found to be effective in reducing youth tobacco consumption.

Thank you for the opportunity to submit testimony on HB 1492.



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony COMMENTING on H.B. 1492
RELATING TO PUBLIC SCHOOLS**

REPRESENTATIVE JUSTIN H. WOODSON, CHAIR
HOUSE COMMITTEE ON EDUCATION

Hearing Date: February 9, 2023

Room Number: Conference Room 309
& Videoconference

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) provides comments on House Bill
3 1492 (H.B. 1492) as a measure to expand the existing statutory prohibitions on the use of
4 tobacco at public schools and public school functions to be a prohibition on the use and
5 possession of tobacco products and electronic smoking devices (ESD).

6 The DOH is very concerned about the alignment to expand youth penalty language from
7 the state penal code into state laws governing the education of our children and youth. Public
8 health supports strategies and best practices that protect children and youth by regulating how,
9 where, and what tobacco products are sold. Often referred to as youth access laws, what is
10 recommended is to not allow tobacco products to be sold online to individuals, to have added
11 tax, permitting, and licensing, and restrict the sale of flavored products, and such laws have
12 successfully reduced tobacco initiation and use when they are well enforced to ensure a high rate
13 of compliance.¹

¹ DiFranza, JR, "Which interventions against the sale of tobacco to minors can be expected to reduce smoking?"
Tobacco Control, doi:10.1136/tobaccocontrol-2011-050145, published online first October 12, 2011

1 The DOH notes that youth purchase, use, or possession (PUP) laws shift liability to the
2 victims of tobacco industry targeting rather than holding the tobacco industry accountable.² PUP
3 laws are not regarded as effective approaches to reducing youth tobacco use and may detract
4 from more effective enforcement measures.³ For example, conducting compliance checks for
5 retailers are more effective and easier to systematically enforce as their locations are fixed and
6 they are fewer in number compared to the youth themselves.⁴ Moreover, some tobacco products
7 are designed to be discrete and are more difficult to detect.⁵ PUP laws are also inequitable as
8 they disproportionately impact youth from low-income communities. There is a higher
9 concentration of tobacco retailers and advertising, and tobacco retail locations near schools in
10 less affluent areas, and therefore more youth from these communities who consume tobacco.^{6,7}

11 The youth vaping epidemic in Hawaii requires a comprehensive approach, and the DOH
12 recommends strategies vetted by agencies within the Executive Branch found in H.B. 1076 and
13 S.B. 1374 along with H.B. 1077 and S.B. 1375. These much needed strategies (e.g. regulation of
14 e-cigarette sales and prohibition of the sale of flavored tobacco products including menthol)
15 address the supply and access to alluring tobacco products and hold the tobacco industry
16 accountable for generating an epidemic of addiction among youth today.

17 Thank you for the opportunity to provide comments.

18 **Offered Amendments:** None

² Campaign for Tobacco-Free Kids. (2018) Youth Purchase, Use, or Possession Laws Are Not Effective Tobacco Prevention. Accessed on February 7, 2023 from <https://www.tobaccofreekids.org/assets/factsheets/0074.pdf>

³ Campaign for Tobacco-Free Kids. (2018) Youth Purchase, Use, or Possession Laws Are Not Effective Tobacco Prevention. Accessed on February 7, 2023 from <https://www.tobaccofreekids.org/assets/factsheets/0074.pdf>

⁴ Wakefield, M, and Giovino, G, “Teen penalties for tobacco possession, use, and purchase: evidence and issues,” *Tobacco Control*, 12(Suppl 1):i6-i13, 2003; Jason, LA, et al., “Youth Tobacco Sales-to-Minors and Possession-Use-Purchase Laws: A Public Health Controversy,” *J Drug Education*, 35(4):275-290, 2005.

⁵ Campaign for Tobacco-Free Kids. (2018) Youth Purchase, Use, or Possession Laws Are Not Effective Tobacco Prevention. Accessed on February 7, 2023 from <https://www.tobaccofreekids.org/assets/factsheets/0074.pdf>

⁶ Wakefield, M, and Giovino, G, “Teen penalties for tobacco possession, use, and purchase: evidence and issues,” *Tobacco Control*, 12(Suppl 1):i6-i13, 2003; Jason, LA, et al., “Youth Tobacco Sales-to-Minors and Possession-Use-Purchase Laws: A Public Health Controversy,” *J Drug Education*, 35(4):275-290, 2005.

⁷ D’Angelo, H., Ammerman, A., Gordon-Larsen, P., Linnan, L., Lytle, L., & Ribisl, K. M. (2016). Sociodemographic Disparities in Proximity of Schools to Tobacco Outlets and Fast-Food Restaurants. *American Journal of Public Health*, 106(9), 1556–1562. <https://doi.org/10.2105/AJPH.2016.303259>

LATE

CARES

COMMUNITY ADVOCACY RESEARCH EDUCATION SERVICES

HB 1492

**Vapes at DOE
public schools**

Aloha Chair, Vice Chair & the Committee of EDN,

to

**the HOUSE
Committee
EDN**

CARES testifies in strong support of HB 1492.

The Hawaii
State
Legislature

The U.S. Surgeon General reports that e-cigarette use among youth is a public health concern. The youth vaping epidemic is the result of evolved “tobacco products”. The HRS 302A-102 for DOE public schools has not been updated to reflect this growing public health concern. E-cigarettes, or “vapes”, do not contain tobacco but they have nicotine, which is the very addictive chemical that comes from tobacco. Because of this, the FDA classifies vapes & e-cigarettes as “tobacco products”, not tobacco.

from

**Zhizi Xiong
(Angela
Melody
Young)
Creator**

For uniformity of the HRS chapters relating to smoking, and to be in sync with BOE’s administrative rules, it is imperative to amend this chapter. In 1993, the Board of Education declared public schools to be a “Tobacco Free School System” in the Hawaii Administrative Rules Title 8 DOE Subtitle 2 Education Part 1 Public Schools Chapter 31 “Tobacco Free School System”. The HRS chapter relating to UH, HRS 304A-122, sets the parameters of smoking at UH campuses and it is very clear & concise. “UH shall prohibit smoking & tobacco use by any person on UH premises. Smoking, including the use of electronic smoking devices, and tobacco use, are prohibited by law.” In 2016, HRS §712-1258 was updated, the chapter that regulates underage tobacco sales & usage, to change the age limit from 18 to 21 and it is also clear & concise. It makes it unlawful for anyone under 21 years of age to be sold or furnished tobacco or tobacco products. The language in both HRS 304A-122 (UH) & HRS §712-1258 clearly states “tobacco products” as to be inclusive of traditional cigarettes and non-traditional tobacco products.

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CARES

This is not about criminalizing students or punishing students. This amendment is necessary so that if a teacher takes away a vape, according to current school policies, the law will back up the teachers. According to an educator's guide from DOH, "Hawai'i schools treat vaping devices as tobacco products, and they are considered contraband. Youth may be suspended or expelled for having them at school." If a parent complains or files a hearing because they're upset their kids vape got taken away, this statute will clearly state that vaping is not allowed at school. Without this amendment, technically, vaping is legal & permissible at public schools. This amendment will safeguard the state from potential legal challenges.

California & Minnesota has it written into their state law relating to their public schools that vaping is not allowed at schools. It is imperative that we pass this amendment.

Thank you for the opportunity to testify.

Blessings,




ANGELA MELODY YOUNG



CARES

Works cited

1. HRS 304A-0122, https://www.capitol.hawaii.gov/hrscurrent/vol05_Ch0261-0319/HRS0304A/HRS_0304A-0122.htm.
 2. HRS 712-1258, https://www.capitol.hawaii.gov/hrscurrent/vol14_ch0701-0853/HRS0712/HRS_0712-1258.htm.
 3. "What Do We Know about e-Cigarettes?" American Cancer Society, <https://www.cancer.org/healthy/stay-away-from-tobacco/e-cigarettes-vaping/what-do-we-know-about-e-cigarettes.html#:~:text=E%2Dcigarettes%20do%20not%20contain,them%20as%20%22tobacco%20products.%22>.
 4. "Code Section." Law Section, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=48901.&lawCode=EDC.
 5. Chapter 31 Tobacco Free School System, <https://boe.hawaii.gov/policies/AdminRules/Pages/AdminRule31.aspx#8-31-3>.
 6. "Tobacco Product Use and Associated Factors among Middle and High School Students - National Youth Tobacco Survey, United States, 2021." Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, 10 Mar. 2022, https://www.cdc.gov/mmwr/volumes/71/ss/ss7105a1.htm?s_cid=ss7105a1_w.
 7. "Approximately 2.55 Million Students Reported Currently Using a Tobacco Product in 2021." Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, 10 Mar. 2022, <https://www.cdc.gov/media/releases/2022/p0310-student-tobacco-products.html>.
 8. "Code Section." Law Section, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=48901.&lawCode=EDC.
 9. "Educator's Guide to Help Hawaii Youth Escape the Vape." Living Healthy Hawaii, 16 Aug. 2022, <https://livinghealthy.hawaii.gov/>.
 10. Act 42. https://www.capitol.hawaii.gov/sessions/session2022/bills/GM1142_.PDF.
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HB1492 Schools Expand Prohibition on Vaping

COMMITTEE ON EDUCATION

Rep. Justin H. Woodson, Chair

Rep. Lisa Marten, Vice Chair

Thursday, Feb 9, 2023, 2:30 : Room 309 Videoconference

HSAC Supports HB1492:

GOOD MORNING CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies and recovery services.

HSAC notes that the intent is to protect our youth from the health dangers of a lifelong addiction caused by Hawaii's vaping epidemic of electronic smoking devices and e-liquids by using proven policies to restrict the use of strategies to attract youth use.

Reasons to Restrict Youth Use

What about the Vaping Epidemic?

- Vaping increased 900% among high school students from 2011 to 2015.¹
- The historic rise in e-cigarettes by youth is fueled in part by extensive marketing campaigns to make the products more appealing to young people, as referred in the Surgeon General's report.
- Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019².
- In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).

Dangers of E-cigarettes are Documented:

- The Surgeon General's report details the harmful effects of e-cigarettes.


¹ American Academy of Pediatrics: 2016 <https://www.aap.org/en/news-room/aap-voices/protecting-children-from-the-dangers-of-e-cigarettes/> Site is linked to federal agency: National Institute of Drug Abuse

² CDC Centers for Disease Control and Prevention: National Youth Tobacco Survey: https://www.cdc.gov/tobacco/data_statistics/surveys/nyts/index.htm

- Advocates hears the call from 650,000 physicians belonging to numerous medical coalitions, reasserting our dedication to keeping patients safe from tobacco products.³
- Nicotine, regardless of its source, is highly addictive and has clear neurotoxic effects, especially on the developing brains of adolescents.
- The aerosol from e-cigarettes is not harmless; it includes nicotine and other harmful and potentially harmful chemicals, including heavy metal and carcinogens. Since children’s brain and lungs are still developing, it is especially important to protect children and non-users from secondhand e-cigarette aerosol.

A Comment about Menthol

- Moreover, Menthol is just as, if not more harmful than, any other flavored tobacco.
- Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit.
- Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.
- If we want to protect our keiki and reduce the burden of tobacco in our communities, and we must include menthol.



Ending the sale of flavored tobacco will advance health equity - disparities in tobacco use are due to the tobacco industry’s history of marketing menthol cigarettes to youth and people of color.

Summary

Banning the sale of flavored tobacco products can help to reduce the danger to children from vaping, which is a growing major public health concern. Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

We appreciate the opportunity to provide testimony and are available for questions

³ Surgeon General’s Advisory on E-cigarettes Use Among Youth: <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

LATE

HB-1492

Submitted on: 2/9/2023 12:53:59 PM

Testimony for EDN on 2/9/2023 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Donita Garcia	Hawaii Health & Harm Reduction Center	Support	Written Testimony Only

Comments: Hearing Date/Time: Wednesday, February 9, 2023 Re: Testimony in Support of HB1492 From: Heather Lusk, Hawaii Health and Harm Reduction Center Dear Chairs and Members of the Committee: The Hawaii Health & Harm Reduction Center (HHHRC) supports HB 1492 Expanding the statutory prohibition on the use of tobacco at public schools and public school functions to be a prohibition on the use and possession of electronic smoking devices and tobacco products. HHHRC’s mission is to reduce harm, promote health, create wellness and fight stigma in Hawaii and the Pacific. We focus our efforts on those disproportionately affected by social determinants of health, including but not limited to: people living with and/or affected by HIV, hepatitis, substance use, and the transgender, LGBTQ and the Native Hawaiian communities. HHHRC’s Hawaii’s Last Drag smoking cessation program has gotten awards for its creative efforts reducing smoking-related harm by focusing on the smoking in the LGBT community and for those in residential substance use treatment facilities – both of which have disproportionately high rates of smoking. While vaping may be a harm reduction method for adults who smoke, the high rates of vaping amongst Hawaii youth is startling and is linked to the flavors of the vaping product. We strongly believe that this bill will curb young people initiating vaping. Thank you for the opportunity to testify. Heather Lusk, Executive Director, Hawaii Health and Harm Reduction Center Donita Garcia, Certified Tobacco Treatment Specialist

HB-1492

Submitted on: 2/8/2023 8:46:34 AM

Testimony for EDN on 2/9/2023 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Kristin Mills	Individual	Support	Written Testimony Only

Comments:

Electronic smoking devices (ESDs) need to be treated as equal to traditional cigarettes. Anywhere cigarettes are banned, as should be ESDs.

Sincerely,

Kristin Mills, resident of Pukalani, parent, and health educator