



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

H.B. NO. 537, H.D. 1, RELATING TO ELECTRONIC SMOKING DEVICES.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Tuesday, February 14, 2023 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Richard W. Stacey, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments on the bill.

This bill seeks to address the health dangers caused by the rapidly growing use of electronic smoking devices and e-liquids in Hawaii, including among the youth. The bill establishes a tax equal to an unspecified rate (70% in the original draft) of the manufacturer's list price for electronic smoking devices and e-liquid products; requires electronic cigarette wholesalers and e-liquid products wholesalers and retailers to register with the Electronic Smoking Device Retailing Registration Unit (ESDRRU) (to be renamed as the Electronic Smoking Device and E-Liquid Products Retailer and Wholesaler Registration Unit); and expands the ESDRRU's duties to include enforcement of electronic smoking device wholesaler and e-liquid products wholesalers and retailers registration violations.

While the Department wholeheartedly supports the intent of this bill, we believe that the bill's goal of subjecting electronic smoking devices to taxation and regulation will be most effectively achieved by amending chapter 245, HRS, and repealing part XII of chapter 28, HRS. The ESDRRU was established within the Department under part XII of chapter 28, HRS, and currently has 695 electronic smoking device retailers registered with this unit. Approximately 90% of those retailers concurrently hold a tobacco retail permit with the Department of Taxation. The Department of Taxation also licenses

wholesalers and dealers of tobacco products. Just as imposing a tax on electronic smoking products could be integrated and administered by the Department of Taxation as part of the existing cigarette tax and tobacco tax law, the same integration could be accomplished with the licensing and permitting of the wholesalers and retailers of electronic smoking devices and e-liquids. Combining the regulation of electronic smoking devices with the retail tobacco permitting process and the wholesale licensing process - a function already within the purview of the Department of Taxation - would render the ESDRRU unnecessary. Including electronic smoking devices and e-liquid products under the purview of the Department of Taxation would conserve resources and make the regulation of electronic smoking devices and e-liquid products a more efficient process for retailers, wholesalers, and the State.

To combine the regulation of electronic smoking devices and e-liquid products with the retail tobacco permitting process and the wholesale licensing process under the Department of Taxation, the Department recommends (1) amending chapter 245, HRS, by adding definitions of "electronic smoking devices" and "e-liquids," (2) amending the definition of tobacco products to the existing cigarette tax and tobacco tax code found in chapter 245, and (3) repealing part XII of chapter 28, HRS. By including "e-liquid" and "electronic smoking devices" within the definition of "tobacco products" as used in chapter 245, HRS, it would (1) subject e-liquids and electronic smoking devices to the excise tax on tobacco products; (2) require retailers of electronic smoking devices or e-liquids to obtain a retail tobacco permit to sell, possess, keep, acquire, distribute, or transport e-liquids or electronic smoking devices; (3) prohibit persons from engaging in the business of a wholesaler or dealer of e-liquids or electronic smoking devices without first obtaining a license from the Department of Taxation; and (4) apply other requirements of chapter 245, HRS, to electronic smoking devices and e-liquids. Section 3 of House Bill No. 1077 (on pages 9-11), adds new definitions for "electronic smoking devices" and "e-liquid" to section 245-1, HRS, and amends the definition of "tobacco products" in section 245-1, HRS. The Committee may wish to adopt those definitions to incorporate amendments proposed in section 1 of this bill into chapter 245, HRS.

If the Committee wishes not to amend chapter 245, HRS, and propose a new chapter, as in section 1 of the bill, the Department makes the following suggestions.

Section 231-7, Hawaii Revised Statutes (HRS), currently provides procedures for the Director of Taxation to conduct audits, investigations, and hearings, and issue subpoenas, which may conflict with the proposed section -9, on page 8, line 19, through page 10, line 19, of the bill. For clarity and consistency, the Department recommends amending section -9 to track the current wording in section 231-7, HRS.

Alternatively, the Committee may wish to amend section -9 to read as follows:

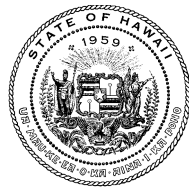
§ -9 **Investigations; contempt; fees.** The director of taxation, and any representative of the director duly authorized by the director, has the authority to conduct any civil audit or criminal investigation, investigation, or hearing relating to the taxes in this section in the manner provided in section 231-7.

We respectfully ask the Committee to pass this bill with the suggested amendments. We are eager to work with the Committee on this matter.

Thank you for this opportunity to provide written comments.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR OF TAXATION

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 537, H.D. 1, Relating to Electronic Smoking Devices

BEFORE THE:

House Committee on Judiciary & Hawaiian Affairs

DATE: Tuesday, February 14, 2023

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

Chair Tarnas, Vice-Chair Takayama, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 537, H.D. 1, for your consideration.

Section 1 of H.B. 537, H.D. 1, adds a new chapter to the Hawaii Revised Statutes, (HRS), providing for the taxation of electronic smoking devices to be administered by the Department. The tax will be equal to an unspecified percent of the manufacturer's list price for electronic smoking devices and e-liquid products, beginning on an unspecified date and applying to all sales regardless of "wholesale" or "dealer" designation.

The measure further amends section 28-164, HRS, to require registration by electronic cigarette wholesalers with the Electronic Smoking Device and E-Liquid Products Retailer and Wholesaler Registration Unit. Finally, the measure amends section 28-162 by adding definitions for "e-liquid," "wholesale sale," "electronic smoking device or e-liquid product wholesaling" and amends the definitions for "business location" and "retail sale."

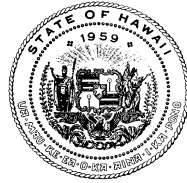
The bill has a defective effective date of January 1, 3000.

Implementation of an initiative of this size will require resources and ample time to define the requirements, forms, and processes. Accordingly, the Department requests

Department of Taxation Testimony
H.B. 537, H.D. 1
February 14, 2023
Page 2 of 2

that the effective date of the measure be amended to no earlier than January 1, 2025.

Thank you for the opportunity to provide comments on this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P.O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on H.B. 537, H.D. 1
RELATING TO ELECTRONIC SMOKING DEVICES**

REPRESENTATIVE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date: February 14, 2023

Room Number: Conference Room 325
& Videoconference

1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of Taxation
2 (DOTAX) and to the Office of the Attorney General (AG) on the fiscal implications for
3 implementing and enforcing the proposed measure.

4 **Department Testimony:** The DOH provides comments and appreciates the concept of House
5 Bill 537, House Draft 1 (H.B. 537, H.D. 1) as a public health approach to mitigate Hawaii's
6 youth vaping epidemic by taxing electronic smoking devices (ESDs) and e-liquid products.
7 H.B. 537 proposes to add a new chapter to the tax code in the Hawaii Revised Statutes (HRS) to
8 impose an excise tax based on the manufacturer's list price on wholesalers and dealers of ESD or
9 e-liquid products, and requires ESDs and e-liquid wholesalers to register with the AG.

10 Increasing the price of ESDs through added tax is a recommended strategy to reduce
11 youth initiation and use, and has been enacted by twenty-nine states in the U.S.^{1,2} The DOH
12 supports regulating and taxing ESDs and respectfully refers the Committee to [H.B. 1077](#) for
13 definitions, content, and structure that was developed and reviewed in coordination across the
14 Executive Branch, DOTAX, AG, and DOH. H.B. 1077 amends the existing tax code in Chapter
15 245, HRS by including ESDs in the definition of tobacco products, and creates parity regulating

¹ Public Health Law Center. Taxing E-Cigarette Products. E-Cigarettes; April 2021. Accessed 2/12/2023:
<https://www.publichealthlawcenter.org/sites/default/files/resources/Taxing-E-Cigarette-Products.pdf>

² Centers for Disease Control and Prevention. State System Fact Sheet, E-Cigarette Tax: States with Laws Taxing E-Cigarettes (Enacted as of
September 30, 2022. Accessed 2/12/2023: <https://www.cdc.gov/statesystem/factsheets/ECigarette/ECigTax.html>.

1 all tobacco products and repeals certain existing sections in the HRS to avoid conflict. The
2 Department recommends applying seventy percent of the manufacturer's list price, which is
3 based on emerging evidence that e-cigarette use responds to pricing change.³

4 Thank you for the opportunity to testify.

5 **Offered Amendments:** Respectfully refers to [H.B. 1077](#) for definitions, content, and structure.

³ Chaloupka, F. J. Revenue Potential of a Tax on E-Cigarettes in Hawaii, University of Illinois at Chicago, 2021.



Hawaii COPD Coalition
700 Richards St., Suite 2410
Honolulu, HI 96813
hicopd@gmail.com
(808)699-9839

February 11, 2023

Honorable Chair Representative David A Tarnas
Honorable Vice-Chair Gregg Takayama
Members of the Judiciary & Hawaiian Affairs Committee

RE: **Strong Support for HB537, HD1, Relating to Electronic Smoking Devices**

Dear Chair Tarnas, Vice Chair Takayama, and members of the Judiciary & Hawaiian Affairs Committee,

This measure is extremely critical to the health of the children of our state and our entire state as well. **Please pass HB537, HD1**, which would achieve comprehensive regulation as well as ensure that the system of taxation for Electronic Smoking Devices (ESDs) become a part of our existing tobacco tax structure.

I am Executive Director of the Hawaii COPD Coalition and serve over 45,000 Hawaii adults diagnosed with COPD in Hawaii (with an estimated equal number still undiagnosed). Chronic Obstructive Pulmonary Disease or COPD is an umbrella of diseases which include emphysema, chronic bronchitis and chronic asthma. Since 2007, I have worked in Hawaii, nationally and internationally with countless people who have had their lungs and lives horribly affected by tobacco and nicotine. Many of these people have become disabled and unable to perform jobs and hobbies they enjoyed, spending a lot more time and resources with healthcare providers and requiring support from society than they or any of us would like.

Sadly, our state is in the middle of a youth vaping epidemic! In Hawai'i one in three high school students and on in five middle school students reported "current use of e-cigarettes according to the Hawai'i YRBSS 2019! ESDs are now THE most popular tobacco/nicotine product among youth, largely because these products are NOT regulated (unlike regulations on other tobacco/nicotine products).

- Electronic Smoking Devices (ESDs) are the only tobacco products without ANY tax and we know that taxing tobacco products and cigarettes is a PROVEN strategy to reduce youth initiation and encourage those who smoke or use nicotine products to quit.
- We support a meaningful tax on ESDs because research consistently shows that significant price increases reduce nicotine and tobacco use among youth.
- Please include the taxation rate of 70% of the wholesale price to create parity between ESDs and other tobacco products.

Please help protect the lungs and lives of our children from these very harmful products that are spreading virally in our communities and schools, from elementary through high school and beyond. We urge you to please **pass HB537, HD1 out of committee so our keiki and community will be protected from ESDs**. The Hawaii COPD Coalition thanks you very much for your careful consideration of this most important and timely bill.

Very truly yours,
Valerie Chang
Valerie Chang
Executive Director

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, New tax on electronic smoking devices

BILL NUMBER: HB 537 HD 1

INTRODUCED BY: House Committee on Consumer Protection & Commerce

EXECUTIVE SUMMARY: Establishes a tax equal to 70% of the manufacturer's list price for electronic smoking devices and e-liquid products. Expands the electronic smoking device retailer registration unit to include wholesalers. Requires electronic cigarette wholesalers to register with the electronic smoking device retailer and wholesaler registration unit.

SYNOPSIS: Adds a new chapter to the HRS called the Electronic Smoking Devices Tax Law.

Imposes, for the privilege of conducting business and other activities in the State, an excise tax equal to [unspecified] of the manufacturer's list price of each electronic smoking device or e-liquid product sold whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer. This tax is only paid once with respect to the same electronic smoking device or e-liquid product.

Requires a monthly return, due on the 20th of the following month. The administrative powers of the Department of Taxation with respect to auditing and assessing taxes are similar to those enumerated under the Income Tax Law and General Excise Tax Law.

Amends the name of Chapter 28, Part XII, and several sections thereunder to make the electronic smoking device registration unit under the Department of Attorney General applicable to wholesalers as well.

EFFECTIVE DATE: January 1, 3000.

STAFF COMMENTS: The question that should be asked is the purpose of the new tax. If the goal is to make people stop vaping by making it cost-prohibitive to vape, then it shouldn't be expected to raise revenue, because if people stop vaping, there will be fewer or no people paying the tax. If the goal is really to stop the behavior, why are we not banning it?

As the Foundation's previous President, Lowell Kalapa, wrote in the Tax Foundation of Hawaii's weekly commentary on October 28, 2012:

Lawmakers seem to have a simplistic reaction to solving problems the solution to which plagues their constituents – tax it.

Probably the best example is what people like to call sin taxes, those excise taxes that are levied on tobacco and alcohol products. After all, smoking causes cancer and alcohol causes all sorts of problems including driving under the influence. Lawmakers and

community advocates shake their heads and push for higher tax rates, arguing that making these products more expensive will deter folks from using these products.

The problem is that lawmakers also like the revenues that are generated from the sales of these products and, in some cases, they have tried to link the use and sale of these products with noble causes such as the funding of the Cancer Research Center that is currently being built. Again, the argument is that smokers should pay for programs and projects which seek to cure the related ill which in this case is cancer caused by smoking.

The irony is that arguments to increase the tax on tobacco and, more specifically, cigarettes, is a goal of getting smokers to quit while depending on the revenues from tobacco and cigarette taxes to fund an ongoing program, in this case the Cancer Research Center. So, which is it folks, stop smokers from smoking and if successful, there won't be any revenues to fund the Cancer Research Center?

The fact of the matter is that it appears that both locally and nationally, higher taxes on cigarettes are influencing smokers as tax collections on the sale of cigarettes have fallen. Certainly some of the decline is due to smokers actually quitting, but to some degree one has to suspect that some purchases were made via mail order from exempt Indian reservation outlets while others may be what is called gray market purchases, that is from sources outside the country.

What should come as a surprise is that most of the folks who have quit are of some means as they are more likely to recognize the health hazard caused by use of this product. That means most of those who are still smoking are among the lower-income members of our community. Thus, the tax is regressive, generating less and less collections from middle and higher-income individuals.

Kalapa, "Finding the Blame for What Ails You," at <https://www.tfhawaii.org/wordpress/blog/-2012/10/finding-the-blame-for-what-ails-you/> (Oct. 28, 2012).

Do we really need an elaborate study to tell ourselves that fiscal reliance on funds from a sin tax is inadvisable or outright dangerous? If the goal is to affect social behavior, use of the tax law is not the most effective way to do so.

The following technical error appears in the bill:

- Section 2 of the bill recites that it is amending Chapter 28, part XII. It should read Chapter 28, part XII, Hawaii Revised Statutes.

Digested: 2/11/2023



**TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 14, 2023**

Re: HB 537 HD1 RELATING TO ELECTRONIC SMOKING DEVICES

Good afternoon, Chair Tarnas and members of the House Committee on Judiciary & Hawaiian Affairs. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901 and is a statewide, not for profit trade organization committed to supporting the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, on-line sellers, local, national, and international retailers, chains, and everyone in between.

RMH is opposed to HB 537 HD1 Relating to Electronic Smoking Devices. This measure establishes a tax equal based on the manufacturer's list price for electronic smoking devices and e-liquid products; expands the electronic smoking device retailer registration unit to include wholesalers and e-liquid products retailers and wholesalers; requires electronic cigarette and e-liquid products retailers and wholesalers to register with the electronic smoking device and e-liquid products retailer and wholesaler registration unit; and is effective 1/1/3000.

This measure penalizes legitimate retailers by increasing the retail tax on electronic smoking devices and e-liquids by an absorbent amount. Many retailers statewide are already operating on a thin margin and face stiff competition. Retail is one of the hardest hit industries during this pandemic. We see almost daily stores closing around our neighborhoods due to the affects this pandemic is having on our economy. **Raising the tax to equal that of the MSRP will truly hurt businesses throughout Hawaii, especially the small locally owned convenient corner store and locally owned vape stores who may potentially be forced to close.** With the closing of the store, the state would not only lose tax revenue, but it would be leaving our friends, family, and neighbors out of work.

Any time there is an increase in retail operations albeit raising of taxes and implementation of fees or increase in shipping and goods, the cost is passed down to the consumer. **While the assumption is that if electronic smoking products are too expensive, less people will purchase them. This is not the case.** We will see more people finding ways to purchase them from military facilities where there are no taxes charged, furthermore these pushes vape products to be even more desirable on the black market where prices are lower. Vape products are one of the most desirable items that shoplifters target, even when we have them behind the registers or behind lock and key. And many of the goods sold on the black market have been stolen from retailers.

If raising the tax is to is meant to deter people from vaping it may have the opposite effect and have them turn back to cigarettes. In 2021 The New England Journal of Medicine published an article that found that e- cigarettes were nearly twice as effective as conventional nicotine replacement products, like patches and gum, for quitting smoking. The study was conducted in Britain and funded by the National Institute for Health Research and Cancer Research UK

If the raising of tax is to deter youth from obtaining vape products, then the focus should be on cracking down on those who are illegally and intentionally letting minors obtain these products. Hawaii already has a law in place that states that it is unlawful for a person under the age of 21 years to purchase electronic vaping devices, e-liquids and tobacco products. The majority of the shops on our islands are responsible and have a policy that they will Not sell a vape device or products to anyone 21 years old and under. **Many of whom are underage are obtaining their cigarettes and vaping devices from their parents or older friends who purchase it for them or the minors are purchasing them on the black market.** Retailers often go as far as to not selling to the adult that accompanies the minor into the store if it is revealed that the device or product that they are seeking to purchase is for the minor. Retailers have no control over their products once they are sold and the customer walks out the door with them. It is often the case that an adult family member or friend that purchases the vape devices or tobacco products for the minors and gives it to the minor away from the retail store.

This measure penalizes the honest retailers. Retailers like many businesses are struggling to survive and keep their employees employed. Many cannot afford an increase in doing business with astronomical higher fees which is essentially a tax.

We hope that you will hold this bill. Mahalo again for this opportunity to testify.



HIPHI Board

Misty Pacheco, DrPH
Chair
University of Hawai'i at Hilo

JoAnn Tsark, MPH
Secretary
John A. Burns School of Medicine,
Native Hawaiian Research Office

Debbie Erskine
Treasurer
ARCH-MEPS Consulting LLC, Owner

Keshia Adolpho, LCSW
Na'au Healing Center

Camonia Graham - Tutt, PhD
University of Hawai'i - West O'ahu

Carissa Holley, MEd
Hale Makua Health Services

Dina Shek, JD
Medical-Legal Partnership
For Children in Hawai'i

Garret Sugai
HMSA

Kathleen Roche, MS, RN, CENP
Kaiser Permanente

May Okihiro, MD, MS
John A. Burns School of Medicine,
Department of Pediatrics

Titiimaea Ta'ase, JD
State of Hawai'i, Deputy Public
Defender

HIPHI Initiatives

Coalition for a
Tobacco-Free Hawai'i

Community Health
Worker Initiative

COVID-19 Response

Hawai'i Drug & Alcohol Free
Coalitions

Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Collective

Date: February 11, 2023

To: Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair
Members of the Committee Judiciary & Hawaiian Affairs

Re: Comments for HB537 HD1 Relating to Electronic Smoking
Devices

Hrg: Tuesday, February 14, 2023, at 2:00 PM, Conf Rm 325

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **support of the intent of HB537 HD1** which (1) imposes a tax on e-liquids and e-smoking devices; (2) expands the electronic smoking device retailer registration unit to include wholesalers, and; (3) requires electronic cigarette wholesalers to register with the electronic smoking device retailer and wholesaler registration unit.

E-cigarette use among youth and young adults has become a public health concern.

According to the 2019 YRBS, Hawai'i has the third highest e-cigarette rate in the Country with 1 in 3 (30.6%) public high school students and more than 1 in 6 (18%) public middle school students reporting that they are regularly vapingⁱⁱ. Because Electronic Smoking Devices (ESDs) remain unregulated, e-cigarette companies have aggressively marketed their products by glamorizing their use, using celebrities and young adults as endorsers, and making false health claims. E-cigarettes often contain nicotine, which is addictive and harmful, particularly to adolescents whose brains are still developing.

The Coalition supports establishing a tax on ESDs. They are the only tobacco product without a tobacco tax. In 2016, the FDA deemed e-cigarettes, including their components and parts, as tobacco products. In a pollⁱⁱⁱ conducted by Ward Research Inc. for the Coalition in November 2022, 91% of registered Hawai'i voters supported taxing e-cigarettes at the same rate as cigarettes or other tobacco products.

Because ESDs are not subject to current State tobacco tax laws, they are seen as lower-priced tobacco alternatives with virtually no restrictions that can appeal to the youth. Raising taxes and increasing the price

of tobacco products is a proven strategy to reduce consumption for both adults and youth. We ask for a 70% tax be inserted, making these products taxed on par with other tobacco products in Hawai'i.

This taxation would NOT apply to any FDA approved Nicotine Replacement Therapy (NRT) or FDA approved non-nicotine cessation product. NRTs include over the counter products: skin patches, chewing gum, and lozenges. They also include prescription products such as nicotine spray and nicotine inhaler.^{iv} E-cigarettes are not part of these approved methods. Cessation is a process that should be done in partnership with a licensed healthcare professional.

HIPHI supports the taxation of electronic smoking devices, but **recommends the language found in HB 833 or HB 1077**, Relating to Health. This language would create comprehensive regulations of ESDs, which includes taxation, addresses the unlawful shipment of tobacco products, and requires licensing and permitting to engage in the sale of electronic smoking devices within the current tobacco tax chapter.

Taxation of Tobacco Products, including ESDs

Since 2016 e-cigarettes have been classified as tobacco products by the FDA^v. Therefore, Including ESDs as part of the definition of tobacco products in Chapter 245 would bring much-needed clarity. Once defined as a tobacco product in that chapter, ESDs would be taxed with parity and be included in an existing regulation system via permitting, licensure, and taxation, making it easier to implement enforcement. In the same 2022 Ward survey of registered voters, 91% of those surveyed support taxing vaping products the same as other tobacco products, and 94% of respondents felt the state should dedicate a portion of the revenue from those taxes to prevention and cessation programs.

Need to stop the unlawful online sales of ESDs

The "Preventing Online Sales of E-Cigarettes to Children Act" expands the 2009 Prevent All Cigarette Trafficking (PACT) Act to cover electronic smoking devices, requiring age verification by online retailers and private delivery companies; labeling on packaging to indicate they contain tobacco products; compliance with state and local tobacco taxes; and prohibiting shipments of electronic smoking devices through USPS. However, it exempts intrastate shipments in Hawai'i and Alaska. It is necessary to address this Internet loophole to comprehensively regulate ESDs.

ESD licensing and permits protect both consumers and merchants.

The Coalition supports requiring ESD sellers and vendors to obtain a tobacco permit and/or license, which is currently required for any tobacco retailer or wholesaler. This consistency would assist with communicating and enforcing current tobacco tax and purchase laws.

Hawai'i has made enormous progress on tobacco control, and we ask the legislature to take the necessary steps to protect our youth from a lifetime of addiction. We respectfully ask you to consider the language provided in HB 833 or HB 1077 to comprehensively address the taxation and regulation of ESDs.

Thank you for considering the policies that will better protect the health of our communities.

Mahalo,



Peggy Mierzwa
Policy and Advocacy Director
Hawai'i Public Health Institute

ⁱ The Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) that is dedicated to reducing tobacco use through education, policy, and advocacy. With more than two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including being the first state in the nation to prohibit the sale of tobacco and electronic smoking devices to purchasers under 21 years of age.

The Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

ⁱⁱ 2019 Youth Risk Behavior Surveillance System (YRBS). Available at: www.cdc.gov/yrbs.

ⁱⁱⁱ This study by Ward Research, Inc. summarizes findings from a phone survey among n=719 Hawaii registered voters (maximum sampling error +/- 3.6%), conducted between November 4-29, 2022.

^{iv} <https://www.fda.gov/consumers/consumer-updates/want-quit-smoking-fda-approved-and-fda-cleared-cessation-products-can-help>

^v <https://www.federalregister.gov/documents/2016/05/10/2016-10685/deeming-tobacco-products-to-be-subject-to-the-federal-food-drug-and-cosmetic-act-as-amended-by-the>



February 13, 2023

To: Members of the Hawaii House Judiciary & Hawaiian Affairs Committee
From: Americans for Tax Reform

Dear Representative,

On behalf of Americans for Tax Reform (ATR), a non-profit organization which advocates in the interests of taxpayers and consumers throughout the United States, I urge you to reject HB 537.

This misguided legislation seeks to establish a tax rate of 70% of manufacturer list price on e-cigarettes which are a reduced harm alternatives to tobacco and have helped millions quit cigarette smoking. **The evidence clearly demonstrates that if enacted, this bill would lead to drastic increases in cigarette smoking in Hawaii, leading to a clear increase in tobacco related mortality. HB 537 would have a disastrous impact upon businesses and cost jobs. It is imperative that this proposal does not pass.**

Imposing taxes on e-cigarettes, which are shown to be 95% [less harmful](#) than cigarettes and the most effective tool for smoking cessation, is proven to drive adults to more deadly alternatives, going against every principle of sound public policy.

Research from the National Bureau of Economic Research (NBER) determined that Minnesota's tax on vaping products prevented [32,400 additional adult smokers](#) from quitting smoking.

Additionally, they found "consistent and robust evidence" that taxes on e-cigarettes increase smoking rates, decrease smoking cessation, and lead to more tobacco-related deaths.

Further, vaping taxes, as proposed in HB 537, increase smoking among adolescents. According to researcher Dr. Michael Pesko, a researcher at Georgia State University, "my scientific opinion is that raising taxes on e-cigarettes...to levels equivalent to cigarettes will increase cigarette use among all populations and cause significant public health harm." A recent [study](#) from Dr. Pesko and other researchers determined that e-cigarette taxes lead to "sizable" increases in cigarette smoking among youth. The researchers warn that the "unintended effects of ENDS taxation may more than fully offset any public health gains."

Vaping taxes also reinforce socioeconomic inequality. 72% of people who smoke cigarettes are low-income. Taxes make products less affordable, thereby decreasing access to the groups who would benefit most from switching to vaping.

Additionally, high tax rates on e-cigarettes promote a black market for the products. Multi-million-dollar crime syndicates, that **also engage in human trafficking and money laundering, flood the black market with unsafe products that produce revenue used to fund terrorism. For this reason, the US State Department has explicitly called tobacco smuggling a "[threat to national security](#)".**

Paradoxically these bans may therefore increase youth smoking in the state: By definition, criminals and smugglers are unlikely to obey laws and would not follow rigorous age-verification requirements mandated at reputable outlets.

722 12th Street N.W.

Fourth Floor

Washington, D.C.

20005

T:(202)785-0266

F:(202)785-0261

www.atr.org

HB 537 would take profits from small, family-owned vape shops and turn it over to criminal smugglers who would have no problem selling products to children. This bill would drive vape shops out of businesses, costing a significant number of jobs and livelihoods.

About E-Cigarettes and Vapor Products:

- Traditional combustible tobacco remains one of the leading preventable causes of death in **Hawaii. The negative health effects of combustible tobacco come from the chemicals produced in the combustion process, not the nicotine.** While highly addictive, nicotine is a relatively benign substance like caffeine and nicotine use “does not result in clinically significant short- or long-term harms”.
- Nicotine replacement therapies such as nicotine patches and gums have helped smokers quit for decades. In recent years, advancements in technology have created a more effective alternative: **vapor products and e-cigarettes. These products deliver nicotine through water vapor, mimicking the habitual nature of smoking while removing the deadly carcinogens that exist in traditional cigarettes.**
- The [CDC](#) has found that only 3.1% of youths use e-cigarettes daily, disproving the myth of an ongoing “youth vaping epidemic.”

Benefits of E-Cigarettes and Vapor Products:

- Vapor products have been [proven to be at least 95% safer](#) than combustible cigarettes. A comprehensive analysis of nicotine product harm estimates that e-cigarettes expose users to just 4% of the harm of combustible cigarettes.
- E-cigarettes are also more than [twice as effective](#) at helping smokers quit than traditional nicotine replacement therapies. According to one [study](#), a smoker attempting to quit with an e-cigarette has an estimated 323% higher chance of achieving **complete cessation** compared to someone using a traditional nicotine replacement therapy like nicotine-containing patches, gum, or mouth spray.
- The Cochrane Review, the gold standard of medical meta-analysis, has identified “high certainty evidence” that e-cigarettes are more [effective](#) than nicotine replacement therapies at helping those who smoke quit.
- Vaping has been endorsed by over 100 of the world’s leading [public health organizations](#) as safer than smoking and an effective way to help smokers quit.
- When e-cigarettes entered the market in 2003, the U.S. adult cigarette smoking rate was 21.6%. **Due to increased access to vaping, the U.S. adult smoking [rate](#) has plummeted to 13.7% as of 2018.**

- An [analysis](#) by Public Health England demonstrated just how effective vaping is in helping people quit smoking, noting that in just one year, over 50,000 British smokers, who would have continued smoking otherwise, quit smoking with vaping.
- A University of Glasgow study showed that e-cigarettes particularly [help disadvantaged](#) persons quit smoking. **HB 537 will have a tremendously negative impact on public health and would fail to decrease socioeconomic disparities by reducing adult access to products shown to improve public health.**
- Evidence demonstrates that **flavors play no role in youth uptake of vaping**. Academic studies have found that teenage non-smokers “willingness to try plain versus flavored varieties did not differ” and a mere 5% of vapers aged 14-23 reported it was flavors that drew them to e-cigarettes. National Youth Tobacco Survey results have shown [no increase in nicotine dependency](#) among youths since flavored products entered the market.
- A large-scale [analysis](#) from Georgetown University Medical Center estimates that 6.6 million American lives can be saved if a majority of cigarette smokers switched to vaping. **This would save more than 25,000 lives in Hawaii.**

For the reasons outlined above, in the interests of public health, protecting small businesses, and preventing the spread of smuggling cartels, we call upon you to **accept the science and vote against HB 537**. Tens of lives quite literally depend upon it.

Sincerely,

Tim Andrews
Director of Consumer Issues
Americans for Tax Reform



Date: February 14, 2023

To: Rep. David Tarnas, Chair and Rep. Gregg Takayam, Vice Chair
Members of the House Committee on Judiciary and Hawaiian Affairs

From: Liza Ryan Gill, Campaign Manager, Campaign for Tobacco-Free Kids HI

Re: **Comments for HB537 HD1, Relating to Electronic Smoking Devices**

Hrg: February 14th, 2023 at 2:00pm

The Campaign for Tobacco-Free Kids supports parity in regulations for electronic cigarettes and traditional tobacco products. We support the taxation of these devices, as youth are extremely sensitive to price and would be less inclined to buy them if they were more expensive. It is imperative that a holistic approach be adopted to combat the health crisis of youth e-cigarette use: removing enticing flavors, taxing them like other tobacco products, and better regulation/oversight of retailers are three critical steps forward in giving our keiki an addiction-free future.

Policies that raise the tax on tobacco, limit exposure to secondhand smoke, discourage the use of tobacco by youth and increase access to cessation services for those addicted to tobacco will lead to better health outcomes and less strain on the state healthcare system. Tobacco use is the leading cause of preventable death in Hawai'i¹, claiming approximately 1,400 lives each year and costing the state \$611 million dollars in direct health care costs.²

The dramatic rise in youth e-cigarette use is alarming. Increasing the tax on tobacco, including electronic cigarettes, is a proven method to protect our youth from these deadly products. Teenagers are especially price sensitive – every 10% increase in a tobacco tax leads to a reduction in the number of kids who smoke by six to seven percent.³ An increased e-cigarette tax will stop many from becoming addicted in

¹ Campaign for Tobacco-Free Kids:

<https://tobaccofreeca.com/health/tobacco-is-the-number-one-preventable-cause-of-death/#:~:text=Tobacco%20products%20continue%20to%20be,year%20from%20tobacco%2Drelated%20diseases>.

² Campaign for Tobacco-Free Kids: <https://www.tobaccofreekids.org/problem/toll-us/california>

³ See, e.g., Chaloupka, FJ, "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research* 1(Suppl 1):S105-9, 1999; other studies at <http://www.ihrp.uic.edu/researcher/frank-j-chaloupka-phd> and <http://tobaccconomics.org/>; Tauras, J, "Public Policy and Smoking Cessation Among Young adults in the United States," *Health Policy* 6:321-32, 2004; Tauras, J, et al., "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," National Bureau of Economic Research Working Paper 8331, June 2001, <http://www.nber.org/papers/w8331>. Chaloupka, FJ & Pacula, R, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541, April 1998; Emery, S, et al., "Does Cigarette Price Influence Adolescent Experimentation?," *Journal of Health Economics* 20:261-270, 2001; Evans, W & Huang, L, *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper, April 15, 1998; Harris, J & Chan, S, "The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29," *Health Economics Letters* 2(2):3-12, February 1998, <http://www.mit.edu/people/jeffrey/HarrisChanHEL98.pdf>. HHS,

Reducing Tobacco Use: A Report of the Surgeon General, Atlanta, Georgia: HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2000, http://profiles.nlm.nih.gov/NN/B/B/L/Q/_/nnbblq.pdf.

the first place and thus help them avoid the tobacco related diseases that accompany it, such as cancer, lung disease, heart disease or stroke.

While we strongly support taxation and regulation of electronic cigarettes, implementation of such policies is far smoother and enforceable if done through the already existing infrastructure for other tobacco products. By establishing the tax on e-cigarettes, lives will be saved, the economic burden as a result of tobacco use will be lessened, and revenue generated.

Mahalo,



Liza Ryan Gill, Campaign for Tobacco-Free Kids HI



Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Representative Tarnas, Chair
Representative Takayama, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

Re: HB537 HD1, relating to electronic smoking devices
2:00 p.m., Feb. 14, 2023

Aloha Chair Tarnas, Vice Chair Takayama and committee members:

On behalf of Hawai'i Children's Action Network (HCAN) Speaks!, mahalo for the opportunity to **testify in SUPPORT of House Bill 537**, relating to electronic smoking devices and **respectfully request an amendment to the current draft.**

We cannot let the epidemic that is youth vaping continue any longer. One in three high school students and one in five middle school students report "current use" of e-cigarettes. E-cigarettes are now the most popular tobacco product among youth. That's largely because these products are not subject to many of the regulations other tobacco products are subject to.

In addition to the harms e-cigarettes may have for adolescents and youths, they are also a risk to young children. The CDC reports that approximately half of all calls to poison control centers for e-cigarettes are for children 5 years of age or younger.

We have spent the last few decades eradicating cigarettes from ubiquitous use. We know what will work. Taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. This measure is important in particular because it applies a meaningful tax on e-cigarettes that will increase cost, which is proven to reduce youth tobacco use.

For this bill to be fully effective, we must increase the taxation rate. **We respectfully ask the committee to include the taxation rate of 70% of the wholesale price to create parity between e-cigarettes and other tobacco products.**

Mahalo,

Ke'ōpū Reelitz
Director of Early Learning and Health Policy



HAWAII SUBSTANCE ABUSE COALITION

HB537 HD1 Tax e-Liquid and E-Cigarette

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

Tuesday, Feb. 14, 2023: 2:00: Room 325

Hawaii Substance Abuse Coalition Supports HB537 HD1:

ALOHA 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 of over 30 substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

HSAC is in full support to tax, both for the economic recovery and out of major concern for our children:

- Given the Surgeon General's warning about the dangers of vaping, especially by the historic rise in its use by youth, allocating taxes can help to reduce consumption and increase revenues for economic recovery.
- The danger to children is a growing major public health concern.
- Excise taxes and the continuing increase in taxes has proven to help people quit or sustain cessation.

HSAC recommends that some of the tax could support the much needed youth tobacco prevention programs.

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



**Testimony to the House Committee on Judiciary and Hawaiian Affairs
Tuesday, February 14, 2023; 2:00 p.m.
State Capitol, Conference Room 325
Via Videoconference**

RE: HOUSE BILL NO. 0537, HOUSE DRAFT 1, RELATING TO ELECTRONIC SMOKING DEVICES.

Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** House Bill No. 0537, House Draft 1, RELATING TO ELECTRONIC SMOKING DEVICES.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

The bill, as received by your Committee, would establish an excise tax on the sale of 70 percent of the manufacturer's list price of each electronic smoking device or e-liquid product sold by a wholesaler or dealer in the State of Hawaii.

FQHCs have long seen first-hand how tobacco has literally destroyed the lives of our patients and their families. Because of the ubiquity of cigarettes, chewing tobacco, and now electronic smoking devices, the impacts of tobacco harms our citizenry on a generational basis with people experimenting at even earlier ages. Because of this, the HPCA supports efforts that would create disincentives for consumers to use these products.

Accordingly, the HPCA urges your favorable consideration of this measure.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.



Daniel Ross, RN
President

Gary Nuber
Director of Field Services

3375 Koapaka St b217
Honolulu, HI 96819

Tel: (808) 531-1628
Fax: (808) 524-2760

The Thirty-Second Legislature, State of Hawai'i
Hawai'i State House
Committee Labor & Government Operations

Testimony by
Hawaii Nurses Association
February 14, 2023

HB537,HD1 – RELATING TO ELECTRONIC SMOKING DEVICES

The Hawaii Nurses Association -OPEIU Local 50 is affiliated with the AFL-CIO and was founded in 1917 and represents 4,000 nurses in the State of Hawaii. We are grateful to testify in **STRONG SUPPORT** of HB537,HD1

- In Hawai'i, one in three high school students and one in five middle school students report that they currently use e-cigarettes, or "vapes." E-cigarettes are now the most popular tobacco product among youth – and that's largely because these products are not subject to many of the regulations other tobacco products are subject to.
- E-cigarettes are the only tobacco products without a tax, and we know that taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit.
- We support applying a meaningful tax on e-cigarettes because research shows that significant price increases reduce tobacco use among youth.
- Please include the taxation rate of 70% of the wholesale price to create parity between e-cigarettes and other tobacco products.

Thank you for your consideration and we urge you to vote in **support** of HB537.

Respectfully,

Daniel Ross
President

Opportunity Youth Action Hawai'i

Committee: House Committee on Labor & Government Relations
Hearing Time: 2:00 p.m., February 14, 2023
Location: State Capitol
Re: HB537 HD1, Relating to Electronic Smoking Devices

Aloha e Chair Matayoshi, and members of the Committee:

We are writing in **strong support** of HB 537, Relating to Electronic Smoking Devices.

This bill establishes a tax equal to 70% of the manufacturer's list price for electronic smoking devices (ESDs) and e-liquid products. It expands the electronic smoking device retailer registration unit to include wholesalers and e-liquid products retailers and wholesalers. Further, this bill requires electronic cigarette and e-liquid products retailers and wholesalers to register with the electronic smoking device and e-liquid products retailer and wholesaler registration unit.

An increase in tax and regulations has been a proven method of circumventing tobacco addiction. The World Health Organization estimates that for every 10% tax increase, the overall smoking rate falls about 4%. Furthermore, **according to the World Health Organization, significantly increasing tobacco excise taxes is the single most effective and cost-effective measure for reducing tobacco use.** Early evidence suggests that taxing ESDs would have similar effects.

Research conducted by the American Heart Association has found that **Hawai'i has the highest rate of middle school-aged students' use of ESDs nationwide, and the second highest high school student usage rate.** Further research from Living Healthy Hawai'i shows that youth who use e-cigarettes are four times more likely to try regular cigarettes, and three times more likely to become cigarette smokers.

The Center for Disease Control (CDC) states that 99% of e-cigarettes sold in assessed venues contained nicotine, a substance which changes the way the brain develops, increases the risk of future addictions, and increases the risk of heart disease. ESDs come in flavors that introduce youth to nicotine and increase the likelihood of addiction - research from the CDC shows that flavored tobacco products are more addictive than regular tobacco products.

Opportunity Youth Action Hawai'i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth homelessness and housing market discrimination against young adults; and promote and fund more holistic and culturally-informed approaches among public/private agencies serving youth.

Please support HB 537.



Hawaii Dental Association

Committee: House Committee on Judiciary and Hawaiian Affairs
Time/Date: 2:00 p.m., February 14, 2023
Location: State Capitol Room 325 and via Videoconference
Re: HB 537, HD1, Relating to Electronic Smoking Devices

Aloha Chair Tarnas, Vice Chair Takayama, and members of the committee!

The Hawaii Dental Association (HDA) is a professional association comprised of approximately 950-member dentists. **We are in support of HB 537, HD1**, relating to electronic smoking devices. This bill establishes a tax equal based on the manufacturer's list price for electronic smoking devices and e-liquid products, among other provisions.

HDA expresses its opposition to use of oral tobacco, including vaping nicotine from e-cigarettes, and urges people using any type of tobacco product to quit. Tobacco use is causally associated with higher rates of tooth decay, receding gums, periodontal disease, mucosial lesions, bone damage, tooth loss, jawbone loss and more. That is why the Hawaii Dental Association, like the American Dental Association, is working with dentists, educators, public health officials, lawmakers, and the public to prevent and, hopefully, eliminate the use of all tobacco products. HDA supports regulatory and legislative action to ban the sale and distribution of all e-cigarette and vaping products, with the exception of those approved by the FDA for tobacco cessation purposes and made available by prescription only. We will continue to support legislation aimed at enhancing and promoting oral health.

HDA is a statewide membership organization representing dentists practicing in Hawaii and licensed by the State of Hawaii's Board of Dentistry. HDA members are committed to protecting the oral health and well-being of the people of Hawaii, from keiki to kupuna and everyone in between.

Mahalo for the opportunity to testify in support of HB 537, HD1.



February 12, 2023

To: David A. Tarnas, Chair
Gregg Takayama, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

Re: Testimony in Support of HB537, Relating to Eletronic Smoking Devices; E-Liquids; Electronic Smoking Device Retailer Registration Unit; Wholesalers; Tax

Hrg: 14 Feb 2023, 2:00PM, House Conference room 325 via Videoconference

The Hawai'i Public Health Association (HPHA) is a group of over 450 community members, public health professionals, and organizations statewide dedicated to improving public health. Our mission is to promote public health in Hawai'i through leadership, collaboration, education and advocacy. Additionally, HPHA aims to call attention to issues around social justice and equity in areas that extend beyond the traditional context of health (e.g., education, digital equity, cultural sensitivity), which can have profound impacts on health equity and well-being. Therefore, as stewards of public health, HPHA is also advocating for equity in all policies.

We strongly support HB537 to establish a tax on e-cigarettes at 70% of the manufacturer's list price. This will create parity between e-cigarettes and other tobacco products.

E-cigarettes are the only tobacco products without a tax. Extensive research has demonstrated that taxing tobacco products and cigarettes reduces tobacco use and saves lives. When considering e-cigarettes, keiki are especially vulnerable as e-cigarettes are now the most popular tobacco produce among youth. In Hawai'i 1 in 3 high school students and 1 in 5 middle school students report current use of e-cigarettes or vaping. Yet, e-cigarette products are not subject to many of the regulations that other tobacco products are subject to.

This bill would create the necessary regulations on e-cigarettes in Hawaii and keep them out of the hands of our keiki.

We strongly support HB537 and respectfully ask that you pass this measure to reduce e-cigarette use among keiki. Thank you for the opportunity to provide testimony on this important public health issue affecting youth in our communities.

Respectfully submitted,

Holly Kessler
Executive Director



On behalf of the Coalition for a Tobacco-Free Hawaii's Youth Council, we support the intent of HB537 in taxing e-cigarettes the same as other tobacco products, but believe that additional steps need to be taken to address this issue including permitting and licensing requirements and closing the online loophole.

Today, Hawai'i is facing a youth vaping epidemic. In 2019, the most recent data from Hawai'i available, one in three high school students and one in five middle school students report "current use" of e-cigarettes. As many know, these products are harmful to youth in particular, containing toxic chemicals like nicotine and formaldehyde that destroy the developing brain. In fact, over 21,000 Hawai'i youth alive today will die from tobacco-related illness if smoking rates don't change.

But beyond numbers, countless students from across the state and nation have chronicled their experiences with e-cigarettes – whether watching their friends fall victim to the predatory marketing of the industry, seeing their school bathrooms cloud with smoke, or even reporting the struggle of recovering from nicotine addiction themselves. Students today are under siege by an industry that profits off of addiction.

A study by Frank J. Chaloupka, PhD Director of the Health Policy Center at the University of Illinois at Chicago showed that **a 10% increase in price reduces sales of disposable e-cigarettes by approximately 12%**, and by about 19% for reusable e-cigarettes. Youth are even more price sensitive, which is why the Youth Council supports taxing e-cigarettes like other tobacco products.

However, it's not just youth – we have support from more than 100 organizations, many of which have also submitted testimony. Youth have presented to the majority of Oahu neighborhood boards that have passed resolutions in support, along with organizations like the Association of Hawaiian Civic Clubs, the Honolulu Youth Commission, Parents for Public Schools of Hawai'i, and many more. You can see a partial list below.

We strongly urge support of this bill. It's time to put people over boosting the coffers of Big Tobacco. It's time to protect our keiki.

PARTIAL LIST OF SUPPORTERS TO END THE SALE OF ALL FLAVORED TOBACCO PRODUCTS IN HAWAII

HEALTH ORGANIZATIONS

'Ohana Health Plan
Adventist Health – Castle
Aloha Care
AMA/HMA Student Chapter at JABSOM
American Academy of Pediatrics – Hawaii Chapter
American Heart Association
American Lung Association
Bay Clinic Inc.
Blue Zones Project
Campaign for Tobacco-Free Kids
Coalition for a Drug-Free Hawaii
Coalition for a Tobacco-Free Hawai'i a program of Hawai'i Public Health Institute
Hamakua Kohala Health Centers
Hawaii – American Nurses Association (Hawaii-ANA)
Hawaii COPD Coalition
Hawaii Dental Hygienists' Association
Hawaii Health and Harm Reduction Center
Hawai'i Nurses' Association OPEIU Local 50
Hawaii Public Health Association
Hui No Ke Ola Pono
Hui Ola Pono (UH Public Health's Student Organization)
Kaho'omiki; Hawaii Council of Physical Activity and Nutrition
Kauai Rural Health Association
Keiki Injury Prevention Coalition
Na Lei Wili Area Health Education Center, Inc.
The Queen's Health Systems
Tobacco Prevention Project, Daniel K. Inouye College of Pharmacy
University of Hawaii Student Health Advisory Council
US COPD Coalition
Waimānalo Health Center

YOUTH AND COMMUNITY ORGANIZATIONS

After-School All-Stars Hawaii
American Youth Soccer Organization (AYSO)
Association of Hawaiian Civic Clubs
Big Island Interscholastic Federation (BIIF)
Hale 'Ōpio Kaua'i Inc.
Hawaii Children's Action Network
Hawaii Interscholastic Athletic Directors Association
Hawaii State Teachers Association (HSTA)
Hawai'i Youth Climate Coalition

Hawaii Youth Services Network
Honolulu Youth Commission
Kanu o ka 'Āina Learning Ohana (KALO)
Kauai Path Inc.
LearningBond
Pacific American Foundation
Parents for Public Schools of Hawai'i
Partners in Development Foundation
Residential Youth Services & Empowerment (RYSE)
The Friends of Kamalani and Lydgate Park
Waipahu Intermediate Youth For Safety

NEIGHBORHOOD BOARDS

Kuliouou-Kalani Iki Neighborhood Board 02
Kaimuki Neighborhood Board 04
Diamond Head Neighborhood Board 05
Palolo Neighborhood Board 06
McCully-Moilili Neighborhood Board 08
Nuuanu/Punchbowl Neighborhood Board 12
Liliha/Puunui/Alewa Neighborhood Board 14
Aliamanu-Salt Lake Neighborhood Board 18
Aiea Neighborhood Board 20
Pearl City Neighborhood Board 21
Waipahu Neighborhood Board 22
Ewa Neighborhood Board 23
Mililani-Waipio Neighborhood Board 25
North Shore Neighborhood Board 27
Koolauloa Neighborhood Board 28
Kahaluu Neighborhood Board 29
Kaneohe Neighborhood Board 30
Waimanalo Neighborhood Board 32
Mililani Mauka- Launani Valley Neighborhood Board 35
Nanakuli-Mailii Neighborhood Board 36

BUSINESSES

Country Courier, LLC
Hana Lima Physical Therapy
Home Remedies Interior Design
JCS Enterprises Inc.
Pediatric Therapies Hawaii

SCHOOLS

Damien Memorial School
Hawaii Association of Independent Schools (HAIS)
Hawaii Council of Private Schools (HCPS)
Holy Family Catholic Academy
Island Pacific Academy
Maryknoll School
Maui Preparatory Academy
Mid-Pacific Institute
Roots School
St. Andrew's Schools

HEALTH & COMMUNITY LEADERS

Kathryn Akioka, RRT / TTS
Joy Barua
Forrest Batz, PharmD
Frank Baum, MD
Deborah Bond-Upson
Dale Carstensen
Valerie Chang
Dyson Chee
Danelle Cheng
Bridgitte Daniel
May Rose Dela Cruz, DrPH
Andrew Fox, MD
Shani Gacayan
Donita Garcia
Asaka Herman
Pedro Haro, MPH
Cyd Hoffeld
Colleen Inouye, MD
Lila Johnson
Leilani Kailiawa
Lehua Kaulukukui
Ken Kozuma
Mark Levin
Loren Lindborg
Katherine May, PsychD
Bryan Mih, MD
Kristin Mills
Shelly Ogata
Gregg Pacilio, PT
Matthew Prellberg
Jordan Ragasa
Nathalie Razo

Keenan Reader
Crystal Robello
Kimberly Golis-Robello
Mary Santa Maria
Patty Kahanamoku-Teruya
Chien-Wen Tseng, MD
John A Hau'oli Tomoso
Jennifer Valera
Cecilia Villafuerte
Linda Weiner, MD
Matthew Wong



Papa Ola Lokahi
Nana I Ka Pono Na Ma

894 Queen Street
Honolulu, Hawaii 96813
Phone: 808.597.6550
www.papaolalokahi.org

House Committee on Judiciary & Hawaiian Affairs

David A. Tarnas, Chair
Gregg Takayama, Vice Chair

Tuesday, February 14, 2023, 2:00 PM, Conference Room 325 & Videoconference

RE: HB 537 HD 1 – RELATING TO ELECTRONIC SMOKING DEVICES

Position: IN SUPPORT

Dear Chair Tarnas, Vice Chair Takayama, and Members of the Committee on Judiciary & Hawaiian Affairs,

Papa Ola Lokahi testifies in **SUPPORT** of HB 527 HD 1, which aims to establish taxes on electronic smoking devices and e-liquids, and the registrations of retailers and wholesalers. Papa Ola Lōkahi supports efforts that aim to protect the health of our communities, such as limiting access to tobacco products, including electronic smoking devices and other vapor products, which are known to increase the risk of adverse health outcomes. Data from the 2019 Youth Risk Behavior Survey found that Hawai'i has one of the nation's highest youth vaping rates, with 30.6% of high school students reporting they currently use electronic smoking products. If we are to protect the health and safety of our youth and future generations, we must continue to examine policies and take meaningful action to ensure policies are meeting the needs of our communities.

We must also examine the existing disparities and ensure policies are aimed at closing the health disparity gap between racial groups. The 2019 Youth Tobacco Survey (YTS) found racial inequity, with 63.8% of Native Hawaiian high school youth and 37.6% of Native Hawaiian middle school youth reporting they have tried vaping. Native Hawaiian high school students reported active use of vapor products more than nearly all other racial groups in Hawai'i, and the same survey found that Native Hawaiian high school youth report using vapor products more frequently (20+ days within the last 30 days) than their non-Native Hawaiian counterparts at 17% and 10.4%, respectively. One in three Native Hawaiian youth cite the availability of flavors as the reason they use vape products, underpinning the need for us to regulate access to these harmful products further. We must also consider that our youth's neural development is at risk, and that using tobacco products during this developmental stage puts them at increased risk of developing a nicotine addiction.

It is evident that the use of tobacco products not only increases adverse health outcomes, but also exacerbates these outcomes among vulnerable groups, and deepens health disparities. Establishing policies such as these is necessary to curb access to these harmful products.

Mahalo piha for the opportunity to provide testimony in **STRONG SUPPORT** of this critical issue and for helping to safeguard the health and safety of our keiki and communities.

Thank you for the opportunity to testify in **SUPPORT** of **HB 537 HD 1**.

Papa Ola Lōkahi, the Native Hawaiian Health Board, authorized by the federal Native Hawaiian Health Care Improvement Act, is charged with raising the health status of Native Hawaiians to the highest possible level, which we achieve through strategic partnerships, programs, and public policy.



Hearing on 2-14-23

Testimony in Strong Opposition to House Bill 537

Dear House JHA,

The Hawaii Smokers Alliance STRONGLY OPPOSES HB 537) relating to the ridiculous taxation and regulation on retailers, constituents, and visitors that enjoy e-cigarette.

The pernicious House Bill 537 is strongly opposed for the following reasons:

1. A 70% or similar tax rate will place local retailers at a massive disadvantage when they now have to compete with online, smuggled, or person to person transactions. The vape products have a much higher value to volume ratio than most traditional tobacco products making them highly prone to smuggling, mailing, or in person transport in luggage from the mainland. HB537 will close many a retailers' door which is what the professional anti-smoking lobbyists want since they are being paid to eliminate the competition to drug company products.
2. Apparently the 70% or yet to be determined high tax rate will be applied to products seeking FDA approval but not those who have already obtained approval. Where is the fair and equal protection under the law since the existing products were never taxed at 70% or more?
3. This bill is undoubtedly a companion bill to a flavored vapes ban. The anti-smoking lobbyists had to split it up because a prior unsuccessful bill covered too many topics at once. Combined with the flavor ban and this tax increase, local vape retailers as well as more of our rapidly disappearing civil liberties are doomed.

Respectfully request that this divisive, shameful, and bigoted bill not leave the JHA committee. Thank you for your time.

Sincerely,

Michael Zehner, Co-chair of the Hawaii Smokers Alliance.

808-952-0275. Hawaiiismokersalliance.net

Date: February 14th, 2023

To: Rep. David A. Tarnas, Chair
Rep. Gregg Takayama, Vice Chair
Members of the Committee on Judiciary & Hawaiian Affairs

From: Members of the University of Hawaii Student Health Advisory Council

Re: Support for HB537, Relating to the Electronic Smoking Devices

Hearing: Tuesday, February 14 at 2:00 PM Via Videoconference

Thank you for the opportunity to submit testimony in SUPPORT of HB 537. We support the taxation of electronic smoking devices and tobacco products and suggest that tax parity be 70%, on par with other tobacco products.

The Student Health Advisory Council has played a pivotal role in the development and implementation of health policies and tobacco education on the UH System campuses. We remain deeply committed to the mission of reducing the use of all tobacco products, including electronic smoking devices, among adolescents and young adults.

Electronic cigarettes are now the most commonly used form of tobacco among young people in the United States, surpassing conventional tobacco products, including cigarettes, cigars, chewing tobacco, and hookahs. Taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who do smoke or use tobacco to quit. Therefore, we urge you to support this measure and introduce a 70% tax on electronic smoking devices and products.

Mahalo,

Student Health Advisory Council

HB-537-HD-1

Submitted on: 2/13/2023 3:57:45 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

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

Comments: In Hawai‘i, one in three high school students and one in five middle school students report that they currently use e-cigarettes, or “vapes.” E-cigarettes are now the most popular tobacco product among youth – and that’s largely because these products are not subject to many of the regulations other tobacco products are subject to. E-cigarettes are the only tobacco products without a tax, and we know that taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. We support applying a meaningful tax on e-cigarettes because research shows that significant price increases reduce tobacco use among youth. Please include the taxation rate of 70% of the wholesale price to create parity between e-cigarettes and other tobacco products.

HB-537-HD-1

Submitted on: 2/10/2023 5:12:08 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicholas Winters	Individual	Oppose	Written Testimony Only

Comments:

Vapes are not dangerous.

If they are taxed at this unfair rate, more people will smoke.

This bill is bad for health.

HB-537-HD-1

Submitted on: 2/11/2023 9:33:36 AM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anthony Orozco	Individual	Oppose	Written Testimony Only

Comments:

The bill will be a business killer.

If you want my vote in the 2024 election, then vote no to this bill. Thank You.

HB-537-HD-1

Submitted on: 2/11/2023 11:48:21 AM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Chang	Individual	Oppose	Written Testimony Only

Comments:

.

HB-537-HD-1

Submitted on: 2/11/2023 4:10:10 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Patricia Blair	Individual	Support	Written Testimony Only

Comments:

This needs to be a comprehensive bill; 70% tax, addressing online sales, licensing, permitting. I would prefer that e- cigarettes were banned!

HB-537-HD-1

Submitted on: 2/11/2023 7:37:43 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ned Garcia	Individual	Oppose	Written Testimony Only

Comments:

This unknown tax is unfair and unjust. The State House has gone mad.

HB-537-HD-1

Submitted on: 2/12/2023 10:06:10 AM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dallas Nelson	Individual	Oppose	Written Testimony Only

Comments:

I don't want State Lawmakers in office that take away the things people like. We have a constitutional right to enjoy flavored products which is protected under the right to privacy, same as abortion. Anyone that can't see that needs to get sent back to lawyer kindergarden.

HB-537-HD-1

Submitted on: 2/12/2023 10:59:14 AM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
David Ball	Individual	Support	Written Testimony Only

Comments:

To the members of the Committee,

I am writing to voice my full support for HB537, which is one necessary step to protect Hawaii's keiki from the public health plague of electronic smoking devices. As a teacher of teenagers, I have heard too many stories of parents' distress at the explicit marketing tactics used by tobacco companies to hook kids on these devices. Taxing these devices will ensure they stay out of the reach of many kids while raising needed revenue to address the healthcare costs for those adults who make this personal choice. I urge the Committee to advance this necessary bill.

With aloha,

Dave Ball, Honolulu

HB-537-HD-1

Submitted on: 2/12/2023 12:49:05 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Clayton Silva	Individual	Oppose	Written Testimony Only

Comments:

Why are you guys attacking voters again with a mean tax of possibly 70% or more?

HB-537-HD-1

Submitted on: 2/12/2023 1:00:40 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

Strong support. Please support Thank you.

HB-537-HD-1

Submitted on: 2/12/2023 2:31:20 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Comments	Written Testimony Only

Comments:

I support restrictions on vaping, but I am a little concerned that such an extreme tax is going to push people back into using cigarettes and other tobacco products.

HB-537-HD-1

Submitted on: 2/12/2023 4:02:08 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dyson Chee	Individual	Support	Written Testimony Only

Comments:

Aloha honorable Representatives,

My name is Dyson Chee, I am 20 years old, and I am submitting testimony in strong support of HB537. E-cigarettes are the only tobacco products without a tax, and we know that taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit. I also urge you to include the taxation rate of 70% of the wholesale price to create parity between e-cigarettes and other tobacco products.

Thank you for the opportunity to testify,

Dyson Chee

HB-537-HD-1

Submitted on: 2/12/2023 4:33:32 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Naomi C. Liu	Individual	Oppose	Written Testimony Only

Comments:

Working people pay high enough taxes as it is.

HB-537-HD-1

Submitted on: 2/12/2023 9:03:00 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Peggy Brandt	Individual	Support	Written Testimony Only

Comments:

I am writing in support of HB537 as e-cigarette and related products should be taxed at the same rate as other tobacco products. This will help to support the health and wellness of our community.

HB-537-HD-1

Submitted on: 2/12/2023 10:13:56 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bryan Mih	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Bryan Mih and I am a parent, pediatrician, and the medical director of the Kapi’olani Smokefree Families Program. For the health of our keiki and their families, it is vitally important to support HB 537 HD 1. This bill improves regulations on e-cigarettes or “vapes” in Hawai‘i and helps keep them out of the hands of keiki.

Electronic smoking devices are used in a similar manner as cigarettes, yet are not taxed as such. The American Academy of Pediatrics strongly supports regulation and taxation of electronic smoking devices to prevent initiation of use, especially by young people.

Hawaii has one of the highest rates of middle schoolers (18%) and high schoolers (31%) currently using e-cigarettes. For Native Hawaiian and Pacific Island youth the rates are even higher: 30% for middle schoolers and 40% for high schoolers. We have even had reports of second grade children using e-cigarettes.

Nicotine is a highly addictive drug that impacts the adolescent brain, reducing impulse control and affecting mood. Those who use e-cigarettes are four times more likely to smoke regular cigarettes later on. The e-cigarette industry claims these are cessation devices, but a recent study has shown that even if one adult can quit with these devices, the trade-off is 81 young people who will start the habit in their place. This is completely unacceptable.

Once young people are addicted to nicotine, it is extremely difficult to quit. Appropriately regulating and taxing these electronic nicotine devices just brings these products in line with laws regarding other tobacco products. This is a common sense solution that is long overdue and which will improve the health of many, especially our keiki and young people.

Please support this important measure. Mahalo for your consideration.

Sincerely,

Bryan Mih, MD MPH FAAP

Pediatrician

Medical Director, Kapi'olani Smokefree Families

HB-537-HD-1

Submitted on: 2/13/2023 6:53:23 AM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
April Pacheco	Individual	Oppose	Written Testimony Only

Comments:

I won't be paying this. Many ways around it.

HB-537-HD-1

Submitted on: 2/13/2023 7:40:20 AM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michele Nihipali	Individual	Support	Written Testimony Only

Comments:

- In Hawai‘i, one in three high school students and one in five middle school students report that they currently use e-cigarettes, or “vapes.” E-cigarettes are now the most popular tobacco product among youth – and that’s largely because these products are not subject to many of the regulations other tobacco products are subject to.
- E-cigarettes are the only tobacco products without a tax, and we know that taxing tobacco products and cigarettes is a proven strategy to reduce youth initiation and encourage those who smoke or use tobacco products to quit.
- We support applying a meaningful tax on e-cigarettes because research shows that significant price increases reduce tobacco use among youth.
- Please include the taxation rate of 70% of the wholesale price to create parity between e-cigarettes and other tobacco products.

Thank you for your consideration,

Michele Nihipali

54-074 A Kam Hwy.

Hauula, HI 96717

HB-537-HD-1

Submitted on: 2/13/2023 9:18:35 AM

Testimony for JHA on 2/14/2023 2:00:00 PM

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

Comments:

Hawaii has among the highest rates of middle school and high school e-cigarette (ESD) use in the nation and it has been declared vaping a youth epidemic by the U.S. Surgeon General. One in three high school students and one in five middle school students report “currently using” e-cigarettes (2019 YRBS data).

As a parent and health educator for the Hawaii State Department of Health, this is extremely concerning as there are numerous health impacts from e-cigarettes. Nicotine addiction affects kids’ ability to focus and learn at school, it affects their physical health and mental / emotional health, it affects their relationships, and it affects their self-confidence. The list goes on. Further, once teens become addicted to nicotine, it’s very difficult to quit. Teens are also particularly vulnerable to nicotine, which permanently impacts their still developing brain.

Taxing tobacco products is a proven strategy to reduce youth rates of use. However, e-cigarettes are the ONLY tobacco product without a tax! E-cigarettes need to be taxed and the funds accrued need to be put into prevention, education, and cessation services.

I support HB537. ESD products need to be taxed in the same way that cigarettes are taxed – 70%. And, in addition to taxing electronic smoking devices, we also need to also regulate online sales.

Our youth deserve to have their health protected from these devices! Our youth deserve to remain addiction free. Please help protect our youth by supporting HB537.

Mahalo, Kristin Mills, M.S., M.A.

To: Rep. David A. Tarnas, Chair and members of the Committee on Judiciary and Hawaiian Affairs

My name is Karena and I'm from Mililani, Oahu. I am submitting testimony in support of the intent of HB 537 to apply a tobacco tax to e-cigarettes, but believe we also need to restrict online sales of tobacco products, and require licensing for retailers to sell tobacco products. This will reduce the amount of lives lost from tobacco usage and complications due to tobacco, especially among children. Did you know that if this problem is not addressed, 21,000 children alive today will die from tobacco usage? We must protect our children from tobacco and the only way we can do that is by regulating tobacco sales.

I am only in high school and already some of my classmates have admitted to using tobacco products, such as e-cigarettes. This is terrible. I am close to my classmates and the last thing I want is for them to have health problems (or even die) from using tobacco products. The tobacco industry has admitted to marketing towards high schoolers, a fact that I find disgusting. Tobacco industries use flavors to hook children, so children become addicted to nicotine.

There needs to be a tobacco tax attached to e-cigarettes. Applying a tax to tobacco products has been proven to reduce the number of smokers, therefore saving many lives, especially those of young people. This tax would be about 70% of the wholesale price, the same as other tobacco products.

Restricting online sales of tobacco products, mostly e-cigarettes, is also crucial to saving lives. Children (even ones as young as six years old!) can access tobacco products online, which is scary. It's easy for them to do so, and resell them to classmates. This is obviously really bad and needs to be stopped. Why should e-cigarettes be available for purchase online, when combustible cigarettes aren't?

Lastly, getting a license and a permit to sell tobacco products is necessary. Right now, people who sell e-cigarette cannot get revoked or anything. They just need to register. This is why it's so easy to buy tobacco products and why so many kids are doing so! If these retailers were to be licensed, this license can be revoked if they sell to children.

As a teenager, this issue is really important to me. Thank you for taking the time to hear me out!

To: Representative David A. Tarnas, Chair and Members of the Committee on Judiciary and Hawaiian Affairs

From: Jaelyn Natividad

Re: Support for HB537

I believe that we need to regulate e-cigarettes the same as other tobacco products because it includes a common unsafe component, nicotine. Nicotine is known to quickly reach one's brain within a span of 10 seconds. Once your brain is impacted, the nicotine causes your brain to release adrenaline resulting in creating pleasure and energy. Thus is the reason as to why people get quickly hooked and affected.

Within my community, there are many students that use e-cigarettes. This does not only impact their bodies and personal health but it impacts the environment and community around them. It may start with one student with an e-cigarette, but then another will become a follower and so on and so forth, and a classroom of students will be trying them by the end of the week.

My athletically and academically minded cousin started vaping. It hurts to see my cousin throwing years away from their future. The reason being is because e-cigarettes provide detrimental effects to one's body, mentally and physically. My cousin may not show the effects just yet, but in the future my cousin will experience negative impacts. As a blood cousin, it hurts to see him do this to himself because of stress or whatnot. I love my cousin too much to see my cousin throw their life away!

By increasing the cost of e-cigarettes by taxing them like other tobacco products it will make them less attractive to students like my cousin.

Chair David Tarnas
Committee on Judiciary and Hawaiian Affairs
February 13, 2023

Support for HB537

I support the intent of HB537. My name is Kinohi and I am from Hau'ula O'ahu and a member of the Coalition for a tobacco-free Hawaii youth council.

I support this bill because I see the effects tobacco and e-cigarettes have on the world around me. E-cigarettes are highly addictive products that contain nicotine, and nicotine is a highly addictive chemical that can have bad bad effects on your brain in several ways. I support this bill because the tobacco industry targets people like me and people in my community.

My community is mostly made up of native Hawaiians and pacific islanders. These companies are targeting people like me, people in my community, low-income Native Hawaiians, and pacific islanders, not only are these companies targeting certain people by their ethnicity and social class but they are also targeting people my age. I am 17 years old and I see kids as young as 10 years old vaping. A Philip Morris executive once said "Students are tremendously loyal. If you catch them, they'll stick with you like glue." and this is true. Hawaii is known for having the highest rates of youth vaping and 1 in 3 Hawai'i high school students report using e-cigarettes on a regular basis.

Youths are more price sensitive than adults, so taxing e-cigarettes the same as other tobacco products will help decrease youth e-cigarette use, this would help to end the youth vaping epidemic.

Kinohi
Hau'ula, O'ahu

Chair David Tarnas
Committee on Judiciary and Hawaiian Affairs

I'm Samantha Lay, a junior at Roosevelt High School and I **support** the intent of HB537 as it calls for taxing e-cigarettes similar to other tobacco products.

The alarming issue facing youth today is one worth addressing and putting forth the effort to lessen those negative impacts. I may not have personally experienced those effects myself, but have observed one of my good friends succumb to the faults of peer pressure. Learning she suffered from heart/lung complications as a result, the extensiveness of harm done came to light as it was challenging to see her have a difficult time breathing, especially when confronted with mask restrictions. Additionally, the health disparities are definitely important to emphasize. With certain marginalized groups, considering race and socioeconomic status, specific audiences are being targeted by the tobacco industry marketing on-island. Not to mention the rates that correspond to vaping in such early stages of individuals' lives. With e-cig use on the rise, we see a rapid increase in addiction and demand for these products. With this bill, the objectives to reduce tobacco use will be ensured, putting youth in the forefront of it all.

By taxing e-cigarettes at a similar rate to other tobacco products it will raise the price which will deter youth from starting and encourage youth to quit.

Chair David Tarnas
Committee on Judiciary & Hawaiian Affairs

Support for HB 537

Vapes negatively impact our youth because they are very addictive and for our generation easy to get their hands on. By taxing them like cigarettes it will raise the cost which will keep some students from starting using them.

Vapes are just as addictive and harmful as other tobacco products. And for our generation we would rather vape than smoke cigarettes. Because cigarettes give an unpleasant taste and scent. I'm a junior in high school and my first encounter with a vape was freshman year, In my head they smelt better, looked cooler and everyone did it. So most of the people I hang with do it. But it never came across me to try it because I know it's wrong. Every day I'm pressured to try.

Vaping heavily impacts my community, we have a vape shop 4 minutes away from our school and over 100 kids walk by it every day on their way home. By making the price higher through tax fewer would stop and try to buy them.

Carmine
Kealakekua, Hawaii

To: David Tarnas, Chair
Members of the Committee on Judiciary and Hawaiian Affairs

From: Daniel Valera

Re: Support for HB 537

E-cigs are also addictive and will harm your body the same as cigs or even worse so should be regulated in the same way.

One of my uncles recently passed away from lung cancer because he smoked cigarettes all his life. My peers are addicted and constantly needing to leave class to get a hit. Kids are constantly going up to each other and asking if they have a vape like it's a normal thing.

Increasing the cost by taxing them will help reduce youth use. Maybe if cigarettes had been more expensive when my uncle was a kid it would have stopped him from starting, and he would still be here.

Representative David A. Tarnas, Chair and
Members of the Committee on Judiciary and Hawaiian Affairs
HB537

I believe it's important to regulate e-cigarettes the same as other tobacco products and **support the intent of HB537**. It's not okay for these tobacco companies to target young audiences with these cheap products, ruining their futures, they shouldn't be in the hands of teenagers or young adolescents. Making them more expensive by taxing them like other tobacco products will make them less attractive.

I was influenced into vaping by a bad group of friends who were also influenced by the tobacco industry. I instantly got hooked and loved the flavor of it and when I saw the effect it had on my body, I could barely hold my breath when I swam and when I ran I would get out of breath very quickly. I told my boyfriend who was in the youth council group the effects vaping was having and he helped and showed me what vaping can really do and helped me to quit vaping and now I'm trying to help others.

The availability of flavored tobacco products negatively impacts youth and other targeted groups because it makes the youth blind to the risks and makes them want to try them without them knowing the harm it can do to their bodies and flavored tobacco makes kids get hooked easily when they taste so good.

Raising the price will help but we need to do more. The relatively easy access to e-cigarettes purchase online has impacted my community. Many students go in School bathrooms and vape and because of that, most of the bathrooms at my school are closed down and people who actually use the bathroom get in trouble for having the scent on them even if they don't use.

Maui
Hilo, Hawaii

To: Representative David Tarnas, Chair and Members of the Committee on Judiciary and Hawaiian Affairs

From: Destin

Date: 2/13/2023

Re: Support for HB537

We need to regulate e-cigarettes the same as other tobacco products because e-cigarettes are easily accessible because of the internet and the disposable vapes are cheap and easy to sell to other people.

I have a fear of going to the bathroom at school because most people that go to the bathroom use it as an excuse to vape in there. I sometimes have to go and risk it and go and use the bathroom. I also got in trouble multiple times because I had the scent of the product cuz of people vaping around me.

The easy and cheap access to e-cigarettes endangers my community to the point where some parents don't trust their kids and fear that their kids are being peer pressured to use flavored tobacco products.

Destin
Pa'auilo, Hawaii

Representative David A. Tarnas, Chair and Members of the Committee on
Judiciary & Hawaiian Affairs

I'm Zoey, a local youth from Nu'uuanu/Liliha, and I support HB537.

As a youth that has personally seen the impacts of tobacco on my family members and friends, namely my grandpa who had passed away from tobacco use as well as my many fellow peers in middle school, I strongly support the bill to tax and regulate e-cigarettes as any other tobacco product.

Taxing and restricting the online sale of e-cigarettes will undoubtedly help prevent youth addiction to these products, especially since inexpensive accessibility and unregulated online sales have been primary sources of tobacco products for Hawaii kids in high school, middle school, and even elementary school. I've seen it first hand, when my fellow classmates and friends would fill the school bathrooms with sickly sweet scents of cotton candy using vapes that they bought online with just the click of a button. By implementing the same policies and regulations Hawai'i used to reduce cigarette use to record lows, we can reverse the trends in youth e-cigarette use and prevent further health consequences on kids like myself.

Therefore, I urge the committee to support HB537, so that we can truly prevent the dangers of tobacco from affecting both my generation and our future generations.

Mahalo,
Zoey Duan

To: Representative David A. Tarnas, Chair and
Members of the Committee on Judiciary and Hawaiian Affairs

From: Moani Yamanoha

Re: Support for HB 537

I support HB 537 because people that vape are becoming addicting at a young age which can lead to serious health issues in the future. They are no better than other tobacco products and should be taxed the same way.

When my grandparents lived in Oahu, my Grandpa used to smoke all the time. He smoked about 3-6 times a day. He never really had a relationship with me because he was half blind, deaf, and couldn't remember all that well. I know that the pipe really messed up his speech too, because he could only make out a couple of words. He smoked because he was trying to let off stress. I felt bad for him because I know that smoking really took over his life and hurt him a lot but I couldn't say anything. He and my Grandma live in the mainland now and he has stopped smoking but the smoking got to him and hurt him a lot. I don't want others to go through that with their family and friends because of vaping.

By taxing vapes the same as other tobacco it would cause fewer kids to use them and make those that vape want to quit.

David Tarnas, Chair and members of the Committee on Judiciary and
Hawaiian Affairs

Support HB537

I believe we need to regulate e-cigarettes the same as other tobacco products and tax them at similar rates because it is basically the same product and increasing the tax will make young adults who are not financially independent think twice before buying.

Mary Liaguno
Waikaloa, HI

Representative David A. Tarnas, Chair and members of the Committee
on Judiciary & Hawaiian Affairs
HB537

My name is Sydnee Yokota and I am testifying in support of HB537.

Nicotine is an addictive component found in e-cigarette, and using e-cigarettes can be a gateway to using other substances, such as combustible tobacco cigarettes, marijuana, and other illicit drugs. Nicotine can alter a growing individual's brain development and function. The aerosol inhaled from vaping can cause an increased risk of respiratory and cardiovascular problems in our youth. Vaping can also lead to a newly severe medical disease known as e-cigarette or vaping use-associated lung injury (EVALI), dramatically impairing normal lung functioning.

E-cigarettes are found in practically all convenience stores here on the Big Island. They have appealing colors and exciting flavors that are compelling to buyers and users. However, how e-cigarettes are advertised impacts the community the most; it's always displayed at the front of the store, becoming a massive consumer attraction, especially to the youth.

I believe if e-cigarettes are regulated and taxed like other tobacco products, it could potentially cause the youth not to start using them.

Sydnee Yokota
Pepeekeo

Rep. David Tarnas, Chair and members of the Committee on Judiciary and Hawaiian Affairs

Support for HB 537.

My name is Zoe Gacayan, I'm from Paauilo and I'm testifying in support of HB 537. We need to acknowledge that e-cigarettes are the same as any and every tobacco product because they all do the same thing; kill. Just because they "seem safer" doesn't make the outcome any different. It makes it worse if anything. Increasing the cost could possibly make the youth not buy as much but in my opinion. The current low cost can possibly cause the youth to use their money unwisely and cause unhealthy habits, like spending their money on harmful products like e-cigarettes.

Personally, e-cigarettes have been in my life for as long as I can remember. My 3 older sisters all vape. One even works at a vape shop. I tried telling them how harmful it is but then I realized they were not my targeted audience. Youth however could listen. Those are the people I want to talk to and impact. By educating youth on the harms and raising the cost of e-cigarettes we can stop kids from vaping.

During school last year, vaping rates were so high that they decided to close down all bathrooms on our campus. This way no kids could go in there and vape. But this affected everyone. No available bathrooms throughout our whole campus. Cameras were installed outside of each bathroom and hallway, to identify who went where and at what time. We had to ask to use the bathroom electronically. Through E-Hallpass. We have to choose which teacher, which building, which bathroom, then they time how long we've been in there. One person in the bathroom at a time. Each class had a set amount of time everyone had in the bathroom. Most classes were 5 minutes. So if someone used the bathroom for 4 minutes then that leaves the rest of the class with 1 minute to spare. For the entire class. We need action now to stop this and taxing vapes like other tobacco is one way to help.

David Tarnas, Chair and members of the Committee on Judiciary & Hawaiian Affairs

I am testifying in support of the intent of HB537 but feel we need to go further.

I believe that we need to regulate e-cigarettes the same as other tobacco products and tax them at similar rates because if the tax makes it expensive, youth hopefully won't be able to afford to have them.

The relatively easy access to e-cigarette purchase online impacts my community because you don't have to be of age to buy it, it is very easy for youth to purchase it for themselves. We need to close the online loophole. You can't buy combustible cigarettes online, why should you be able to buy e-cigarettes that way?

Tobacco has impacted my life because I was not able to meet my great grandparents, they both passed away from lung cancer within a year of each other due to being heavy smokers. I don't want to see this happen to other generations.

I think increasing the cost of e-cigarettes by taxing them like other tobacco would cause more youth to quit and fewer to start.

Danica Valera
Kamuela

Representative David A. Tarnas, Chair and members of the
Committee on Judiciary & Hawaiian Affairs

Support for HB537

I, Caleh Carvalho want to see and help end the youth vaping epidemic. Everyday I see kids in my school who are addicted to vaping. At first they started because they liked the candy flavors, some were peer pressured but all of them probably didn't know how addicted they would become to their vape devices. I am the oldest of 4 kids and I want to protect my younger sisters and brother by helping to change law so they won't be targeted by vaping companies like kids my age.

By taxing e-cigarettes the same as other tobacco products it will make it more expensive so fewer kids will start and others may quit.

Thank you for the opportunity to testify.

To: Representative David A. Tarnas, Chair and
Members of the Committee on Judiciary and Hawaiian Affairs

From: Jaedyn Pavao, Kalaheo Hawaii

I support the intent of HB 537. We need to regulate e-cigarettes because they do take a toll on the body and it has become overused. Increasing the cost will stop youth from using them. However, how are they even getting them in the first place? We need to better regulate these products so we can decrease the overall use of these items for people across all ages. Ending online sales would help.

I know many people in my life that use tobacco and smoke e-cigarettes with no real reason for doing so. I see the kids learn from watching and end up doing the same thing. One of my uncles has a major cough that hasn't gone away. Is that from smoking electronic cigarettes? The consequences of vaping are starting to be seen in some of the people I know that utilize these products.

The use of e-cigarettes has increased so much and I am now hearing stories of elementary kids bringing and using these devices at school. How are these kids getting these items? Do they see their parents using them and think it is acceptable? Children in my community could be putting their health and body at risk without even knowing the harms of these products .

Chair David A. Tarnas and members of the Committee on Judiciary & Hawaiian Affairs

Support for HB537

My son started vaping in 10th grade. He got the idea and supplies from kids who were not even his friends at Kahuku. He has tried to quit several times since leaving high school 2 years ago, but he just can't. He started before he knew what the impact and cost would be...his rough, scratchy voice and cough, his need to hide what is now a shameful habit, his dependence on substances. He and I both wish it had been more difficult to get or that he understood better what he was getting into. I hope other teens will be empowered to choose a vape-free life.

Emily Bradshaw

Kahuku

**Rep. David Tarnas, Chair and
Members of the Committee on Judiciary and Hawaiian Affairs**

My name is Lokella Medeiros and I am from Hilo. I am testifying in support of HB537. We need to regulate e-cigarettes the same as other tobacco products to protect the youth and well being of future generations.

My aunty has been a cigarette smoker for over 20 years and now she has a hard time breathing or participating in any physical activities. She has also lost many of her teeth.

Youth have easy access to buying these products and regulating them like other tobacco products will help keep them out of their hands.

Representative David A. Tarnas, Chair and members of the Committee on
Judiciary and Hawaiian Affairs

I am testifying today in support of HB537

My name is Noel Nichols and I believe e-cigarettes need to be treated like
other tobacco products and taxed like cigarettes. By increasing the cost
children will have a harder time coming up with the money to buy them.

They should also not be available online where kids can buy these
products then sell them to younger children in the elementary schools.

I see kids vaping all the time like it's candy! It is harmful to them and they
are using excessive amounts of nicotine earlier and earlier in life. It is even
in the elementary schools! Please help them by making e-cigarettes harder
for them to get. :(

Noel Nichols
Laie

HB 537, Relating to Health
February 14, 2023

Committee on Judiciary & Hawaiian Affairs

Rep. Tarnas, Chair

Rep. Takayama, Vice Chair

**TESTIMONY IN SUPPORT OF HB 537
RELATING TO ELECTRONIC SMOKING DEVICES**

I am Julian Lipsher testifying as a private citizen in support of HB 537. I currently serve as Chair of the Coalition For a Tobacco Free Hawaii's Policy Committee which is part of the Hawaii Public Health Institute and formerly was with the Hawaii State Department of Health focusing on tobacco prevention and control and chronic disease prevention.

The bill as it relates to electronic smoking devices (ESD) proposes to:

- * Establishes a tax equal based on the manufacturer's list price for electronic smoking devices and e-liquid products.
- * Expands the electronic smoking device retailer registration unit to include wholesalers and e-liquid products retailers and wholesalers.
- * Requires electronic cigarette and e-liquid products retailers and wholesalers to register with the electronic smoking device and e-liquid products retailer and wholesaler registration unit.

The Hawaii State Legislature has enacted numerous pieces of legislation on traditional tobacco products. These measures have resulted in significant declines in both adult and youth smoking rates, some of the lowest in the nation, saving both money and lives. Now we are faced with the challenges presented by the tobacco industry on vaping, e-cigarettes and new methods of nicotine delivery systems.

- e-cigarettes have evaded tobacco regulation laws for almost a decade, leading to a sharp rise in the use of these products, especially by young people, who are enticed by their marketing, attractive flavoring, and lack of proper regulatory controls on an addictive drug, nicotine.
- E-cigarettes are the only tobacco products without a tobacco tax.
- E-cigarettes are not FDA-approved cessation devices.
- Would not include access to FDA-approved nicotine replacement therapy (NRTs) – approved smoking cessation products.

The Legislature is encouraged to apply what has been successful strategies for traditional tobacco products to electronic smoking devices and the epidemic of vaping among our youth.

Thank you for the opportunity to testify.

Julian Lipsher
jdlipsher@hawaii.rr.com

HB 537. RELATING TO ELECTRONIC SMOKING DEVICES

I am writing as a Kauai pediatrician in support of **HB 537**, which is a first step in e-cigarette regulation, establishing a tax on ESD's and e-liquid products. This is an excellent first step in regulating e-cigarettes, but I would ask that the 70% tax rate on e-cigarettes which was in the original version of the bill and established parity with straight cigarettes, be reinserted into the bill. In addition, this bill stops short of comprehensive regulation of ESD's, which ought to include licensing and permitting of retailers and wholesalers and restrict direct on-line sales of ESD's and liquids to consumers. In addition, a portion of the collected taxes ought to be dedicated to tobacco education and cessation efforts, such as that provided by the Tobacco Prevention and Control Trust Fund. All of these provisions would address the dramatic increase in preteen and teen e-cigarette use in Hawaii, which has one of the highest rates of vaping in the country. The disincentive created by increasing taxes on electronic nicotine products and creating mechanisms for licensing and permitting the sellers of vaping products will increase the costs of ESD's, much as increasing taxes on ordinary cigarettes did 20 years ago, to great success. A proposal to utilize ESD taxes for education and cessation efforts will guarantee the continuation of the efforts which have successfully addressed tobacco use for the past 20 years, and are just now starting to address electronic nicotine use as well.

Electronic nicotine use by Hawaii's middle and high schoolers has reached epidemic proportions and our children deserve all of our efforts to prevent further spread of these products and to help our keiki, who have been targeted by tobacco companies for years, to quit using them.

Linda Weiner, MD
Pediatrician
Kalaheo, Kauai

HB-537-HD-1

Submitted on: 2/13/2023 1:24:43 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Valerie Smalley	Individual	Support	Written Testimony Only

Comments:

I am in support of HB 537. E cigarettes are the only tobacco products without a tax and it has been proven that taxing tobacco products has been a strategy that has reduced youth initiation to smoking and also encourage those who smoke or use tobacco products to quit. I support applying a meaningful tax on e-cigarettes because research shows that significant price increases reduce tobacco use among youth. Please include the 70% taxation rate of the wholesale proce to create parity between e-cigarettes and other tobacco products.

Thank you for your consideration on this.

HB-537-HD-1

Submitted on: 2/13/2023 1:58:25 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Paul	Individual	Support	Written Testimony Only

Comments:

Aloha! My name is Michael Paul, and I am a tobacco treatment counselor in Honolulu. I strongly support efforts to bring e-cigarettes, also known as "vapes" in line with how all other tobacco products are taxed in our state.

A meaningful tax rate, in this case 70%, is an important tool to reduce the use of e-cigarettes among youth and young adults. We have already seen the positive effects of tobacco taxes on youth cigarette use and it is time for us to apply the lessons we have learned there to the problem of e-cigarettes/vapes. And it is a problem. E-cigarettes are far from harmless toys, and are little more than delivery systems for nicotine, an incredibly addictive substance with outsized effects on the developing brains of young people. One out of every five middle school students in HI and one out of every three high school students are using e-cigarettes. Elementary schools are finding students as young as nine years old bringing and uses these products on school grounds.

Taxing e-cigarettes in a similar manner to other tobacco products, like combustible cigarettes, can help us bring youth use down by making them too expensive for children to afford. A 70% tax rate of the wholesale price will bring these products in-line with other tobacco products sold in-state, leveling the playing field.

Mahalo,

-Michael Paul

HB-537-HD-1

Submitted on: 2/13/2023 1:59:46 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shani Carvalho	Individual	Support	Written Testimony Only

Comments:

I, Shani Carvalho support HB537 and respectfully request a tax rate of 70% for electronic smoking devices that would be on par with other tobacco products. This will be a step closer to helping to protect the youth of Hawaii and our state's youth vaping epidemic.

HB-537-HD-1

Submitted on: 2/13/2023 2:04:10 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Daniel Gabriel	Individual	Oppose	Written Testimony Only

Comments:

I do not believe retailers should have to apply or get licensed by any entity to sell and distribute electronic smoking devices or e-liquids. It will unnecessarily raise the costs.

I do believe they should not be able to market their product toward minors nor as a healthier alternative to smoking tobacco products.

HB-537-HD-1

Submitted on: 2/13/2023 2:46:24 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Karen L Worthington	Individual	Support	Written Testimony Only

Comments:

2/13/2023

Testimony in SUPPORT of HB537 RELATING TO ELECTRONIC SMOKING DEVICES.

Dear Representatives,

I am a parent of two teenagers and the daughter of a mother who died from disease stemming from years of cigarette smoking. I strongly urge you to pass HB537 and to require that e-cigarettes be subject to a 70% tax, which would be on par with the tax on other tobacco products. A comprehensive approach to regulating e-cigarettes, which includes taxation, online sales, licensing, and permitting is essential to protect the health of generations to come in Hawai'i. HB537, addressing taxation of e-cigarettes, is an important part of a comprehensive approach. Please take action to ensure that those in the e-cigarette industry must obey common-sense regulations to protect the health of people in Hawai'i.

Sincerely,

Karen Worthington, Kula, HI 96790

HB-537-HD-1

Submitted on: 2/13/2023 3:09:46 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Loren Lindborg	Individual	Support	Written Testimony Only

Comments:

E-cigarettes are the most popular tobacco production among youth in Hawaii and the only one without a tax. Let's reduce the risk of youth getting hooked on tobacco products by ensuring that this bill goes through.

HB-537-HD-1

Submitted on: 2/13/2023 4:10:23 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kathy Kim	Individual	Oppose	Written Testimony Only

Comments:

HB537 is crazy. Vaping products are helping people quit.

HB-537-HD-1

Submitted on: 2/13/2023 5:06:44 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alex Abe	Individual	Oppose	Written Testimony Only

Comments:

I'm Alex and I oppose this bill.