

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
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Honolulu, HI 96801-3378  
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**Testimony in SUPPORT of S.B. 1447, S.D. 1  
RELATING TO TOBACCO PRODUCTS**

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

Hearing Date: March 15, 2023

Room Number: Conference Room 325  
& Videoconference

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) supports Senate Bill 1447, Senate  
3 Draft 1 (S.B. 1447, S.D. 1) as a social justice and health equity measure to preserve the legal  
4 ability of all Hawaii counties to enact policies that regulate the sale of cigarettes, tobacco  
5 products, and electronic smoking devices (ESDs) in a manner that is more stringent than state  
6 law and responsive to pressing community needs. S.B. 1447, S.D. 1 repeals existing law that  
7 provides that all local ordinances or regulations that regulate the sale of cigarettes, tobacco  
8 products, and ESDs are preempted and that existing local laws and regulations conflicting with  
9 chapter 328J, Hawaii Revised Statutes, are null and void; and clarifies that counties retain the  
10 authority to adopt ordinances that regulate the sale of cigarettes, tobacco products, and ESDs as  
11 long as the ordinances are more stringent than the provisions in chapter 328J, Hawaii Revised  
12 Statutes.

13 The DOH thanks the House Committee on Judiciary and Hawaiian Affairs for  
14 considering the merits of S.B. 1447, S.D. 1 and requests your consideration to return county  
15 authority to protect their keiki from tobacco products as a significant consumer protection issue.  
16 According to Samuel Levin, the Director of the Bureau of Consumer Protection, "Marketers of

1 e-cigarettes have proven skilled at evading FDA regulation and hooking youth on addictive  
2 products.”<sup>1</sup> The Federal Trade Commission (FTC) in their key findings from their first report on  
3 e-cigarettes, noted that nicotine concentration in the disposable products increased by 60% from  
4 2015 to 2018 to 39.5 mg/ml, and cartridge-based e-cigarettes also popular with youth had  
5 concentrations between 51 and 61 mg/ml. The use of e-cigarette products with these high  
6 concentrations of nicotine is described by the FTC as raising, “serious public health and safety  
7 concerns for users (including youth and young adults, who are uniquely at risk for long-term,  
8 long-lasting effects, including nicotine addiction, from exposing their developing brains to  
9 nicotine).”<sup>2</sup> According to Dr. Bonnie Halpern-Felsher, PhD, professor of pediatrics at the  
10 Stanford School of Medicine, a Juul pod with 41 mg/ml is equivalent to nicotine from smoking  
11 one and a half to two packs of cigarettes.<sup>3</sup>

12           Geographic tobacco related disparities are a serious public health problem in Hawaii and  
13 innovative, community-based solutions are needed. While 11.6% of adults in the general  
14 population smoke, adults in Hawaii County have the highest prevalence of smoking at 14.0%.<sup>4</sup>  
15 Smoking within subcommunities throughout the State are even higher such as in Puna/Ka‘u  
16 (16.9%), North Shore/Laie (22.3%), and Nanakuli/Wai‘anae (19.5%).<sup>5</sup> Youth who live on  
17 neighbor islands evidence more current tobacco use than those who live in Honolulu County.  
18 Whereas 28.0% of high school youth in Honolulu County reported current vaping in 2019,

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<sup>1</sup> Federal Trade Commission. *FTC Report Highlights Dramatic Surge in Sale of Flavored Disposable E-Cigarettes and Menthol E-Cigarette Cartridges Increase Suggests that Youth are Shifting to Substitutes for Banned Flavored E-Cigarette Cartridges*. August 31, 2022. Accessed 2/18/2023: <https://www.ftc.gov/news-events/news/press-releases/2022/08/ftc-report-highlights-dramatic-surge-sale-flavored-disposable-e-cigarettes-menthol-e-cigarette>

<sup>2</sup> Federal Trade Commission. *E-Cigarette Report for 2015-2018*. Issued 2022. Accessed 2/18/2023: [https://www.ftc.gov/system/files/ftc\\_gov/pdf/E-Cigarette-Report-2015-2018.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/E-Cigarette-Report-2015-2018.pdf)

<sup>3</sup> Stanford Medicine Newsletter. *What parents should know about vaping: An interview with researcher Bonnie Halpern-Felsher*. Fall 2019. Accessed 2-18-2023: <https://med.stanford.edu/communitynews/2019fall/what-parents-should-know-about-vaping.html>

<sup>4</sup> *Hawai‘i IBIS - Query Result—Hawaii’s Behavioral Risk Factor Surveillance System (BRFSS) Data—Cigarettes—Current smoker*. (n.d.). Retrieved February 7, 2023, from

<https://hhdw.org/report/query/result/brfss/SmokeCurrent/SmokeCurrentCrude11.html>

<sup>5</sup> *Hawai‘i IBIS - Query Result—Hawaii’s Behavioral Risk Factor Surveillance System (BRFSS) Data—Cigarettes—Current smoker*. (n.d.). Retrieved February 7, 2023, from

<https://hhdw.org/report/query/result/brfss/SmokeCurrent/SmokeCurrentCrude11.html>

1 35.4% of peers in Hawaii County, 35.9% in Kauai, and 36.4% in Maui County reported current  
2 vaping.<sup>6</sup>

3         Given the existence of these geographic disparities, there is an urgent need for counties to  
4 have the ability to regulate access to tobacco products especially among youth. According to  
5 Julie Aoki in the *Journal of Law and Medical Ethics*, “From a health equity standpoint, the use of  
6 local knowledge to forge community-specific solutions enables localities to employ a targeted  
7 approach to combat health disparities and ensue equitable access to better public health.”<sup>7</sup> As  
8 youth e-cigarette use grows as a public health problem, Hawaii’s counties must be empowered to  
9 to respond to the request from communities that are most affected.

10         Historically, local communities in Hawaii have been visionaries in adopting strong and  
11 innovative public health and tobacco control policies that changed social norms across the entire  
12 state. Smoke-free restaurants, worksites, beaches and parks, and automobiles with minors inside  
13 are examples of public health protective ordinances that were generated by counties. Even  
14 Hawaii’s landmark legislation, the Tobacco 21 Law (Act 122, 2015 Hawaii Session Law), was  
15 initially introduced and passed by the Hawaii County Council in 2014.

16         The DOH supports S.B. 1447, S.D. 1 as an important public health and social justice  
17 measure to support community-based innovations to protect and advance the health and  
18 opportunities for keiki wherever they live in Hawaii.

19         Thank you for the opportunity to testify.

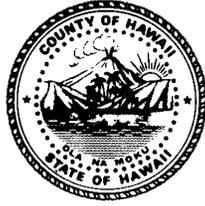
20 **Offered Amendments:** None

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<sup>6</sup> HHDW. (2019). *Hawaii-IBIS - Query Result—Hawaii’s Youth Risk Behavior Survey (YRBS) Data—Electronic vapor products—Use, past 30 days, High Schools, State-level*. [http://ibis.hhdw.org/ibisph-view/query/result/yrbs/VaporCurr/VaporCurr\\_HS\\_ST.html](http://ibis.hhdw.org/ibisph-view/query/result/yrbs/VaporCurr/VaporCurr_HS_ST.html)

<sup>7</sup> Julie Ralston Aoki et al., *Maximizing Community Voices to Address Health Inequities: How the Law Hinders and Helps*, 45 J. Law Med. Ethics, 11 (2017)

**Jennifer Kagiwada**  
Council Member District 2 South Hilo



Office: (808) 961-8272  
jennifer.kagiwada@hawaiicounty.gov

## **HAWAI'I COUNTY COUNCIL - DISTRICT 2**

25 Aupuni Street • Hilo, Hawai'i 96720

DATE: March 14, 2023  
TO: House Committee on Judiciary and Hawaiian Affairs  
FROM: Jennifer Kagiwada, Council Member  
Council District 2  
SUBJECT: SB 1447 SD 1

Aloha Chair Tarnas, Vice Chair Takayama, and Committee Members,

I am testifying in support of SB 1447 to allow Counties to retain the authority to adopt laws regarding the sale and regulation of tobacco products so long as those laws are not in conflict with and/or are more stringent than State laws. Our communities suffer when State elected officials supersede the rights of County leaders in regards to the health and well-being of our local constituents. The Counties are more able address the needs of our communities in a timely manner. Hawai'i County, in particular, has a good history of helping to pass public health policies such as Tobacco 21 and smoke-free air laws.

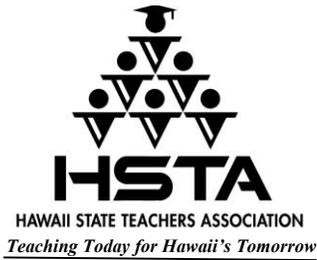
Reauthorizing Counties to regulate the sale of tobacco products allows for even more opportunities for innovative policies at the local level. County legislators are not being lobbied by tobacco industry representatives at the level State leaders have been, which means they are in a position to more easily pass laws that put public health care first. Cutting back on tobacco sales and use can improve public health and reduce health care costs associated with tobacco related illnesses, a benefit to us all.

Mahalo for the opportunity to testify in support of this bill.

Mahalo,

A handwritten signature in black ink, appearing to read 'Jenn Kagiwada'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Jenn Kagiwada



Osa Tui, Jr.  
President  
Logan Okita  
Vice President  
Lisa Morrison  
Secretary-Treasurer  
Ann Mahi  
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON JUDICIARY &  
HAWAIIAN AFFAIRS

RE: SB 1447 SD1 - RELATING TO TOBACCO PRODUCTS

WEDNESDAY, MARCH 15, 2023

OSA TUI, JR., PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair David Tarnas and Members of the Committee:

The Hawaii State Teachers Association **supports SB 1447, SD1**, relating to tobacco products. This bill repeals existing law that provides that all local ordinances or regulations that regulate the sale of cigarettes, tobacco products, and electronic smoking devices are preempted and that existing local laws and regulations conflicting with state law that governs smoking are null and void. Clarifies that counties retain the authority to adopt ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices, provided that the ordinances are more stringent than the provisions in state law that govern smoking.

**E-cigarette use continues to escalate among our teens. It puts our children's health at risk and becomes a lifelong addiction.**

E-cigarettes have evaded many tobacco regulation laws for decades, leading to a sharp rise in the use of these products, especially by our youth, who are enticed by their unregulated marketing and lack of proper regulatory controls on an addictive drug, nicotine. **Thus, comprehensive county regulation will be a major step in reversing youth use of e-cigarettes.**

**Preemption Benefits Industry**

HRS §328J-11.5, Statewide Concern, was added by the state legislature in 2018, when Act 206 (HB1895) was signed into law. This new chapter restricts a county's ability to protect the health of their residents through future laws and regulations by restricting oversight of the sales of tobacco, other tobacco products, or electronic smoking devices (ESDs) to the state. A county cannot pass policies that would help support their community's health. Preemption in a known tobacco industry strategy.

**The tobacco industry works to preempt local-level governments from passing tobacco-related policies so they can focus on fighting statewide legislation. This action creates a more favorable situation for the tobacco companies because it is easier to address one statewide policy versus a policy in each county. Examples of impact on counties:**



Osa Tui, Jr.  
President  
Logan Okita  
Vice President  
Lisa Morrison  
Secretary-Treasurer  
Ann Mahi  
Executive Director

- Preempts a county's ability to take legislative and regulatory action through retail and sales strategy to protect their children, youth, and adults.
- Preempts public health, evidence-based strategies by restricting local policies and regulations on pricing and access, which are proven to reduce tobacco consumption and initiation (which could include the sale of tobacco in pharmacies and creating flavor restrictions).

Thousands of youth will never start using tobacco products because of this policy, if passed, thousands of lives will be saved, and the state will save hundreds of millions in healthcare costs. **Restoring the county's authority will protect local residents and address disparities. Counties have a long history of being proactive in adopting innovative tobacco control policies based on community concerns and needs.** For instance, all counties passed the clean indoor air law (smoke-free workplaces) before the state passed legislation, and Hawai'i Island raised the age to 21 to purchase tobacco products first; in fact, they were the 4th jurisdiction in the nation to do so.

**But now, the law curtails county power to enact any future policies relating to the sale of tobacco and electronic smoking devices. This inability to act is of particular concern, as high school students on the neighbor islands are experimenting and using ESDs at higher rates than the state average.** Furthermore, teen use rates continue to rise as policies are not implemented to regulate these products at the point of sale. From 2015 to 2019, there was more than a 5% increase in high school students who currently use ESDs. The rates in Hawai'i County, 56.5%, and Maui County (58.1%) are extremely high compared to Honolulu at 44.5%.

We applaud the Legislature for helping to strengthen our county's authority on tobacco sales by amending the current law. Not addressing preemptive language prohibits counties from advancing tobacco selling and access laws and stops their ability to provide protections to county residents. The counties become dependent on the state to choose to pursue tobacco control policies.

Two decades of comprehensive regulation on cigarettes and other tobacco products helped Hawaii and has saved \$1 billion in healthcare costs and reduced high school smoking to 5.3% in 2019 (CDC YRBS 2017-19).

**Contrary to what you may have heard, e-cigarettes are not FDA-approved cessation devices. Comprehensive tobacco regulation will not stop access to FDA-approved nicotine replacement therapy (NRTs)- approved smoking cessation products.**



HAWAII STATE TEACHERS ASSOCIATION  
*Teaching Today for Hawaii's Tomorrow*

Osa Tui, Jr.  
President  
Logan Okita  
Vice President  
Lisa Morrison  
Secretary-Treasurer  
Ann Mahi  
Executive Director

Taxation, regulation, licensing & permitting, education, and cessation services are components of comprehensive tobacco regulation and a key to lowering the use of tobacco by our youth. We must give these rights back to our counties to enact.

Adolescence is a time of crucial brain development; it has been documented that nicotine exposure during adolescence and young adulthood can cause addiction and harm the developing brain. Additionally, nicotine is not the only harmful ingredient in electronic smoking devices; other harmful and potentially harmful ingredients include ultrafine particles that can be inhaled deep into the lungs, flavorants such as diacetyl, a chemical linked to serious lung disease, volatile organic compounds, and heavy metals such as nickel, tin, and lead.

**Lastly, thank you for not adding any fines for our youth, as HSTA opposes these fines, as we feel our students are the victims in this case. It is the predatory tactics of the vaping industry on our youth that need to be regulated and taxed. So please do NOT add any fines or punishment on our youth who are the victims here. We just want to make this stance clear from the start.**

To reduce the youth vaping epidemic and ensure the long-term health and well-being of our keiki, the Hawaii State Teachers Association requests you **support** this bill.



**Testimony of the  
Hawai'i State Association of Counties  
S.B. No. 1447 SD1  
Relating to Tobacco Products**

Committee on Judiciary and Hawaiian Affairs

Wednesday, March 15, 2023, 2:15 p.m.

The Hawai'i State Association of Counties (HSAC) supports S.B. 1447 SD1, which clarifies that counties retain the authority to regulate the sale of tobacco products and electronic smoking devices as long as the ordinances are more stringent than the provisions of the state smoking laws.

Act 206, Session Laws of Hawaii 2018, was enacted as a state law to uniformly regulate the sale of cigarettes, tobacco products, and electronic smoking devices. The Act, however, nullified county ordinances and policies restricting the sale of tobacco products. Despite the passage of Act 206, the Hawai'i Youth Risk Behavior Survey found that tobacco use and the use of electronic smoking devices continues to increase. Further, smoking varies from county-to-county as well as within different communities and among the youth within the counties.

S.B. 1447 SD1 will reauthorize the counties to restrict the sale of tobacco products, providing another level of enforcement that can focus on specific solutions to smoking problems in various communities.

For these reasons, the Hawai'i State Association of Counties strongly supports S.B. 1447 SD1, and requests your favorable consideration of this measure.



Date: March 13, 2023

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

From: Lindsey Freitas, Advocacy Director, Campaign for Tobacco-Free Kids

Re: **SUPPORT for SB1447 SD1, Relating to Tobacco Products**

Hrg: March 15, 2023 at 2:15pm

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

The Campaign for Tobacco-Free Kids **strongly supports SB1447 SD1** to end the state's prohibition on local governments in Hawai'i from enacting laws to prevent youth tobacco use. This harmful language preempting local laws has been in state statute since 2018 (HRS§ 328j-11.5), and it's long-past time to overcome the tobacco industry's opposition to its removal.

SB1147 would protect keiki from tobacco addiction, save lives and advance health equity by allowing Hawai'i communities to enact their own targeted tobacco control solutions. Passage would make state law the floor for tobacco control regulations, rather than retain provisions that establish state law as the ceiling.

Preemption has long been a favored tobacco industry tactic to block effective local action to reduce tobacco use, which is the No. 1 cause of preventable death in Hawaii and the United States.

Repealing preemption would allow local communities to pass restrictions on the sale of flavored tobacco products, a favorite tobacco industry strategy not only for targeting kids, but also Pacific Islanders, Asian Americans, Black Americans, Latinos, the LGBTQ community and other communities.

Research shows that 80% of youth who have ever used tobacco started with a flavored product, and the use of flavored e-cigarettes, in particular, has become a national epidemic. In Hawai'i, 30.6% of high school students and 17.7% of middle school students use e-cigarettes, according to the 2019 Hawai'i State and Counties Youth Risk Behavior Surveys.

E-cigarette usage is even higher among high school students in the Hawai'i (35.4%), Kaua'i (35.9%) and Maui (36.4%) counties and among middle schoolers in Hawai'i (20.3%), Kaua'i (22.5%) and Maui (18.7%) counties, demonstrating the need for local communities to pass the tobacco-control ordinances they deem will better address their particular needs.

Nationally, communities have adopted and put into action some of the strongest, innovative, and effective tobacco control policies that have served as a catalyst for transitioning social norms about tobacco use.

The Campaign for Tobacco-Free Kids urges Hawai'i policymakers to become leaders in discouraging the state's youth from starting to use tobacco by passing SB1447.

Mahalo for your consideration,

Lindsey Freitas  
Campaign for Tobacco-Free Kids HI



February 23, 2023

**Chairman of the Board**  
Jason Fujita

**President**  
Zia Khan, MD

**Board Members**  
Rick Bruno, MD, FACEP  
Greg Christian  
Jackie De Luz  
Michael Lui, MD  
Ben Morgan  
Michael Rembis, FACHE  
Andrew S. Rosen  
Ben Salazar  
David Underriner  
Jennifer Walker

*Serving Hawaii since 1948*

**Our Mission:**  
"To be a relentless force for a world of longer, healthier lives."

For more information on the AHA's educational or research programs, visit [www.heart.org](http://www.heart.org) or contact your nearest AHA office.

## **American Heart Association Testimony in Support of SB 1447, SD1 "Relating to Tobacco Products"**

The American Heart Association SUPPORTS SB 1447, SD1.

SB 1447, SD1 would amend a law passed during the 2018 State Legislative Session through House Bill 1895, which underwent last minute changes and did not receive a public hearing or allow public comment, and amended an otherwise well-meaning and worthy bill to fund needed kidney dialysis centers in the state, with a provision that harms public health and helps the tobacco industry. This provision blocks (preempts) county governments in Hawaii from passing their own ordinances to reduce tobacco use, including measures addressing the sale of candy-flavored tobacco products and menthol cigarettes that attract kids.

Most of Hawaii's most effective tobacco-related laws that have contributed to reductions in youth and adult smoking rates began as ordinances passed by Hawaii's counties. Some of those ordinances, aimed at addressing local public health threats, proved their effectiveness at the county level for years before being replicated by state law.

The tobacco industry for years, on the other hand, has attempted to advance state legislation that would preempt local government's home rule on tobacco issues. In fact, former Governor John Waihee vetoed such a bill after it passed through the legislative process citing the need for county governments to be able to address important health issues that affect their communities. Tobacco, which remains the leading preventable cause of death in Hawaii, certainly qualifies as a public health threat deserving of both local and state policy attention.

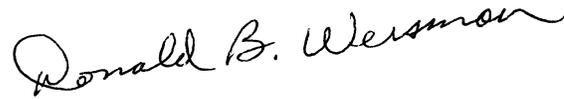
The American Heart Association believes that local governments should be able to determine their own needs for tobacco policies, and the state legislature should support those efforts by establishing a floor, not a ceiling, on what local governments can do to address those needs. Some 1,400 Hawaii residents die each year from tobacco use, and 21,000 kids alive today in Hawaii will die prematurely from tobacco use if nothing is done to reduce it.

SB 1447, SD1 would correct the last minute provision added to legislation in 2018 which provided the tobacco industry its long sought goal to funnel important, progressive tobacco-control policies only through the state legislative level. There it can focus its resources to defeat those measures, and away from the counties

where the industry struggles to compete with community grassroots support for those issues.

The American Heart Association urges your support of SB 1447, SD1 and asks that state legislators return county home rule on what is among the most vital public health issues back to local communities.

Respectfully submitted,

A handwritten signature in black ink that reads "Donald B. Weisman". The signature is written in a cursive style with a horizontal line above the name.

Donald B. Weisman  
Government Relations/Communications and Marketing Director

## COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

Tuesday, Wednesday, March 15, 2023 – 2:15 PM – Room 325

### Testimony in Strong Support of Senate Bill 1447, Senate Draft 1 Relating to Tobacco Products

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education, and advocacy. The work of the American Lung Association in Hawai'i and across the nation is focused on four strategic imperatives: to defeat lung cancer; to improve the air we breathe; to reduce the burden of lung disease on individuals and their families; and to eliminate tobacco use and tobacco-related diseases.

**The American Lung Association calls on Hawai'i officials to support Senate Bill 1447 SD1 which clarifies that county ordinances or regulations that regulate the sale of cigarettes, tobacco products, and electronic smoking devices are null and void only if they are in direct conflict with or less stringent than state law that governs smoking.**

The need for Hawai'i to protect youth from tobacco is more urgent than ever, with youth e-cigarette use reaching epidemic levels. According to the Centers for Disease Control, in 2019 nearly every 1 in 3 high schoolers in Hawai'i vape regularly. This is an over 70% increase in youth vaping rates since 2017. Native Hawaiians and Pacific Islanders have even higher vaping rates than the youth state average.<sup>1</sup>

Preemption is a legal concept where a higher level of government restricts or even eliminates the authority of a lower level of government to regulate an issue. Federal laws can preempt state and local laws, and state laws can preempt local laws. As a practice, preemption can slow or stop community solutions addressing a wide range of health and social issues including tobacco, food, alcohol, and climate change.<sup>2</sup>

Enacting policies at the local level is one of the best ways to make progress in tobacco control. In fact, many tobacco control policies that have succeeded in Hawai'i have in fact been passed and tested at the local level, including smoke-free workplaces, smoke-free restaurants, restricting sales of tobacco to those 21 and over. We need to enact laws that are proven to reduce tobacco use.

By blocking the power of local elected officials to protect youth and failing to take any meaningful action at the state level, we risk another generation addicted to deadly tobacco products. Preventing local control over the sale and marketing of tobacco products has been a favorite tactic of the tobacco industry to stop the passage of effective policies to reduce tobacco use and save lives.

Hawai'i is a full diversity, where the needs of different counties vary widely. Because of this, we must give local governments the ability to develop the best laws to protect their citizens. The American Lung Association believes that local governments should be allowed to respond to public health issues, like the youth e-cigarette epidemic, in ways that work for their communities.

<sup>1</sup> American Lung Association. *State of Tobacco Control – Hawai'i*. 2020

<sup>2</sup> Pertschuk, M, Pomeranz, JL, Aoki, JR, Larkin, MA, Paloma, M. Assessing the Impact of Federal and State Preemption in Public Health: A Framework for Decision Makers. *J Public Health Management Practice*. 2012

The American Lung Association in Hawai'i urges legislators to continue to support and advocate for policies to protect youth from tobacco use by allowing local governments to create solutions that work for them. We urge for your support of Senate Bill 1447 SD1.

Pedro Haro  
Executive Director  
American Lung Association in Hawai'i  
[pedro.haro@lung.org](mailto:pedro.haro@lung.org)



fightcancer.org

American Cancer Society  
Cancer Action Network  
2370 Nu'uuanu Avenue  
Honolulu, HI 96817  
808.460.6109  
www.fightcancer.org

House Committee on Judiciary & Hawaiian Affairs  
Representative David Tarnas, Chair  
Representative Gregg Takayama, Vice Chair

Hearing Date: Wednesday, March 15, 2023

**ACS CAN SUPPORTS SB 1447 SD1 – RELATING TO TOBACCO PRODUCTS.**

Cynthia Au, Government Relations Director – Hawaii Guam  
American Cancer Society Cancer Action Network

Thank you for the opportunity to SUPPORT SB 1447 SD1: RELATING TO TOBACCO PRODUCTS.

The American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN supports efforts to invest in comprehensive policies that would strengthen the health infrastructure in Hawaii to prevent kids from starting to use tobacco and help adults already addicted to tobacco to quit.

Lung cancer remains the leading cause of cancer deaths in Hawaii with an estimated 1,400 adults dying from smoking every year.<sup>i</sup> There are 21,000 keiki who are alive now that will die prematurely due to smoking-related disease.<sup>ii</sup> Tobacco use remains the leading preventable cause of death nationwide. Communities suffer when counties are unable to enacting stronger tobacco control laws. Tobacco preemption is a tobacco industry tactic, enacted in 2018. Hawaii has continued to see the increase of youth use of electronic smoking devices and e-cigarettes.

Counties in Hawaii have been successful in passing tobacco related policies such as smoke-free air laws and Tobacco 21 before the Hawaii State Legislature followed shortly afterwards. Hawaii Island was the fourth jurisdiction in the nation to pass Tobacco 21 before the state legislature enacted this statewide. Giving counties the ability to quickly address the unique health needs of their communities will result in better overall health. This measure does not affect taxes, only the state can collect taxes. Furthermore, the counties currently support this measure as it was a part of the Hawaii State Association of Counties legislative package.

Local governments are uniquely positioned to meet the needs of the people in their communities. ACS CAN supports their ability to pass laws that are proven to promote good health, well-being, and

equality. Preserving local control is needed to pass innovative and proactive public health policies. ACS CAN works at the local, state, and federal levels; thus, it supports each level of government's ability to implement policies for cleaner, safer, healthier communities. The right of local governments to pass public health policies stronger than state laws must be preserved to continue future advocacy efforts to reduce suffering and death from cancer.

Thank you for the opportunity to comment on this important matter. Should you have any questions, please do not hesitate to contact Cynthia Au at 808.460.6109, or [Cynthia.au@cancer.org](mailto:Cynthia.au@cancer.org).

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<sup>1</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Hawaii. Updated January 20.2023. <https://www.tobaccofreekids.org/problem/toll-us/hawaii>  
<sup>1</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Hawaii. Updated January 20.2023. <https://www.tobaccofreekids.org/problem/tll-us/hawaii>



Hawaii COPD Coalition  
700 Richards St., Suite 2410  
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[hicopd@gmail.com](mailto:hicopd@gmail.com)  
(808)699-9839

March 13, 2023

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

RE: **Strong Support for SB1447SD1, Relating to Tobacco Products (Preemption)**

Dear Chair Keohokalole, Vice Chair Fukunaga, and members of the Senate Committee on Commerce and Consumer Protection,

This measure is extremely critical to the health of the children and adults of our counties, and our entire state as well. **Please strongly support and vote in favor of SB1447SD1**, which will allow counties to retain the authority to adopt ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices (ESDs).

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 one in five middle school students reported "current use of e-cigarettes according to the Hawai'i YRBSS 2019! Of these youth, 8 in 10 youth currently using e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey).*** Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

- Counties have been successful in passing tobacco related policies such as smoke free air laws and Tobacco 21.
- Regarding the sale of tobacco, the state preempted the counties in 2018. Since that time, there has been NO meaningful policy to address the regulation of electronic smoking devices that has happened at the state level.
- Giving counties the ability to quickly address the unique health needs of their communities will result in better overall health.

- This measure does NOT affect tax. Only the state has the ability to collect taxes.
- There will be NO confusion from county to county. Counties were previously able to regulate point of sale for tobacco products which did NOT result in confusion.
- The counties strongly support this measure, as it was part of the Hawaii Association of Counties legislative package.

Please help allow the counties to consider and pass the laws that are needed to protect the health of the children and adults residing in each county. The Hawaii COPD Coalition thanks you very much for your careful consideration of this most important and timely bill. **Please vote in favor of SB1447SD1 and pass it out of committee so it can become law.**

Very truly yours,

*Valerie Chang*

Valerie Chang  
Executive Director



March 15, 2023

## Testimony on Hawai'i SB 1447 — “An Act Relating to Health”

Dear Chairs and Members of the House Judiciary & Hawaiian Affairs Committee,

My name is Elizabeth Hicks and I am the US Affairs Analyst of the consumer advocacy group Consumer Choice Center.

Simply put, SB 1447 will do more harm than good if passed. Encouraging local governments to pass harmful regulations on reduced-risk nicotine products like e-cigarettes will push many former smokers to switch back to smoking combustible tobacco. Tragically, 1,400 Hawaiians lose their lives to smoking-related illnesses every year. Considering that [studies have shown vaping to be 95% less harmful than smoking](#), ensuring that adult consumers have access to the vaping products they prefer will ultimately lead to fewer cigarette smoking-related deaths in Hawai'i.

More than 7% of Hawaii's adult population uses vaping products, accounting for over 100,000 Hawaiians who have switched to a less risky alternative to combustible tobacco. According to data from the [Hawaii Journal of Medicine and Public Health](#), the largest demographic of Hawaiian vapers are actually 65+ years in age and started vaping as a means to quit smoking combustible cigarettes.

Forbidding local governments from implementing smart vaping policies and encouraging them to further regulate this area will lead to former smokers to switch back to smoking combustible cigarettes. This could include a variety of bad policies at the local level such as flavor bans, increased taxes on products, limits on nicotine levels, and others.

Any locality that implements a ban on flavored vaping products will be effectively pushing consumers towards combustible cigarettes, including former smokers who have already switched to a less risky alternative like vaping. Studies have shown that adults who use flavored vaping products are [2.3 times more likely](#) to quit smoking combustible cigarettes, therefore these products should remain on the market in order to help protect public health in Hawai'i.

Any locality that implements additional taxes will be disproportionately harming lower-income individuals throughout the state, effectively robbing them of even more of their income and penalizing them for choosing less risky and more responsible alternatives to smoking combustible cigarettes. A tax on vaping products and nicotine alternatives will result in consumers being less inclined to purchase these products through regulated entities, and will instead be looking towards the illicit market in order to avoid the price increases. This presents serious concerns for public health in Hawai'i as consumers will be purchasing unregulated products that do not necessarily adhere to regulatory standards. Additionally, unlike vape shops, the illicit market does not abide by age restrictions therefore making it much easier for youth to acquire these products illegally.



We know that smoking-related illnesses are very serious and can lead to cancer, something we must try to prevent to the best of our abilities. On a personal note, after being around second-hand smoke most of my life, this past year I unfortunately received my own cancer diagnosis, undergoing 12 rounds of chemotherapy, 20 sessions of radiation, 9 cycles of immunotherapy and multiple surgeries - and I can assure you that I would not wish this on anyone. Embracing vaping as a harm reduction tool here in Hawai'i and standing up for consumer choice for adults will help ensure that your citizens are less likely to end up in a situation similar to mine.

Furthermore, encouraging additional regulations that are implemented on a local level would ultimately lead to increases in smoking-related healthcare costs, which are already costing Hawaiian taxpayers \$141.7 million annually through Medicaid alone. We can expect that number to substantially increase if this bill is passed as vapers will be financially encouraged to switch back to smoking, further exacerbating smoking-related illnesses while taxpayers are expected to pick up the tab.

Although this bill is well-intentioned, forbidding localities from enacting their own smart vaping policies is simply misguided as the unintended consequences would only exacerbate the problem Hawai'i is trying to fix, making this particular bill unviable in achieving its desired outcomes.

Our policies must be fair, just, and based on scientific evidence. I believe this body, composed of diverse legislators from the entire state, can help make that determination for the residents who depend on you to protect their consumer choice. **We urge you to vote against SB 1447.**

Thank you for your consideration & I'm happy to answer any questions you may have.

Elizabeth Hicks  
US Affairs Analyst  
Consumer Choice Center  
[elizabeth@consumerchoicecenter.org](mailto:elizabeth@consumerchoicecenter.org)

**Testimony before the Hawaii House Judiciary and Hawaiian Affairs Committee  
Regarding Local Regulation of Tobacco and Vapor Products**

**Lindsey Stroud, Director  
Consumer Center  
Taxpayers Protection Alliance  
March 15, 2023**

Chairman Tarnas, Vice Chairman Takayama, Members of the Committee:

Thank you for your time today to discuss the local regulation of tobacco and vapor products. My name is Lindsey Stroud and I am Director of the Taxpayers Protection Alliance's (TPA) Consumer Center. TPA is a non-profit, non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy. TPA's Consumer Center focuses on providing up-to-date information on adult access to goods including alcohol, tobacco and vapor products, as well as regulatory policies that affect adult access to other consumer products, including harm reduction, technology, innovation, antitrust and privacy.

Many supporters of localized control of age-restricted consumer products purport those local policies will reduce youth vapor product use. Existing data from youth surveys indicate that local policies have not reduced youth use and may have led to greater instances of vaping-related injuries in the fall of 2019. Rather than allowing localities to impose draconian regulatory policies that would essentially prohibit adult access in that town and incentivize a black market, state lawmakers should utilize existing tobacco monies to fund robust tobacco control programs to reduce you use of age-restricted products.

- The U.S. Food and Drug Administration (FDA) has stopped using the word epidemic to describe youth vaping rates.
- Youth vaping has decreased by 53 percent between 2019 and 2022, while youth use of traditional tobacco products is at record lows.
- In 2022, among middle and high school students that had used a tobacco or vape product on at least one occasion in the 30 days prior, 9.4 percent reported using e-cigarettes, 1.9 percent had used cigars, 1.6 percent has used combustible cigarettes and 1.3 percent had used smokeless tobacco products.
- The introduction of e-cigarettes has not led to increases in cigarette smoking, but rather, correlates with significant declines in smoking rates among young adults.
- Between 2007 and 2018, smoking rates among Hawaii adults aged 18 to 24 years old declined by 39.6 percent. Since 2018, young adult smoking rates have decreased another 47.3 percent, with average annual declines of 16.8 percent.

- Localized flavor bans have not reduced youth tobacco use. Despite several states implementing local flavored tobacco and vapor bans, youth vaping increased between 2017 and 2019
- Localized restrictions on consumer goods create incentives for black market actors to profit from illicit unregulated products.
- Unregulated products were overwhelmingly linked to the 2019 spat of vaping-related lung injuries. Interestingly, states with local flavor bans prior to the outbreak reported more cases of lung injuries.
- Hawaii woefully underfunds programs to prevent youth use of tobacco and/or vapor products and help adults quit smoking, while simultaneously receiving millions of dollars from the pockets of the adults who do smoke. In 2021, for every \$1 the state received in tobacco monies, it spent only \$0.06 on tobacco control efforts.
- Hawaii’s vaping industry created \$54.7 million in economic activity in 2021 while generating 190 direct vaping-related jobs and contributed more than \$4.6 million in state taxes.
- Unfortunately, anti-vaping efforts have reduced the industry’s economic impact. The number of employees decreased by 57.9 percent from 451 in 2018, state tax collections were down 51.2 percent from 2018’s \$9.5 million, and overall economic activity decreased by 45.7 percent from \$100.7 million in 2018.
- Hawaii tobacco and vapor product retailers do a good job in not selling to minors. Between 2012 and 2023, the FDA issued only 128 violations to Hawaii tobacco and vapor product retailers, which was only four percent of all FDA inspections. Further, only 24.2 percent of violations resulted in sales of e-cigarettes to minors.

### **Youth Tobacco and Vapor Product Use**

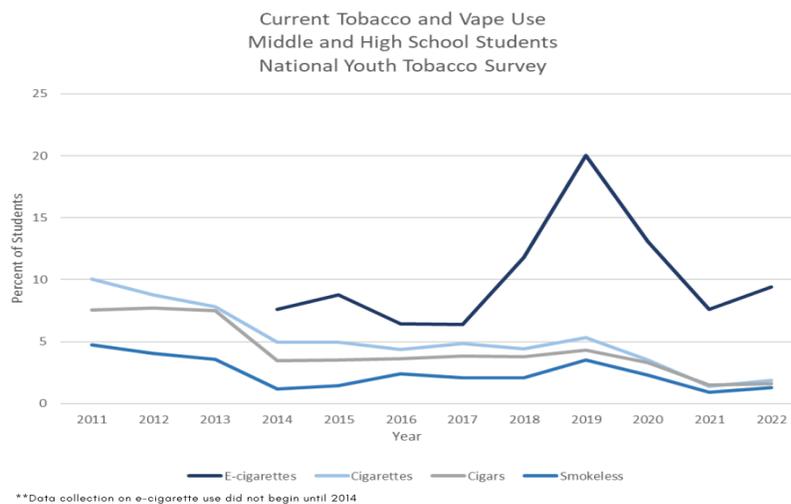
Despite headlines, youth use of traditional tobacco products is at record lows. While youth e-cigarette use peaked in 2019, it has steadily declined in the years since.

The director for the Center for Tobacco Products at the FDA recently declared that the FDA was no longer using the word “epidemic” to describe youth vaping rates. In February, Dr. Brian King stated that the FDA “has not used [the word epidemic] for the most recent estimates of youth use ... the science has shown a decline in the number of youth users.”<sup>1</sup>

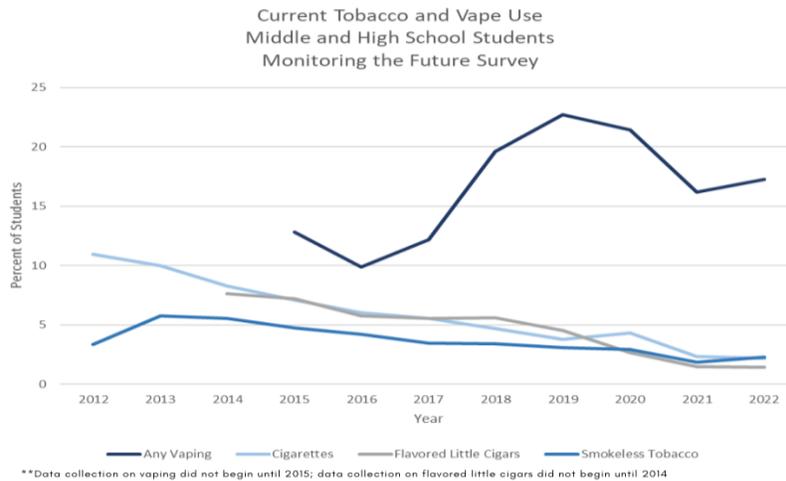
In 2022, according to the National Youth Tobacco Survey (NYTS), among middle and high school students that had reported current tobacco product use (defined as having used the product on at least one occasion in the 30 days prior), 1.9 percent had used cigars, 1.6 percent had used combustible cigarettes and 1.3 percent had used smokeless tobacco products.<sup>2</sup> These are some of the lowest levels recorded. In fact, in the 10 years between 2012 and 2022, current cigar use declined by 75.3 percent, cigarette use by 81.7 percent and smokeless tobacco use by 67.9

percent. These declines have come all the while flavored tobacco and vapor products remain available for sale.

Regarding vaping use (according to the NYTS), vaping seems to have peaked in 2019 when 20 percent of middle and high school students had used an e-cigarette in the 30 days prior to the survey. In 2022, only 9.4 percent of U.S. youth were currently vaping, a 53 percent decrease from 2019's levels.



Other national survey data has found significant declines in youth use of tobacco and vapor products. In 2022, according to the Monitoring the Future Survey (MTFS), among middle and high school students, 2.3 percent reported currently using smokeless tobacco, 2.2 percent reported current combustible cigarette use, and 1.4 percent reported using flavored little cigars.<sup>3</sup> Again, these are some of the lowest levels recorded. In 2012, more than one in ten U.S. youth (11 percent) reported current cigarette use. In ten years, smoking rates among U.S. youth declined by 78.7 percent. During the same period smokeless tobacco use among youth decreased by 59.6 percent. Between 2014 and 2022, the percent of youth reporting current use of flavored cigars declined by 81.2 percent.



Like the NYTS, the MTFs also found that youth vaping peaked in 2019, when 22.7 percent of U.S. youth reported “any vaping” – i.e., using a vapor product to vape either nicotine or other substances. Between 2019 and 2022, the percent of youths reporting any vaping decreased by 23.9 percent.

The CDC continues to delay publishing state-specific data from the 2021 Youth Risk Behavior Survey (YRBS). However, nationally, only 18 percent of high school students reported using vapor products in the 30 days prior to the survey in 2021. This is a 45 percent decrease from 2019 when 32.7 percent of high schoolers reported current vapor product use.

As the YRBS is an aggregate of all state data, Hawaiian lawmakers should refrain from excessive taxes to address outdated figures on youth vapor product use in the state.

### **Adult Tobacco and Vape Use**

In 2021, 10.1 percent of adults in Hawaii were currently using cigarettes.<sup>4</sup> Smoking rates were highest among 45- to 64-year-old adults, with 12.1 percent reporting current use.

Among all adults earning \$25,000 annually or less in 2021, more than one fifth (21.2 percent) reported currently smoking, compared to only 7.3 percent of adults who earned \$50,000 or more per year.

The CDC provides data on adult e-cigarette use for only 2016, 2017, and 2021.

In 2021 (among all Hawaii adults), 7.3 percent were currently using e-cigarettes. This is a 55.3 percent increase from 2017 when 4.7 percent of Hawaiian adults were current e-cigarette users.

In 2021, among all Hawaii adults, 24.5 percent of 18- to 24-year-olds, 11.2 percent of 25–44-year-olds, 2.4 percent of 55–64-year-olds, and 0.7 percent of adults aged 65 years or older were currently using e-cigarettes.

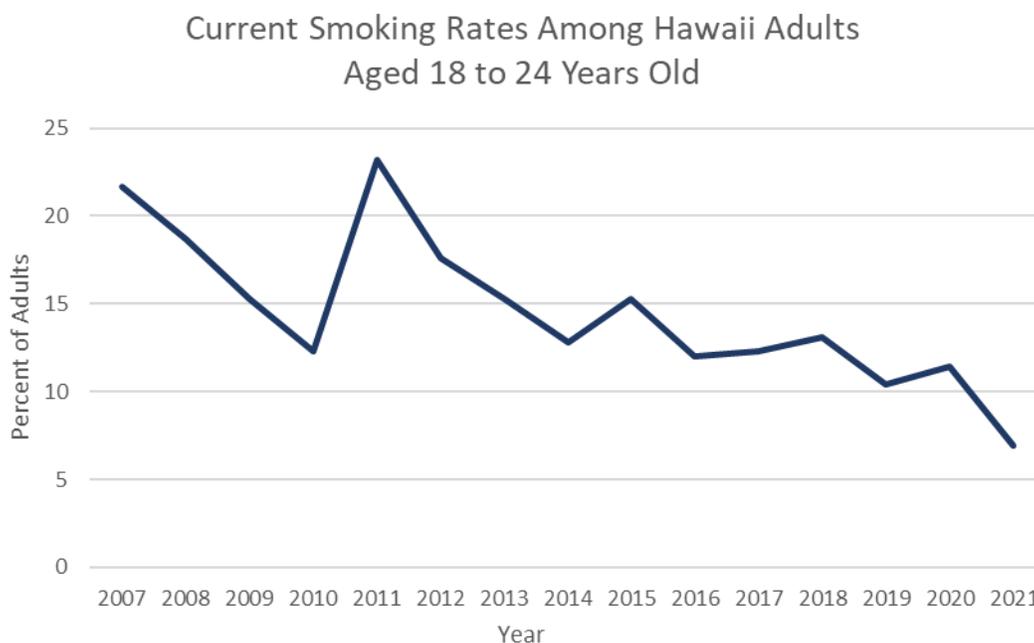
Among adults earning \$15,000 or less, 7.9 percent reported current e-cigarette use, compared to 4.8 percent who reported earning \$50,000 or more.

In Hawaii, 10.7 percent of Multiracial, non-Hispanic adults, 10.5 percent of Native Hawaiian and/or Pacific Islander adults, 10.2 percent of Hispanic adults, 7.4 percent of Black adults, 6.1 percent of White adults, and 5.1 percent of Asian adults were currently using e-cigarettes in 2021.

### **Young Adult Smoking Rates**

As e-cigarettes have disrupted the traditional tobacco market, policymakers have shifted their attention towards youth use and subsequent smoking initiation. Despite the rhetoric, the introduction of e-cigarettes has not led to increases in young adult cigarette smoking, but rather, correlates with significant declines.

E-cigarettes first came to U.S. market in 2007, when 21.7 percent of Hawaiians aged 18 to 24 years old were currently smoking. In 2018, public health purported to a so-called “youth vaping epidemic,” when 13.1 percent of young adults in the Aloha State were smoking. Between 2007 and 2018, young adult smoking rates declined by 39.6 percent. Further, since 2018, young adult smoking rates have decreased another 47.3 percent, with average annual declines of 16.8 percent.



Though data is limited to only three years, increases in vaping correlate with decreases in smoking.

In 2017 (among 18- to 24-year-olds), 12.3 percent and 12.2 percent were currently using combustible cigarettes and e-cigarettes, respectively. Between 2017 and 2021, current cigarette use among young adults decreased by 43.9 percent while vapor product use increased by 100.8 percent.

Given the epic lows in young adult smoking rates, lawmakers must refrain from policies that restrict access to alternatives to smoking.

### **Effects of Local Tobacco/Vapor Regulation on Youth Use**

Many proponents of localized authority over the regulation of both tobacco and vapor products claim that localities such as cities and counties are better equipped to reduce youth use of tobacco and vapor products. Despite this claim, in states with local flavor bans and taxes, youth use of vapor products increased.

As of November 30, 2018, six states including California, Illinois, Massachusetts, Minnesota, New York, and Rhode Island had localities which had restricted sales of flavored tobacco and/or vapor products.<sup>5</sup>

Notably, Massachusetts was home to 136 localities that had passed flavor ban and despite these local regulations, statewide use of vapor products increased. In 2017, according to data from the Centers for Disease Control and Prevention's (CDC) Youth Risk Behavior Surveillance Survey (YRBSS), among high school students, 41.1 percent had ever tried e-cigarettes and 20.1 percent were current e-cigarette users. In 2019, despite the fact that nearly half of Massachusetts' localities had restricted flavored tobacco and vapor sales, ever e-cigarette use had increased by 23.4 percent, to 50.7 percent of high school students and current use increased by 60.2 percent to 32.2 percent of high school students being current e-cigarette users.

Localities have also seen an increase in youth vapor product use despite local restrictions in place. Contra Cost County, California had banned the sale of flavor tobacco and vapor products in certain localities in the county and experienced an increased in youth vaping rates. While the 2015-16 California Youth Tobacco Survey (CYTS) included other localities including Marin, San Francisco, San Mateo and Solana, the 2017-2018 CYTS survey reported only on Contra Costa. In 2015-16, 8.3 percent of high school students in the various localities reported current use of electronic cigarettes and vaping devices.<sup>6</sup> In the 2017-18 CYST survey of solely Contra Costa County high school students, this number *increased* to 17.2 percent reporting current e-cigarette use.<sup>7</sup>

Tobacco and vapor product restrictions also create incentives for criminal enterprises to profit from illicit banned products, especially when one locality is imposing such restrictions while others are not.

For example, Cook County, Illinois (which includes the City of Chicago) is notorious for its excessive county (and city) excise tobacco tax. In fact, due combat the illicit cigarette market, Cook County has implemented the Cigarette Tax Reward Program, which offers monetary awards of up to \$250 to persons reporting those seeking to avoid paying cigarette taxes, including people who use unstamped or counterfeit packs or even stray cigarettes.<sup>8</sup> It has been reported that Chicago police issue an estimated \$4 million worth of tobacco citations each year, however, only 15–20 percent are actually paid.<sup>9</sup>

In February 2020, *WGN-TV* followed Chicago’s Department of Business Affairs and Consumer Protection as agents “searched for illegal cigarettes in stores through” the city.<sup>10</sup> In 2019, the department “issued \$838,000 worth of fines for illegal tobacco sales.” Agents told *WGN-TV* News that there is “a direct link between unstamped cigarettes and crime in [Chicago] neighborhoods.”

The black market is so lucrative that in 2016 city council hearing, Chicago Alderman Roderick Sawyer “said he knows one man who makes \$800 a day selling” loose cigarettes.<sup>11</sup>

Although localities mean well, allowing restrictive local policies that do not match surrounding localities or the rest of the state will not reduce youth use of age restricted products and will help create incentives for black markets.

### **Localized Flavor Bans Led to More Cases in Vaping-Related Lung Injuries**

In the late summer and fall of 2019, the CDC and state health departments began to track a mysterious spat of vaping-related lung injuries. As seemingly as the outbreak began, it faded away, and the CDC quit monitoring cases in February 2020.

According to national data, there was a “sharp rise in symptoms or cases ... in August 2019, a peak in September 2019, and a gradual, but persistent decline since then.” As of February 18, 2020, the CDC had identified 2,807 cases of vaping-related lung injuries and 68 deaths.

Of the cases, CDC had data on 2,022 hospitalizations and found that 82 percent had used vapor products containing tetrahydrocannabinol (THC), with 33 percent reporting exclusive use of THC-vapor products. Of the patients who reported using THC and provided information on the source of their vapor product, 78 percent “reported acquiring products only from informal sources” these included family and/or friends, dealers, online resources and other sources.

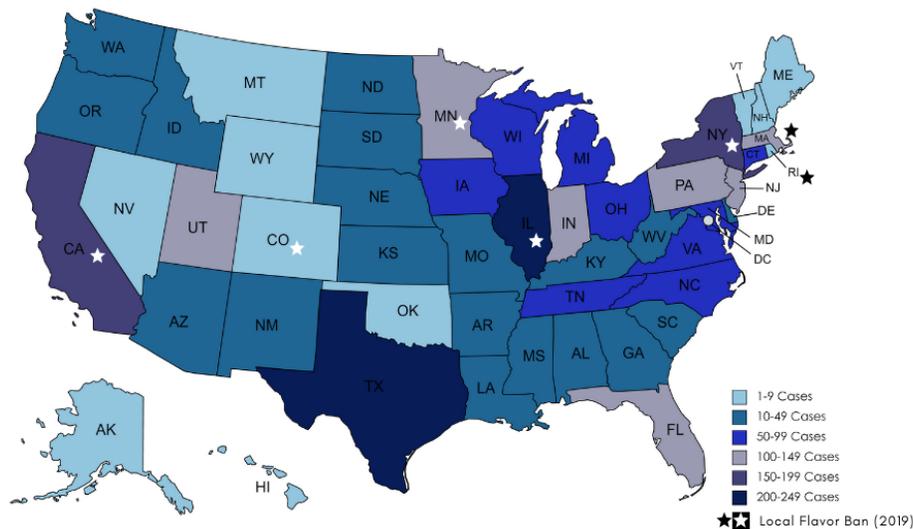
The spat of vaping-related lung injuries offers unique insight in how state and local regulations can impact public health outbreaks related to illicit products.

For example, prior to the outbreak, seven states had localities that had restricted the sale of flavored vaping products including California, Colorado, Illinois, Massachusetts, Minnesota, New York and Rhode Island.

According to data from the CDC, 11 states reported 100 or more cases of vaping-related lung injuries; five of these states (Massachusetts, Minnesota, California, New York, and Illinois) were states with local flavor bans in effect. Of the 11 states reporting 1 to 9 cases of vaping-related lung injuries, only two had local flavor bans in effect (Colorado and Rhode Island).

Interestingly, localized flavor bans were also associated with a greater chance of a vaping-related death. Six of the seven states reported vaping-related deaths including three deaths in Minnesota, four in California and New York, and five deaths each in Illinois and Massachusetts.

## Vaping-Related Lung Injuries



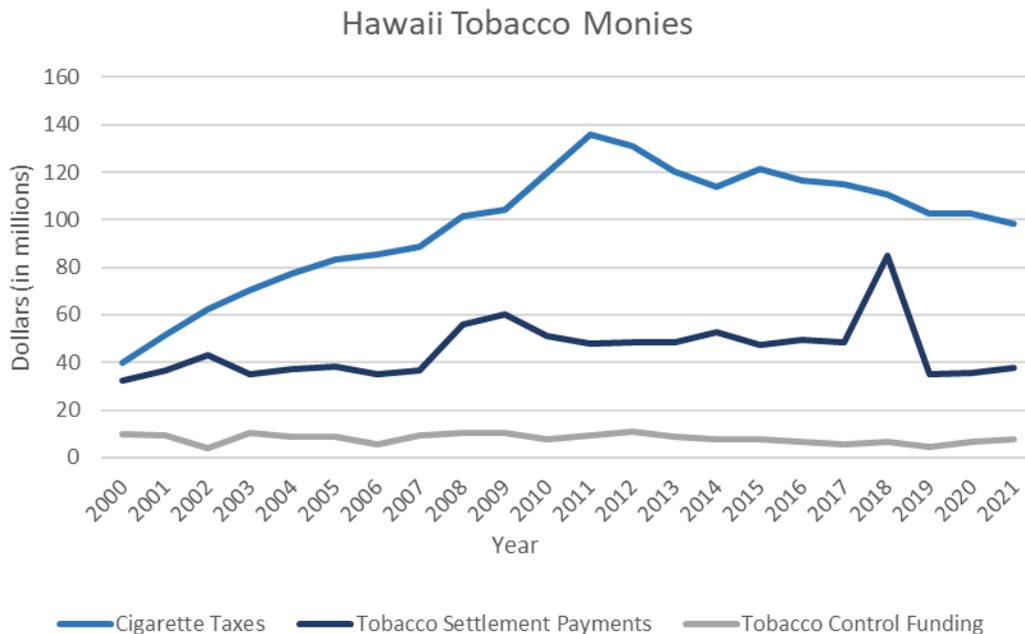
### Funding State Tobacco Control Programs Would Address Youth Use

Again, while addressing youth use of age-restricted products is laudable, the state is better equipped to use already existing tobacco monies to fund robust tobacco control programs including education, youth prevention and cessation. Unfortunately, the Show-Me State woefully underfunds such programs.

In 2021, the Aloha State collected nearly \$98.1 million in state excise tax revenue from combustible cigarettes.<sup>12</sup> This was a 4.2 percent decline from 2020’s \$102.4 million. Between 2001 and 2021, Hawaii collected more than \$2.1 billion in cigarette taxes.

Since 2000, Hawaii has collected annual payments from tobacco manufacturers based on the percentage of cigarettes and tobacco products sold in the state in that year. Hawaii collected \$37.5 million in settlement payments in 2021, a 6.2 percent increase from 2020’s \$35.3 million.<sup>13</sup> Since 2000, the Aloha State collected nearly \$997 million in tobacco settlement payments.

While Hawaii collected an estimated \$135.6 million in tobacco-related monies in 2021, the state allocated only \$7.9 million in state funding towards tobacco control programs, including cessation, education, and youth prevention efforts, which was a 23.4 percent increase in funding from 2020 levels.<sup>14</sup> This amounts to 8.1 percent of taxes and 21.1 percent of settlement payments. In 2021, for every \$1 the state received in tobacco monies, it spent only \$0.06 on tobacco control efforts.

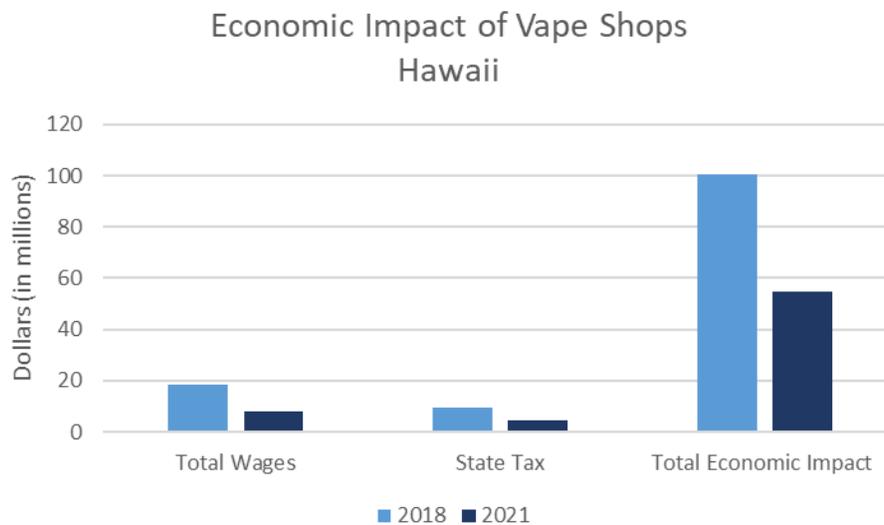


**Economic Impact of Vaping in Hawaii**

In 2021, according to the analysis by the Vapor Technology Association, the industry created 190 direct vaping-related jobs in Hawaii. These jobs generated more than \$8.2 million in wages.<sup>15</sup> Moreover, the industry has created hundreds of secondary jobs in the Aloha State,

bringing the total economic impact in 2021 to \$54.7 million. In the same year, Hawaii received more than \$4.6 million in state taxes attributable to the vaping industry.

Unfortunately, efforts by anti-vaping organizations and policymakers have negatively affected vape shops in the Aloha State. The number of employees has decreased by 57.9 percent from 451 in 2018 to 190 in 2021, representing a loss of \$9.9 million in wages.<sup>16</sup> Further, state tax collections in 2021 were down 51.2 percent from 2018’s level of \$9.5 million. Overall, the economic output from the vaping industry in Hawaii was reduced from \$100.7 million in 2018 to \$54.7 million in 2021, a 45.7 percent decrease.



### **Hawaii Retailers Do Good Job Not Selling to Minors**

The FDA regularly performs tobacco compliance checks in which the agency uses a minor to attempt to purchase tobacco products including cigars, cigarettes, e-cigarettes, and smokeless tobacco.<sup>17</sup>

From September 2012 to February 2023, FDA conducted 3,186 inspections in tobacco and vape retailers located in the Aloha State. Only 128 (or four percent) resulted in the sales of tobacco and/or vapor products to minors.

Of the sales to minors, 81 (63.3 percent of violations and 2.5 percent of inspections) were sales of cigarettes, 31 (24.2 percent of violation and one percent of inspections) were sales of e-cigarettes and vape products, and 15 (11.7 percent of violations and 0.5 percent of inspections) were sales of cigars.

Of retailers with “vape” or “e-cigarette” in their retail name, the FDA conducted inspections on 35 such retailers in Hawaii, including standalone vape shops and vape and tobacco stores. Of the inspections, five resulted in sales to minors. E-cigarette violations only made-up 14.3 percent of retail vape shop inspections, 16.1 percent of all e-cigarette violations in the state, 3.9 percent of all retail violations and 0.2 percent of all inspections.



## Conclusion

While addressing youth use of age-restricted products is laudable, localized regulatory authority over vapor products does not reduce youth use of vapor products. Centralized control from the state and adequate funding for robust tobacco control programs would help reduce youth use.

<sup>1</sup> American Vapor Manufacturers, “Factual, candid concessions like these and more were made during our interview with director King this past Friday -- when he was finally, at long last, pressed with genuinely probing questions, ones the FDA beat writers have routinely failed to ask,” February 28, 2023, <https://twitter.com/VaporAmerican/status/1630609040744275968>.

<sup>2</sup> Eunice Park-Lee, et al., “Tobacco Product Use Among Middle and High School Students — United States, 2022,” *Morbidity & Mortality Weekly Report*, Centers for Disease Control and Prevention, November 11, 2022, [https://www.cdc.gov/mmwr/volumes/71/wr/mm7145a1.htm?s\\_cid=mm7145a1\\_w](https://www.cdc.gov/mmwr/volumes/71/wr/mm7145a1.htm?s_cid=mm7145a1_w).

<sup>3</sup> University of Michigan, “1975-2022 Data for In-School Surveys of 8th, 10th, and 12th Grade Students,” *Monitoring the Future*, 2022, <https://monitoringthefuture.org/results/data-products/tables-and-figures/>.

<sup>4</sup> Centers for Disease Control and Prevention, “Behavioral Risk Factor Surveillance System,” 2022, <https://www.cdc.gov/brfss/brfssprevalence/>. Accessed December 2022.

<sup>5</sup> Laura Bach, “States & Localities That Have Restricted the Sale of Flavored Tobacco Products,” Campaign for Tobacco-Free Kids, November 30, 2018. Archived.

<https://web.archive.org/web/20190107102745/https://www.tobaccofreekids.org/assets/factsheets/0398.pdf>. Accessed February 5, 2022.

<sup>6</sup> Shu-Hon Zhu, Ph.D., *et al.*, “California Youth Tobacco Survey 2015-16: Results of the Statewide Student Survey, Grades 8, 10, and 12,” Center for Research Intervention in Tobacco Control, University of California, San Diego, <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/Reports/CSTS%2015-16%20Report%20FINAL.pdf>.

<sup>7</sup> Shu-Hong Zhu, Ph.D., *et al.*, “Results of the Statewide 2017-18 California Student Tobacco Survey,” Center for Research Intervention in Tobacco Control, University of California, San Diego, <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/Reports/2017-18CaliforniaStudentTobaccoSurveyBiennialReport.pdf>.

<sup>8</sup> Cook County Department of Revenue, “Cook County – The Cigarette Tax Reward Program,” <https://apps.cookcountyil.gov/dor/index.php>.

<sup>9</sup> “Cook County Cracking Down on Illegal Cigarette Sales,” CBS News Chicago, February 11, 2014, <https://chicago.cbslocal.com/2014/02/11/cook-county-cracking-down-on-illegal-cigarette-sales/>.

<sup>10</sup> Lourdes Duarte, “Inside Chicago’s war on illegal cigarettes,” WGN News, February 19, 2020, <https://wgntv.com/news/wgn-investigates/inside-chicagos-war-on-illegal-cigarettes/>.

<sup>11</sup> Chris Lentino, “New Cigarette Tax Will Lead to More Black Market Sales and Violence, Alderman Say,” Illinois Policy, February 9, 2016, <https://www.illinoispolicy.org/chicago-aldermen-revolt-against-mayor-on-increasing-citys-cigarette-tax/>.

<sup>12</sup> Orzechowski and Walker, “The Tax Burden on Tobacco Historical Compilation Volume 56, 2021. Print.

<sup>13</sup> Campaign for Tobacco Free Kids, “Actual Annual Tobacco Settlement Payments Received by the States, 1998-2022,” December 20, 2022, <https://www.tobaccofreekids.org/assets/factsheets/0365.pdf>.

<sup>14</sup> Campaign for Tobacco-Free Kids, “Appendix A: History of Spending for State Tobacco Prevention Programs,” 2022, [https://www.tobaccofreekids.org/assets/content/what\\_we\\_do/state\\_local\\_issues/settlement/FY2023/Appendix-A.pdf](https://www.tobaccofreekids.org/assets/content/what_we_do/state_local_issues/settlement/FY2023/Appendix-A.pdf).

<sup>15</sup> Vapor Technology Association, “The Economic Impact of the Vapor Industry Hawaii,” 2021, <https://vta.guerrillaeconomics.net/reports/23871981-1df9-4325-9918-30adb9085a2?>.

<sup>16</sup> Vapor Technology Association, “The Economic Impact of the Vapor Industry Hawaii,” 2018, <https://vta.guerrillaeconomics.net/reports/9aa96bb8-b7c8-4100-9611-f0acc6612e31?>.

<sup>17</sup> U.S. Food and Drug Administration, “Compliance Check Inspections of Tobacco Product Retailers,” December 21, 2021, [https://www.accessdata.fda.gov/scripts/oc/inspections/oc\\_insp\\_searching.cfm](https://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm). Accessed January 15, 2021.

# Tobacco & Vaping 101: Hawaii 2023

Lawmakers are often bombarded with misinformation on the products used by adults in their state. This annual analysis provides up-to-date data on the adults who use cigarettes and e-cigarette products in Hawaii. This information also includes data on youth use, impacts of e-cigarettes and analyses of existing tobacco monies.

## Key Points:

- In 2021, 10.1 percent of adults were currently smoking in Hawaii. This is a 12.9 percent decrease from 2020.
- In 2021 (among all Hawaii adults), 56.9 percent of 18- to 24-year-olds, 11.8 percent of 25–44-year-olds, 12.1 percent of 45–64-year-olds, and seven percent of adults aged 65 years or older were currently smoking combustible cigarettes.
- Among all adults earning \$25,000 or less in 2021, 21.2 percent were currently smoking compared to only 7.3 percent of adults earning \$50,000 or more.
- Among all smoking adults in 2021 in Hawaii, 27.7 percent were Asian, 20.2 percent were Multiracial, 18.9 percent were White, non-Hispanic, 18.6 percent were Native Hawaiian and/or Pacific Islander, and 14.5 percent were Hispanic.
- Cigarette excise taxes in Hawaii disproportionately impact low-income persons, while failing to significantly reduce smoking rates among that class.
- The percentage of Hawaii adults earning \$25,000 or less that were smoking decreased by 30.3 percent between 2011 and 2021, while the percent of adults earning \$50,000 or more that were smoking decreased by 36 percent during the same period.
- Among Hawaiians who did not graduate high school, smoking rates decreased by 38.1 percent, yet rates among adults with a college degree decreased by 42.6 percent.
- In 2021, 6.1 percent of adults reported past-month e-cigarette use, which was a 27.1 percent increase from 2017.
- Youth vaping seems to have peaked in 2019, when 20 percent of youth reported current e-cigarette use. Between 2019 and 2022, current e-cigarette use declined by 53 percent.
- Traditional tobacco use among youth is at record lows. In 2022, only 1.9 percent of U.S. youth reported current cigar use, 1.6 percent reported current combustible cigarette use and 1.3 percent reported using smokeless tobacco products.
- The introduction of e-cigarettes has not led to increases in cigarette smoking, but rather, correlates with significant declines in smoking rates among young adults.
- Between 2007 and 2018, smoking rates among Hawaii adults aged 18 to 24 years old declined by 39.6 percent. Since 2018, young adult smoking rates have decreased another 47.3 percent, with average annual declines of 16.8 percent.
- Hawaii woefully underfunds programs to prevent youth use of tobacco and/or vapor products and help adults quit smoking, while simultaneously receiving millions of dollars from the pockets of the adults who smoke. In 2021, for every \$1 the state received in tobacco monies, it spent only \$0.06 on tobacco control efforts.

# Tobacco & Vaping 101: Hawaii 2023

## Adult Combustible Cigarette Use

In 2021, according to data from the annual Behavioral Risk Factor Surveillance System survey (BRFSS) conducted by the Centers for Disease Control and Prevention, 10.1 percent of Hawaiians were currently smoking, amounting to nearly 114,852 adults. This is a 12.9 percent decrease from 2020 when 11.6 percent reported current cigarette use. In 2021, 6.8 percent of Hawaiian adults reported smoking every day.

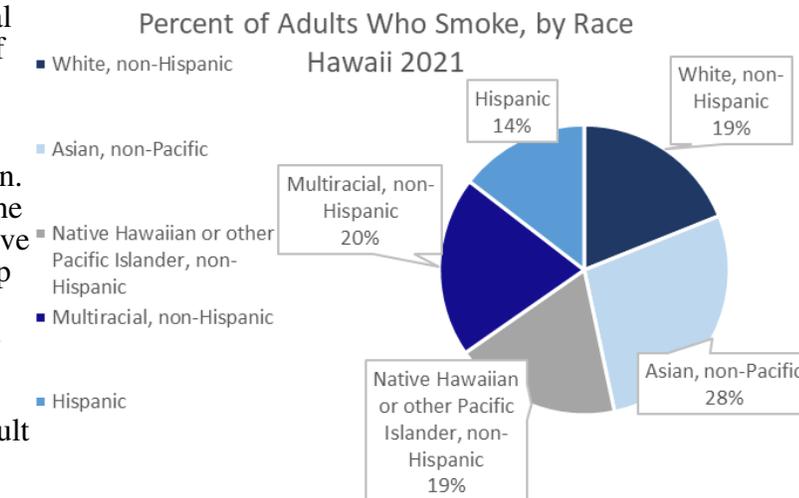
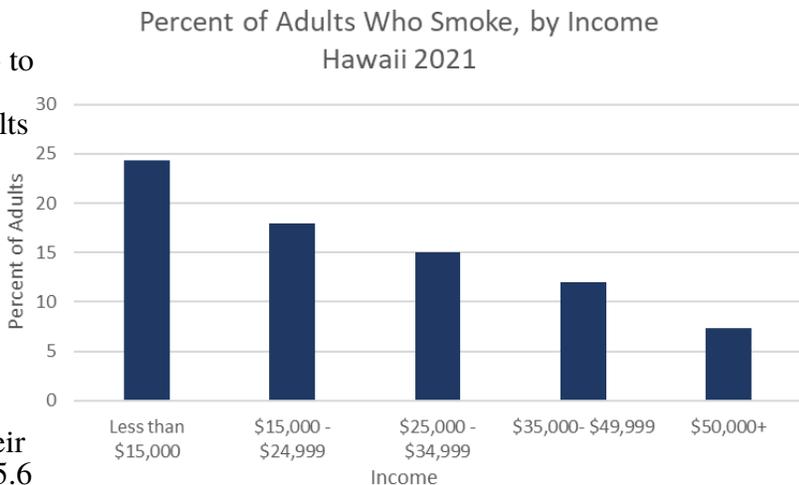
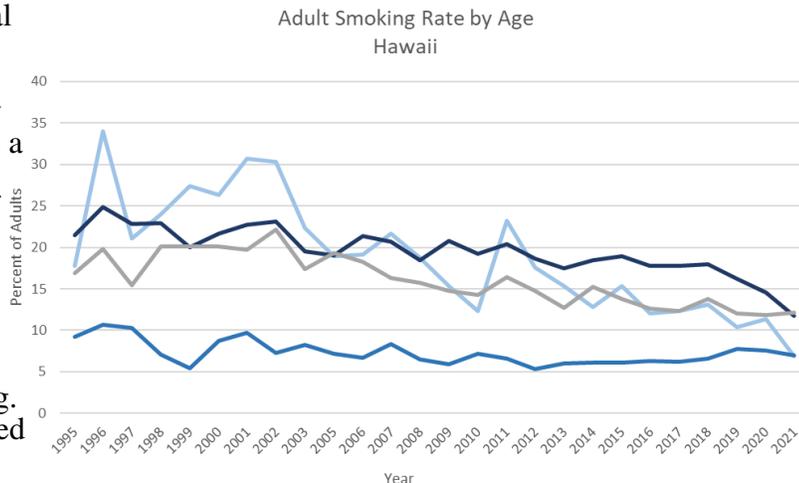
Smoking rates in the Aloha State have significantly declined since 1995 when the BRFSS Aloha began reporting combustible cigarette use. That year, 17.8 percent of Hawaii adults were then-currently smoking. Between 1995 and 2021, smoking rates have decreased by 43.3 percent with average annual decreases of 5.8 percent.

In 2021 (among all Hawaii adults), 6.9 percent of 18- to 24-year-olds, 11.8 percent of 25–44-year-olds, 12.1 percent of 45–64-year-olds, and seven percent of adults aged 65 years or older were currently smoking combustible cigarettes.

Among all adults earning \$25,000 annually or less in 2021, more than one fifth (21.2 percent) reported currently smoking, compared to only 7.3 percent of adults who earned \$50,000 or more per year.

In Hawaii, Native Hawaiian and/or Pacific Islander adults reported smoking at a greater percentage of their identified race at 17.5 percent. This is compared to 15.6 percent of Hispanic adults, 13.2 percent of Multiracial adults, 7.8 percent of White adults, and 6.8 percent of Asian adults.

Yet, Asian adults made up a significantly larger percentage of Hawaii's total adult smoking population. In 2021, Asian adults accounted for 27.7 percent of the state's current smoking population, compared to Native Hawaiian and/or Pacific Islander adults, who made up 18.6 percent of the current adult smoking population. White adults accounted for 18.9 percent of the state's current adult smoking population, Multiracial, non-Hispanic adults accounted for 20.2 percent, and Hispanic adults made up 14.5 percent of Hawaii's adult smoking population in 2021.



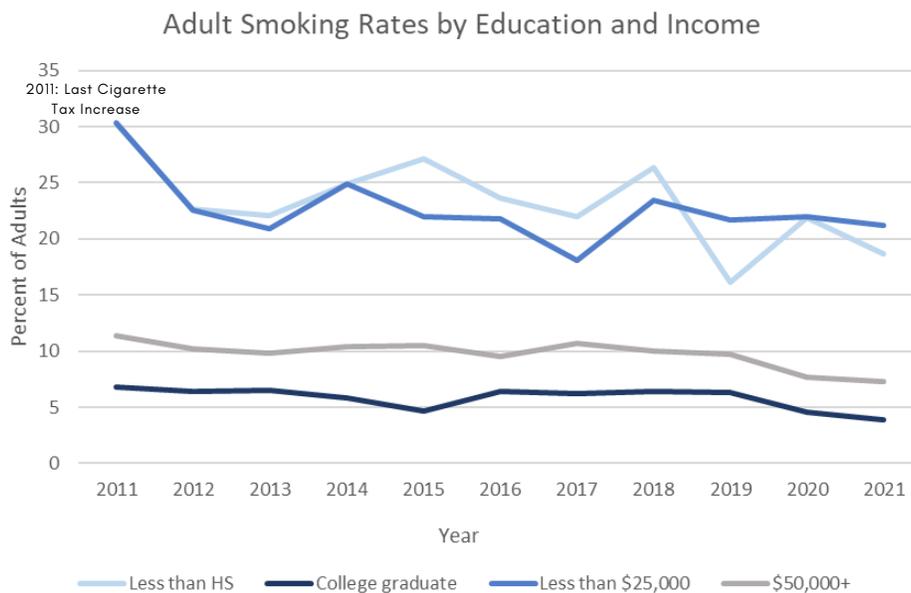
# Tobacco & Vaping 101: Hawaii 2023

## Effects of Cigarette Taxes

Hawaii last increased its state cigarette excise tax in 2011 from \$3.00 to \$3.20-per-pack. Lawmakers often justify excise taxes on cigarettes to deter persons from using combustible cigarettes, yet, such taxes disproportionately harm lower income, lower educated adults, as well as fail to significantly reduce smoking rates among those persons.

The number of percent of Hawaii adults earning \$25,000 or less that were smoking decreased by 30.3 percent between 2011 and 2021, while the percent of adults earning \$50,000 or more that were smoking decreased by 36 percent during the same period. Among Hawaiians who did not graduate high school, smoking rates decreased by 38.1 percent, yet rates among adults with a college degree decreased by 42.6 percent.

Lawmakers should refrain from enacting further increases in cigarette taxes given their disproportionate effect on low-income persons, while failing to reduce smoking rates.



## Adult E-Cigarette Use

The CDC provides data on adult e-cigarette use for only 2016, 2017, and 2021.

In 2021 (among all Hawaii adults), 7.3 percent were currently using e-cigarettes. This is a 55.3 percent increase from 2017 when 4.7 percent of Hawaiian adults were current e-cigarette users.

In 2021 (among all Hawaii adults), 24.5 percent of 18- to 24-year-olds, 11.2 percent of 25–44-year-olds, 2.4 percent of 55–64-year-olds, and 0.7 percent of adults aged 65 years or older were currently using e-cigarettes. Among adults earning \$15,000 or less, 7.9 percent reported current e-cigarette use, compared to 4.8 percent who reported earning \$50,000 or more.

In Hawaii, 10.7 percent of Multiracial, non-Hispanic adults, 10.5 percent of Native Hawaiian and/or Pacific Islander adults, 10.2 percent of Hispanic adults, 7.4 percent of Black adults, 6.1 percent of White adults, and 5.1 percent of Asian adults were currently using e-cigarettes in 2021.

# Tobacco & Vaping 101: Hawaii 2023

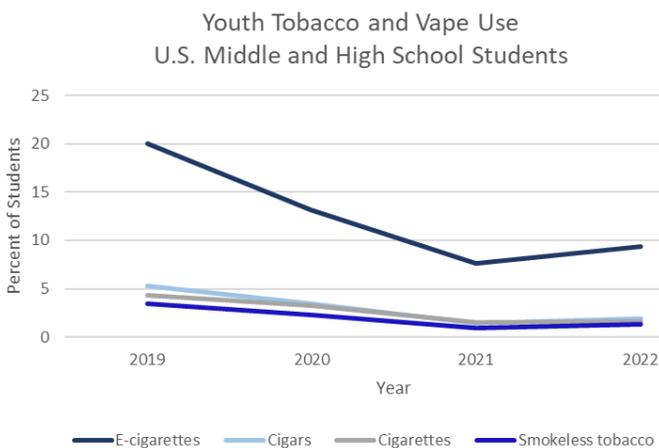
## Youth Smoking and Vaping Rates

The CDC continues to delay publishing the 2021 results of the Youth Risk Behavior Survey resulting in state-specific data being unavailable at the time of this publication. Nonetheless, youth use of vapor products has declined significantly in recent years and youth use of traditional tobacco products is at record lows.

In 2022, according to the National Youth Tobacco Survey, only 9.4 percent of middle and high school students reported current use of e-cigarette products, defined as having used a product on at least one occasion in the 30 days prior to the survey. Youth vaping seems to have peaked in 2019, when 20 percent of youth reported current e-cigarette use. Between 2019 and 2022, current e-cigarette use declined by 53 percent.

In 2022, (regarding traditional tobacco products) only 1.9 percent of U.S. youth reported current cigar use, 1.6 percent reported current combustible cigarette use, and 1.3 percent reported using smokeless tobacco products. Between 2019 and 2022, current cigar use declined by 64.2 percent, current cigarette use decreased by 62.8 percent and smokeless tobacco use by 62.9 percent.

Given the record lows in youth tobacco use and continued declines in youth vapor product use, policymakers must refrain from prohibitionist policies that would hinder adult access to harm reduction products.



## Young Adult Smoking Rates

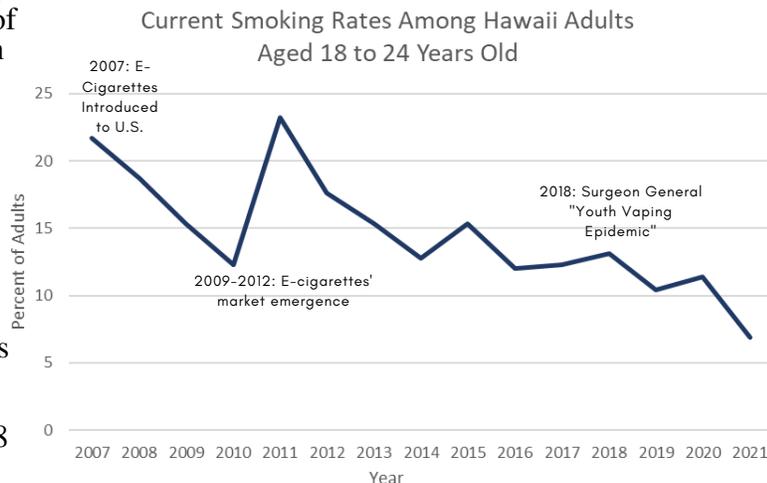
As e-cigarettes have disrupted the traditional tobacco market, policymakers have shifted their attention towards youth use and subsequent smoking initiation. Despite the rhetoric, the introduction of e-cigarettes has not led to increases in young adult cigarette smoking, but rather, correlates with significant declines.

E-cigarettes first came to U.S. market in 2007, when 21.7 percent of Hawaiians aged 18 to 24 years old were currently smoking. In 2018, public health purported to a so-called “youth vaping epidemic,” when 13.1 percent of young adults in the Aloha State were smoking. Between 2007 and 2018, young adult smoking rates declined by 39.6 percent. Further, since 2018, young adult smoking rates have decreased another 47.3 percent, with average annual declines of 16.8 percent.

Though data is limited to only three years, increases in vaping correlate with decreases in smoking.

In 2017, (among 18- to 24-year-olds), 12.3 percent and 12.2 percent were currently using combustible cigarettes and e-cigarettes, respectively. Between 2017 and 2021, current cigarette use among young adults decreased by 43.9 percent while vapor product use increased by 100.8 percent.

Given the epic lows in young adult smoking rates, lawmakers must refrain from policies that restrict access to alternatives to smoking.



# Tobacco & Vaping 101: Hawaii 2023

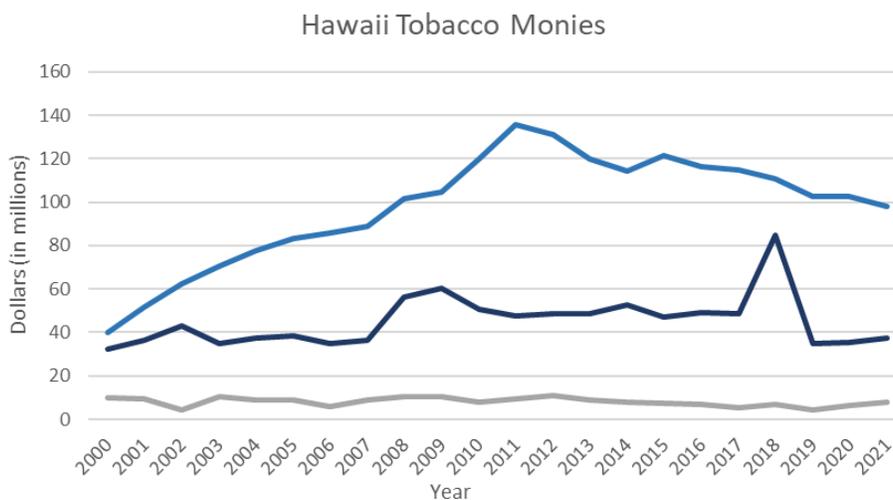
## Tobacco Monies

Each year, states receive billions of dollars borne out of the lungs of persons who smoke. This revenue includes excise cigarette taxes and settlement payments. Yet, each year, states spend miniscule amounts of tobacco-related monies on programs to help adults quit smoking and prevent youth use.

In 2021, the Aloha State collected nearly \$98.1 million in state excise tax revenue from combustible cigarettes. This was a 4.2 percent decline from 2020's \$102.4 million. Between 2001 and 2021, Hawaii collected more than \$2.1 billion in cigarette taxes.

Since 2000, Hawaii has collected annual payments from tobacco manufacturers based on the percentage of cigarettes and tobacco products sold in the state in that year. Hawaii collected \$37.5 million in settlement payments in 2021, a 6.2 percent increase from 2020's \$35.3 million. Since 2000, the Aloha State collected nearly \$997 million in tobacco settlement payments.

While Hawaii collected an estimated \$135.6 million in tobacco-related monies in 2021, the state allocated only \$7.9 million in state funding towards tobacco control programs, including cessation, education, and youth prevention efforts, which was a 23.4 percent increase in funding from 2020 levels. This amounts to 8.1 percent of taxes and 21.1 percent of settlement payments. In 2021, for every \$1 the state received in tobacco monies, it spent only \$0.06 on tobacco control efforts.



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— Cigarette Taxes — Tobacco Settlement Payments — Tobacco Control Funding

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# Tobacco Harm Reduction 101

An estimated 30.8 million American adults smoked in 2020, or approximately 12.5 percent of the U.S. population.[1] Smoking-related disease and deaths cost the United States more than \$300 billion each year, including \$225 billion attributed to medical costs and more than \$156 billion due to lost productivity.[2]

For many years, policymakers have staunchly pushed forward with only one approach: quit or die. This failed method of smoking prevention and cessation has negligibly reduced smoking rates over the years. Yet, there is another approach: tobacco harm reduction for those who are unwilling or unable to quit smoking. In 1976, famed tobacco research Michael Russell remarked “people smoke for the nicotine, but die from the tar.”[3] Today, cigarettes contain nearly 600 ingredients and when ignited release more than 7,000 chemicals in the tobacco smoke, including 69 which are known to cause cancer.[4]

Nicotine, while not benign, is not responsible for causing cancer or the other ill effects caused by combustible cigarette smoke. In fact, the U.S. Food and Drug Administration,[5] the Centers for Disease Control and Prevention,[6] and the American Cancer Society[7] all acknowledge that nicotine has addictive properties but is not responsible for the harms caused by various tobacco products.

Given that nicotine itself is not the harm-causing property of tobacco, consumers and manufacturers have moved forward with giving adults the options to try and switch to less harmful tobacco products, otherwise known as tobacco harm reduction.

Tobacco harm reduction takes into account the science and the individual, all the while reducing the harms related to cigarette smoking. Rather than shaming persons addicted to nicotine, tobacco harm reduction offers them an opportunity to use a less harmful product, while delivering nicotine in a manner that is effective at reducing their cravings.

Reduced harm tobacco products include: electronic cigarettes/vaping devices, heated tobacco products, nicotine replacement therapy, and smokeless and snus products. These products deliver nicotine to adult consumers in a manner that is significantly less harmful than combustible cigarettes. Moreover, there is a plethora of evidence to their reduced risks.

- **E-Cigarettes:** Despite media alarmism, e-cigarettes are significantly less harmful than combustible cigarettes, as noted by numerous public health agencies. In 2015, Public Health England found e-cigarettes to be 95 percent less harmful than combustible cigarettes.[8] In 2021, the agency noted that “vaping is positively associated with quitting smoking successfully.”[9] In 2016, the UK Royal College of Physicians declared that e-cigarettes were unlikely to exceed five percent of the harms that are caused by smoking.[10] Not only does the UK government subsidize e-cigarettes as a cessation tool for people who smoke, vape shops can be found in hospitals in the country. In the United States, in 2018, of the estimated 10 million vapers, approximately 3 million had previously used combustible cigarettes.[11] In 2021, the FDA, through a new regulatory pathway, authorized the first e-cigarette product, finding that the product is “significantly less toxic than combusted cigarettes” and “could benefit addicted adult smokers who switch ... by reducing their exposure to harmful chemicals.”[12]
- **Heated Tobacco:** The US FDA has not only allowed for the marketing of a heated tobacco product, the manufacturer has been permitted to market it with a reduced risk claim, including that due to the product heating tobacco and not burning it, the process “significantly reduces the production of harmful and potentially harmful chemicals.”[13] While the rollout in America has been limited (and currently hindered by a patent dispute), in other countries, heated tobacco products have been linked to significant reductions in adult smoking rates. A 2020 study by the American Cancer Society remarked that heated tobacco products “likely reduced cigarette sales in Japan.”[14]

# Tobacco Harm Reduction 101

- **Nicotine pouches:** Nicotine pouches are used the same way as snus but deliver nicotine via infused fillers like plant-based fibers instead of pasteurized tobacco. They are the newest innovation on the nicotine market and they are as or less harmful than snus. As a result, they have been rising in popularity across the world. For example, a May 2022 study assessed the potential effect of nicotine pouches if introduced in the U.S. in 2000. The study estimated there would have been about 700,000 fewer deaths by 2050.
- **Nicotine Replacement Therapy (NRT):** NRT is the most endorsed form of tobacco harm reduction and is subsidized by federal and state health care quit-smoking programs. NRT includes gums, patches, lozenges, and prescription medication. Studies have found that similar rates of cessation success among users of various NRT products and smokeless and snus products.[15] Other tobacco harm reduction products have been found to be more effective. For example, a 2019 randomized controlled trial found that e-cigarettes were almost twice as effective as NRT in aiding in smoking cessation.[16]
- **Smokeless:** Smokeless tobacco poses much lower risks than smoking, all while containing nicotine. A 2009 Biomed Central study analyzed 89 studies of smokeless tobacco use and cancer finding “very little evidence” of smokeless tobacco producing elevated cancer risks.[17] A 2011 review of epidemiologic studies found that snus and smokeless tobacco use to be “99% less hazardous than smoking.”[18]
- **Snus:** Snus is an oral moist tobacco often used in pouches. It originated in Sweden and has been part of the country’s “tobacco culture” for more than a century. Snus has been directly linked to reducing smoking rates in the country. Swedish men, who have the highest rate of smokeless tobacco use in Europe and the lowest smoking rate, “also have the lowest rates of lung cancer and other smoking-related diseases in Europe.”[19] Further, a 2020 long-term study of Swedish snus users that were former smokers concluded that over “80% found snus of great importance to succeed with smoking cessation.”[20]

As cigarettes remain available, it is imperative that policymakers offer the consumers access to less harmful tobacco products. Policymakers should avoid excessive regulations, unfair taxation, and outright prohibition when enacting policies regarding novel tobacco harm reduction innovations. Lawmakers should put forth policies that both inform consumers of the wide variety of less harmful products, as well as allow the market to introduce products that are effective at both delivering nicotine in a less harmful manner and reducing smoking rates.

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# Tobacco Harm Reduction 101

## Tobacco Harm Reduction Products Can Help Adults Quit Smoking

Many opponents of tobacco harm reduction (THR) often claim there is no evidence that alternative nicotine/novel tobacco products including e-cigarettes, heated tobacco, and smokeless and snus tobacco products, are effective for smoking cessation. This misinformation deters many people who smoke from trying a reduced risk product.

### Users Tend to Be Current and/or Former Smokers

Surveys in individual countries indicate an overwhelming majority of novel tobacco product users are current and former smokers. For example, the UK's Action on Smoking and Health (ASH) estimate that less than one percent of the country's current 3.6 million vapers are never-smokers.[1] A 2019 study in the *International Journal of Environmental Research and Public Health* found that among heated tobacco users in Japan, only one percent were never smokers.[2] Similarly, according to the Centers for Disease Control and Prevention (CDC), in 2018, current and ever e-cigarette use was highest among persons who had quit smoking and "lowest among those who never smoked cigarettes." [3]

Safer nicotine products are almost exclusively attractive to people who smoke and the motivation for trying them is to reduce harm from tobacco or quit entirely. According to the latest Global State of Tobacco Harm Reduction briefing, harm reduction options are already being used by an estimated 112 million people worldwide, with approximately 82 million using vaping products, 20 million using heated tobacco and 10 million using smokeless tobacco, nicotine pouches and snus.[4]

### Research Indicates Effectiveness of Tobacco Harm Reduction Products

Data from national surveys find e-cigarettes to be effective in helping adults quit smoking.

In the UK it has been estimated by ASH that at least 2.3 million UK smokers have quit smoking completely with nicotine vaping devices.[5] According to the CDC, in the United States, 4.3 million US adult nicotine vapers are ex-smokers,[6] and the latest Eurobarometer survey found that 7.5 million EU citizens have quit smoking using a nicotine vaping product.[7]

Heated tobacco products have led to significant reduction in smoking rates. A 2020 study by the American Cancer Society remarked that heated tobacco products "likely reduced cigarette sales in Japan." [8] Another 2020 study published in the *International Journal of Environmental Research and Public Health* came to a similar conclusion, stating that "the accelerated decline in cigarette-only sales since 2016 corresponds to the introduction and growth in the sales of heated tobacco products." [9]

Snus has been directly linked to reducing smoking rates in Sweden, which has a seven percent smoking rate, the lowest in Europe. A 2020 long-term study of Swedish snus users that were former smokers concluded that more than "80% found snus of great importance to succeed with smoking cessation." [10] Furthermore, a joint Swedish and Australian study of more than 60,000 individuals found that "Snus has both contributed to decreasing initiation of smoking and ...appears to facilitate smoking cessation." [11]

A 2008 study in *Harm Reduction Journal* examining data from the 2000 National Health Interview Survey, found that men who had switched to smokeless tobacco in their most recent quit attempt "had the highest proportion of success among those attempting [to quit] smoking," and that switching to smokeless tobacco "compares very favorably with pharmaceutical nicotine as a quit-smoking aid among American men." [12]

Nicotine pouches are a more novel tobacco harm reduction product with research indicating that they can be useful in helping adults quit smoking. A May 2022 study assessed that if nicotine pouches had hypothetically been introduced into the US in 2000, there would have been about 700,000 fewer deaths by 2050.[13]

# Tobacco Harm Reduction 101

## FDA-Approved Cessation Products Have Limited Success

Unfortunately for many adults who continue to smoke, current FDA-approved cessation products have not been useful helping them quit, and some studies indicate novel tobacco harm reduction products are more effective.

A 2019 randomized trial published in *The New England Journal of Medicine* found e-cigarettes to be twice as effective as nicotine replacement therapy in helping adults quit smoking.[14] In 2021, the Cochrane Library living review of e-cigarettes found that “nicotine e-cigarettes help more people to stop smoking than nicotine replacement therapy.”[15]

Unfortunately, as of June 2022, the FDA erroneously claims that “there is not yet enough evidence to support claims that e-cigarettes... are effective tools for quitting smoking.”[16]

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## HIPHI Board

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Department of Pediatrics

Titiiimaea 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: March 13, 2023

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

Re: Strong Support SB 1447 SD1 Relating to Tobacco Products

Hrg: Wednesday, March 15, 2023, at 2:15 PM

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The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Institute<sup>i</sup> is in **Strong Support of SB 1447 SD1**, which addresses the state's preemption of county ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices by enabling the counties to enact ordinances more stringent than state law.

## Preemption Benefits Industry

HRS §328J-11.5, Statewide Concern, was added by the state legislature in 2018, when Act 206 (HB1895) was signed into law. This new chapter restricts a county's ability to protect the health of their residents through future laws and regulations by restricting oversight of the sales of tobacco, other tobacco products, or electronic smoking devices (ESDs) to the state. A county cannot pass policies that would help support their community's health.

Preemption is a known tobacco industry strategy. The tobacco industry works to preempt local-level governments from passing tobacco-related policies so they can focus on fighting statewide legislation. This action creates a more favorable situation for the tobacco companies because it is easier to address one statewide policy versus a policy in each county.

Examples of impact on counties:

- Preempts a county's ability to take legislative and regulatory action through retail and sales strategy to protect their children, youth, and adults.
- Preempts public health, evidence-based strategies by restricting local policies and regulations on pricing and access, which are

proven to reduce tobacco consumption and initiation (which could include the sale of tobacco in pharmacies and creating flavor restrictions).

- Thousands of youth will never start using tobacco products because of this policy, thousands of lives will be saved, and the state will save hundreds of millions in healthcare costs.

### **Restoring the county's authority will protect local residents and address disparities.**

Counties have a long history of being proactive in adopting innovative tobacco control policies based on community concerns and needs. For instance, all counties passed the clean indoor air law (smoke-free workplaces) before the state passed legislation, and Hawai'i Island raised the age to 21 to purchase tobacco products first; in fact, they were the 4th jurisdiction in the nation to do so.

But now, the law curtails county power to enact any future policies relating to the sale of tobacco and electronic smoking devices. This inability to act is of particular concern, as high school students on the neighbor islands are experimenting and using ESDs at higher rates than the state average. Furthermore, teen use rates continue to rise as policies are not implemented to regulate these products at the point of sale. From 2015 to 2019, there was more than a 5% increase in high school students who currently use ESDs.<sup>ii</sup> The rates in Hawai'i County, 56.5%, and Maui County (58.1%) are extremely high compared to Honolulu at 44.5%.

We applaud the Legislature for helping to strengthen our county's authority on tobacco sales by amending the current law. Not addressing preemptive language prohibits counties from advancing tobacco selling and access laws and stops their ability to provide protections to county residents. The counties become dependent on the state to choose to pursue tobacco control policies.

Thank you for the opportunity to strongly support SB 1447 SD1, and we respectfully ask you to pass this measure.

Mahalo,



Jessica Yamauchi, MA  
Chief Executive Officer  
Hawai'i Public Health Institute

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<sup>i</sup> 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.

<sup>ii</sup> <https://www.hawaiihealthmatters.org/indicators/index/dashboard?id=83016762154173692>



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

**SENATE BILL 1447, SD1 RELATING TO TOBACCO PRODUCTS – In Opposition**

Wednesday, March 15, 2023 @ 2:15 PM  
Conference Room 325 & Videoconference

Aloha Chair Tarnas, Vice-Chair Takayama, and members of the Committee,

Thank you for this opportunity to offer testimony in opposition to SB 1447, SD1 which repeals preemption and to permit local ordinances or regulations to regulate the sale of tobacco products.

Aloha Petroleum, Minit Stop, and Par Hawaii support strict enforcement of laws that prohibit the sale and distribution of tobacco products to underage persons. However, we respectfully oppose SB 1447, SD1 and its impact on piecemeal enforcement, regulation, and applicability to regulate the sale of tobacco products in Hawaii.

We are concerned that **granting individual counties the ability to pass ordinances that are stricter than State law may result in varying restrictions from county to county that make compliance and enforcement for retailers difficult.**

Retailers are on the front lines to stem underage access to tobacco products. The role of enforcement is taken seriously through tobacco control measures such as: checking IDs at the point of sale, posting legal age notices in retail stores, placing products in secure areas, and other compliance measures designed to close the on-ramp for youths.

Thank you for the opportunity to testify in opposition and ask that the committee allow the U.S. Federal Drug Administration to issue final rules in the regulation of the tobacco products which is expected at the end of 2023.



March 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 SB 1447. It is simply good governance that matters of this magnitude be decided at the state level, due to both the level of increased scrutiny, transparency and accountability it provides, but also the direct impact local regulation of tobacco can have on state tax revenue.** Retaining regulatory consistency and uniformity throughout the state in terms of tobacco policy will safeguard residents and businesses from poorly thought-out local restrictions and will protect the state's revenue stream in uncertain economic conditions. **As such, it is imperative that this proposal does not pass.**

**This misguided legislation encourages local governments to pass harmful regulations on reduced-risk nicotine products like e-cigarettes,** which are shown to be 95% [less harmful](#) than cigarettes and the most effective tool for smoking cessation. The local regulations that SB 1447 would allow for can be expected to lead to drastic increases in cigarette smoking in Hawaii, leading to a clear increase in tobacco related mortality.

It is the fundamental responsibility of state governments to protect their citizens. At times, these threats can come from local government officials. In the instance of tobacco harm reduction policies, local government officials act without the degree of scrutiny and accountability found at the state level. Similarly, lacking the expertise in healthcare policy, local restrictions and levies may act contrary to all available science and data, serving to restrict the ability of smokers to quit smoking with the help of reduced risk tobacco alternatives.

Studies have repeatedly shown that flavored vapes, which SB 1447 would allow localities to ban, are critical to helping adult smokers make the switch to vaping. Adults who use flavored vapor products are 43% more likely to quit smoking than an adult who uses un-flavored products, according to a [study](#) from ten of the world's top experts in cancer prevention and public health.

A [study](#) from Dr. Abigail Friedman at the Yale School of Public Health found that youth smoking doubled when San Francisco imposed a flavor ban in 2018. Before San Francisco's flavor ban, the city had lower youth smoking rates than comparable counties like New York and Los Angeles. After the flavor ban, San Francisco's youth smoking rate rose to 6.2% while comparable districts had an average rate of 2.8%. **SB 1447 would allow for localities to create public health disasters like in San Francisco.** Voting for SB 1447 would be inviting a public health disaster, like the one that occurred in San Francisco, into Hawaii.

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It is important to note that, contrary to some arguments made by opponents of this bill, “local control” at its core is about safeguarding individual liberties and restricting the growth of government; it is not a free pass for cities to do whatever they want. Localities are just as capable of being conduits for heavy-handed laws that will harm citizens. When that is at stake, state action is not only appropriate to safeguard individual freedoms – it is essential.

Additionally, prohibitions on e-cigarettes and tobacco products 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 local 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.

### **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% less harmful 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. SB 1447 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 28,600 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 SB 1447**. Over 25,000 lives quite literally depend upon it.

Sincerely,

Tim Andrews  
*Director of Consumer Issues*  
Americans for Tax Reform



**Testimony to the House Committee on Judiciary and Hawaiian Affairs  
Wednesday, March 15, 2023; 2:15 p.m.  
State Capitol, Conference Room 325  
Via Videoconference**

**RE: SENATE BILL NO. 1447, SENATE DRAFT 1, RELATING TO TOBACCO PRODUCTS.**

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** Senate Bill No. 1447, Senate Draft 1, RELATING TO TOBACCO PRODUCTS.

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.

This bill, as received by your Committee, would:

- (1) Repeal existing law that provides that all local ordinances or regulations that regulate the sale of cigarettes, tobacco products, and electronic smoking devices are preempted and that existing local laws and regulations conflicting with Chapter 328J, Hawaii Revised Statutes (HRS), are null and void; and
- (2) Clarify that counties retain the authority to adopt ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices, as long as the ordinances are more stringent than the provisions in Chapter 328J, HRS.

This bill would also take effect on July 1, 2050.

**Testimony on Senate Bill No. 1447, Senate Draft 1**  
**Wednesday, March 15, 2023; 2:15 p.m.**  
**Page 2**

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 improve enforcement of existing regulation and create disincentives for consumers to use these products.

In 2018, the Hawaii State Legislature enacted Act 206 to establish the State policy that the sale of cigarettes, tobacco products, and electronic smoking devices is a matter of statewide concern, thus nullifying any local ordinances or policies that restricted the sale of these products that were in effect at that time. In the three years since Act 206 was enacted, youth consumption of tobacco products has increased resulting in the American Lung Association giving the State of Hawaii an "F" for failing to prevent access to flavored tobacco products like menthol cigarettes and fruity-flavored electronic smoking products.

Because of this, the HPCA agrees with the Hawaii Association of Counties and urges the State to allow the counties to enact more restrictions over the sale of tobacco products, including electronic smoking devices, in order to protect public health, safety, and welfare.

**Accordingly, we ask for 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@hawaiipca.net](mailto:eabe@hawaiipca.net).



**Papa Ola Lokahi**  
Nana I Ka Pono Na Ma

894 Queen Street  
Honolulu, Hawaii 96813  
Phone: 808.597.6550  
[www.papaolalokahi.org](http://www.papaolalokahi.org)

**House Committee on Judiciary & Hawaiian Affairs**

Representative David A. Tarnas, Chair

Representative Gregg Takayama, Vice Chair

**RE: SB 1447 SD 1 – RELATING TO TOBACCO PRODUCTS**

**Position: SUPPORT**

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

Papa Ola Lokahi (POL) testifies in **SUPPORT** of **SB 1447 SD 1**, which clarifies the reach of county ordinances or regulations, and repeals the preemption that regulates the sale of cigarettes, tobacco products, and electronic smoking devices. Additionally, 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 current use of electronic smoking products. With the availability of flavored tobacco products, our youth are being targeted at younger ages to become the next generation of adult smokers. 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 aim to close 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 cites the availability of flavors as the reason they use vape products, underpinning the need to curb tobacco companies' ability to make these products easily accessible. We must also consider that our youth's neural development is at risk, and using tobacco products during this developmental stage puts them at increased risk of developing a nicotine addiction.

It is evident that using tobacco products increases adverse health outcomes, exacerbates these outcomes among vulnerable groups, and deepens health disparities. This bill aims to limit tobacco companies' reach in our communities and allows counties to create and implement preventive policies that address their

unique needs. Given the success of county level-policies in passing progressive tobacco-related policies, such as smoke-free air laws and Tobacco21, it behooves the state to support county efforts to create protective policies that address the unique needs of their communities. Further, we mustn't allow private interests to create environments in our communities that negatively impact the health outcomes of those most vulnerable in our communities, our keiki.

Mahalo piha for the opportunity to provide testimony in **STRONG SUPPORT** of **SB 1447 SD 1** and for helping to safeguard the health and safety of the keiki and communities of Hawai'i.

*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.*

**SB-1447-SD-1**

Submitted on: 3/13/2023 5:31:47 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	Written Testimony Only

Comments:

Support SB1447 SD1

[www.WeAreOne.cc](http://www.WeAreOne.cc)



## **SB1447 SD1 (H) Regulates E-Cigarette**

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Wednesday, Mar 15 2023: 2:15: Room 325

### **Hawaii Substance Abuse Coalition Supports SB1447 SD1:**

*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 regulate e-cigarettes because of the huge impact that vaping has with children.**

- Counties have demonstrated their capability to manage tobacco related policies.
- Giving the counties the freedom to manage their own regulations at the point of sale for tobacco products helps them to better respond to their constituents.
- The counties support this measure as it was part of the Hawai'i Association of Counties legislative package.
- This measure does not affect tax.

Giving counties the ability to quickly address the unique health needs of their communities will result in better overall health.

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

**SB-1447-SD-1**

Submitted on: 3/14/2023 11:11:46 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael Zehner	Hawaii Smokers Alliance	Oppose	Written Testimony Only

Comments:

The Hawaii Smokers Alliance is strongly opposed to SB1447. A few years ago, this legislature give its' promise to make tobacco type legislation easier to follow and uniform across throughout the State. While we oppose most of the tobacco legislation passed in the last 25 years, at least the current version of HRS **gives equal treatment under the law.**

**We respectfully ask the legislature and this committee to keep its' word of honor on this issue and not go back on its' promise.**

Mahalo.



Tuesday, March 14, 2023

The Honorable David A. Tarnas, Chairman  
The Honorable Gregg Takayama, Vice Chairman  
Hawaii House Committee on Judiciary and Hawaiian Affairs

Dear Chairman Tarnas, Vice Chairman Takayama, and the members of the House Committee on Judiciary and Hawaiian Affairs,

On behalf of National Taxpayers Union, the nation's oldest taxpayer advocacy organization, I write to share our strong opposition to Senate Bill 1447. This bill will repeal Hawaii's existing preemption law that regulates the sale of cigarettes, tobacco products, and electronic smoking devices. If passed and signed into law, SB 1447 will have a negative financial impact on the small business owners of Hawaii and will inevitably decrease Hawaiians' access to products that aid in the cessation of tobacco smoking.

Current law in Hawaii creates a uniform regulatory framework and provides economic stability for small businesses. Removing the statewide preemption on local ordinances will lead to a patchwork of regulations with which small businesses will be forced to comply. In particular, businesses that reside in multiple counties will face costly administrative burdens as they must comply with differing sets of regulations. At a time when small businesses are attempting to recover from the economic downturn caused by the pandemic and the current high levels of inflation, it is unwise to add additional burdens that could lead to job losses across your state.

As a former Wisconsin state lawmaker and a nurse, I understand the desire to promote public policy that will decrease the use of harmful tobacco products. Unfortunately, SB 1447 will likely lead to diminished access to proven public health solutions that move people away from traditional cigarette products and further drive people struggling with addiction to find products that skirt the state's taxing and regulatory authority. I would encourage you to take care to avoid the unintended consequences of SB 1447.

National Taxpayers Union strongly believes SB 1447 will adversely impact the Hawaiian economy. It will also create barriers to Hawaiians trying to promote healthier lives as they struggle with smoking addictions. Government mustn't punish local businesses with expensive legal compliance and a variety of conflicting rules as they work to supply products on the market to help people quit smoking.

Sincerely,

Leah Vukmir  
Senior Vice President of State Affairs  
National Taxpayers Union



TO: The Honorable David Tarnas, Chair  
The Honorable Gregg Takayama, Vice Chair  
House Committee on Judiciary & Hawaiian Affairs

FROM: Philip Bossert, Executive Director  
Hawaii Association of Independent Schools

RE: **SB 1447 SD1 – RELATING TO TOBACCO PRODUCTS  
In Support**

DATE: Wednesday, March 15, 2023  
2:15 p.m.; conference room 325 & videoconference

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

My name is Philip Bossert, and I am the Executive Director of the Hawaii Association of Independent Schools.

**The Hawaii Association of Independent Schools (HAIS) strongly supports SB 1447 SD1.**

HAIS is a membership organization that currently represents as members 100 of Hawaii's independent and private K-12 schools; and, through its subsidiary, the Hawaii Council of Private Schools (HCPS), licenses all 114 private K-12 schools in the State.

Approximately 33,000 students attend Hawaii's independent, private and parochial schools and all of them – especially those students of middle school and high school age – are endangered by the current vaping epidemic plaguing Hawaii. Vaping not only endangers the health of students in the present, but likely also for the rest of their lives.

HAIS and its member schools support SB 1447 SD1 because electronic smoking devices play a major role in the increased rates of youth nicotine addiction which was in decline. Counties are uniquely positioned to address the health needs of their communities and allowing the counties to regulate the sale of tobacco products can reduce the overall use of tobacco in their communities.

Thank you for the opportunity to submit testimony in support.

S.B.1447, SD 1  
March 15, 2023

Committee on Judiciary & Hawaiian Affairs  
Chair: Rep. Tarnas  
Vice Chair: Rep. Takayama

## **Testimony in Strong Support of S.B. 1447, SD 1, Relating to Tobacco Products**

Chair Tarnas, Vice Chair, Takayama, members of the Committee on Judiciary & Hawaiian Affairs, I am Julian Lipsher, testifying as a private citizen in strong support of S.B. 1447, SD 1.

It is an indisputable science-based fact that smoking cigarettes, tobacco use and nicotine remain the leading cause of death and disease in Hawaii. Despite this, tobacco companies have strategized numerous ways to delay and deflect implementation of sound public health policies. They question the science, they quarrel with implementation, they contribute heavily to the campaigns of candidates running for elected office.

Yet their influence has been often blunted at the county level where the elected officials are closer to the voters and the problems are more clearly recognized. So how to get around this obstacle that thwarts industry profits? Preemption. Promote the passage of laws where the state occupies the entire field of regulation, where local voices and county councils are taken out of the picture.

Turning back the clock over a decade ago in Hawaii, the State Legislature had not acted on bills to protect citizens from exposure to tobacco smoke. In a relatively short time all Hawaii counties passed forms of protective measures. This effort demonstrated the need and popularity for state action and a

comprehensive state law was subsequently enacted that we all benefit from today.

Now the issue is vaping. Again, it has been almost a decade without action. We know the counties will act, the industry knows the counties will act. So in 2018 they were able to attach a preemption clause to a needed kidney dialysis bill which passed despite strong opposition to this provision added late in the session.

Repealing preemption would restore local control, allow local voices to be more readily heard and county councils to be able to take actions to protect the public's health, when action at the state level has stalled.

I urge the Committee to consider the policy implications and pass S.B. 1447, SD 1. Thank you for the opportunity to provide testimony.

Julian Lipsher  
jdlipsher@hawaii.rr.com

**SB-1447-SD-1**

Submitted on: 3/13/2023 1:39:20 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Shelly Ogata	Individual	Support	Written Testimony Only

Comments:

Honorable Representative David Tarnas, Chair

Honorable Representative Gregg Takayama, Vice-Chair

Members of the Committee on Judiciary & Hawaiian Affairs

**Re: SB 1447 Relating to Tobacco Products, Strong Support**

Representative Tarnas, Takayama, and members of the Committee on Judiciary & Hawaiian Affairs:

SB 1447 will address the continued escalation of e-cigarette use among our teens, putting our children’s health at risk – including becoming a lifelong addiction. Our counties have shown a record of success in passing tobacco related policies in an extremely responsive manner – leading the way in smoke-free air laws and Tobacco 21. Local residents and local leaders know how to solve local problems.

As a graduate of the University of Hawai‘i School of Public Health and a lifelong resident of the State of Hawai‘i, I am expressing my **STRONG SUPPORT** of this bill. I strongly support giving back to the counties the ability to quickly address the unique health needs of their communities which will result in better overall health.

Hawai‘i is in the midst of a youth vaping epidemic, with one in three high school students and one in five middle school students reporting “current use” of e-cigarettes. Hearing elementary school teachers and administrators from our district complain about the students using flavored vaping products and having to call 911 for health emergencies is gut-wrenching and unacceptable.

To clarify, this measure does not affect taxation. In addition, as in the past, counties were able to regulate point of sale for tobacco products, which did not result in confusion.

If we are truly trying to support our keiki and citizens of Hawai‘i, I’m again respectfully requesting your support of this bill. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must do better and we must do it now. The counties need the

ability to quickly address the health needs of our communities and this bill gives that power back to us.

Shelly Ogata, RN, MPH

Hilo, HI

## SB1447

I am writing in support of SB 1447, to reverse preemption of County powers to regulate health issues locally. Since 2018, when the State Legislature voted for this usurpation of County control of our local health issues, among other local powers, the Legislature, at the urging of the tobacco lobby, has found itself unable to enact any tobacco regulation, including a flavor ban and electronic cigarette taxation. The measures have been proven to greatly reduce electronic tobacco use in children in other states who have been less reluctant to protect their children. Already Hawaii has one of the highest rates of vaping in the country, and the neighbor islands are suffering even more. Our schools are staggering under the burden of electronic devices. And yet, our counties are prohibited from enacting any tobacco control measures whatsoever. Previously this was not the case, and Kauai in particular has had great success in decreasing cigarette use among teens.

Please give our counties back the ability to address our local health issues and protect our children.

Linda Weiner, MD  
Pediatrician, Kauai

**SB-1447-SD-1**

Submitted on: 3/13/2023 4:02:01 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Anthony Orozco	Individual	Oppose	Written Testimony Only

Comments:

This is another business unfriendly bill that makes compliance next to impossible.

**SB-1447-SD-1**

Submitted on: 3/13/2023 4:13:32 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lani Hernandez	Individual	Oppose	Written Testimony Only

Comments:

The purpose of these bill is to make it easier to screw voters out of their rights. The fact that this bill even crossed over is a dark day for those who love freedoms and a happy day for those who love bigotry and oppression.

**SB-1447-SD-1**

Submitted on: 3/13/2023 4:41:15 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cheryl Reeser	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support legislation that will allow local authorities to once again be able to pass point of sale policies that benefit their unique communities. Flavored tobacco products, such as E-Cigarettes, have created an urgent health epidemic for our youth. After everything we now know of the dangers of tobacco use, we've got to do everything within our power to curb this crisis immediately and SB1447 SD1 is one of the tools we can use. Local authorities will be better equipped to protect their communities if this bill passes. I urge you to support SB1447 SD1 to protect our keiki from a lifetime of tobacco addiction.

Mahalo.

**SB-1447-SD-1**

Submitted on: 3/13/2023 5:09:08 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kimo Cruz	Individual	Oppose	Written Testimony Only

Comments:

Not only NO, but HELL NO! What kind of a sicko rigs the law to maximize the elimination of people's rights? This kind of legislation needs to stop as I count the days until my mail in ballot arrives.

**SB-1447-SD-1**

Submitted on: 3/13/2023 5:22:36 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jessica Chang	Individual	Oppose	Written Testimony Only

Comments:

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**SB-1447-SD-1**

Submitted on: 3/13/2023 6:39:01 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Karen Tessier	Individual	Support	Written Testimony Only

Comments:

In support.

**SB-1447-SD-1**

Submitted on: 3/13/2023 10:22:06 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
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 SB 1447. E-cigarettes or “vapes” are addicting increasing numbers of keiki to nicotine. The ability of each county to introduce new rules has a proven track record of improving the health of our population. These include increasing the age to purchase tobacco products to 21 years old, clean air laws, and smoke-free cars while keiki are present.

Nicotine is a highly addictive drug that impacts the adolescent brain, reducing impulse control and affecting mood. Once young people are addicted to nicotine, it is extremely difficult to quit.

By allowing counties to enact stricter tobacco and nicotine control regulations than those found at the state level, we can more effectively protect the health of our keiki and their families. There is nothing more important than the health of our young people.

Please support this important measure. Mahalo for your consideration.

Sincerely,

Bryan Mih, MD MPH FAAP

Pediatrician

Medical Director, Kapi’olani Smokefree Families

**SB-1447-SD-1**

Submitted on: 3/13/2023 6:58:02 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Patricia Blair	Individual	Support	Written Testimony Only

Comments:

Protect communities by county authority.

Date: March 14, 2023

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

Re: **Support for SB1447 SD1**, Relating to Tobacco Products

Hrg: Wednesday March 15, 2023 at 2:15 pm Conference Room 325 via Videoconference

Aloha House Committee on Judiciary & Hawaiian Affairs,

As a parent, community member and healthcare professional, I am writing in **strong support of SB1447 SD1**, which repeals existing law that provides that all local ordinances or regulations that regulate the sale of cigarettes, tobacco products, and electronic smoking devices are preempted and that existing local laws and regulations conflicting with state law that governs smoking are null and void; and, clarifies that counties retain the authority to adopt ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices, provided that the ordinances are more stringent than the provisions in state law that govern smoking.

Hawaii counties have played a leadership role in passing tobacco-related policies, such as smoke-free air laws and raising the age of tobacco purchase to 21 years (Tobacco 21).

In 2018, the state preempted counties specifically from regulating the sale of tobacco products due in large part to misinformation from the tobacco lobby.

**SB1447 SD1** will return this ability for counties to best serve the unique needs of their communities, resulting in quicker, effective responses to local circumstances and better overall health.

Much as the tobacco lobby would like the Leg to believe, this measure will not lead to confusion between counties. Until 2018, counties regulated point of sale for tobacco products and there was no confusion from county to county.

And, this measure does not affect taxes on tobacco products, which are set by the state.

**SB1447 SD1** has support from the counties as part of the Hawaii Association of Counties legislative package.

**I strongly support SB1447 SD1**, respectfully ask you to pass it out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD  
Keaau, HI

**SB-1447-SD-1**

Submitted on: 3/14/2023 6:04:39 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

In support of SD1. Thank you.

**SB-1447-SD-1**

Submitted on: 3/14/2023 6:37:30 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sabrina Spencer	Individual	Oppose	Written Testimony Only

Comments:

I'm from Maui and this bill goes against our rights to have freedoms GREATER THAN that of the State if we choose too. This Oahu power grab on our freedoms should not go forward!

Sincerely,

Sabrina Spencer

**SB-1447-SD-1**

Submitted on: 3/14/2023 8:00:59 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kathleen Kearns	Individual	Support	Written Testimony Only

Comments:

I am a family physician practicing on Molokai and Maui. Our teens have an easy time obtaining e cig products and often start up in high school, starting them on decades of nicotine addiction that perpetuates itself when they raise their own families.

It is a great idea to allow communities to tailor their approaches to nicotine regulation and control so that changes can be made swiftly in response to community trends. Any help at all is needed to curtail the widespread use of vaping, especially by youth.

Kathleen Kearns, MD, FAAFP

Kathleen Kearns, MD, FAAFP

**SB-1447-SD-1**

Submitted on: 3/14/2023 8:46:32 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michele Nihipali	Individual	Support	Written Testimony Only

Comments:

- Electronic smoking devices play a major role in the increased rates of youth nicotine addiction which was in decline.
- The counties are uniquely positioned to quickly address the health needs of their communities and have used that ability to great success, such as changing the age to purchase tobacco products to 21 years old, clean air laws, and smoke-free cars while keiki are present.
- In the 2019 Youth Risk Behavior Survey (YRBS) on Hawai‘i public school students by county<sup>1</sup>:
  - City and County of Honolulu: 16.4%
  - Hawai‘i Island County: 20.3%
  - Kaua‘i County: 22.5%
  - Maui County: 18.7%
- The tobacco industry and its allies continue to use deceitful strategies to oppose smoke-free laws, youth access restrictions, regulations on advertisements and promotions, and retailer licensing restrictions<sup>2</sup> at the state level to more easily maintain control over tobacco regulation.
- Counties regulating the sale of tobacco products can reduce the overall use of tobacco in their communities, improve public health, and reduce health care costs associated with tobacco-related illnesses.
- Amending HRS §328J-11.5 to reauthorize counties to regulate the sale of tobacco products opens up the possibilities for innovative policies at the local level and to find new and effective ways to address the public health challenges posed by tobacco use.

**Please support SB1447 SD1**

Thank you for your consideration,

Michele Nihipali

54-074 A Kam Hwy.

Hauula, HI 96717

**SB-1447-SD-1**

Submitted on: 3/14/2023 9:18:20 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Valerie Smalley	Individual	Support	Written Testimony Only

Comments:

Aloha

I am a parent and also a tobacco treatment specialist who has worked supporting those in hawaii for the last 20 years. I am in strong support of SB1147 will return county authority to protect communities. By restoring power back to the counties and by ending preemption, they will once again be able to pass point of sale policies that benefit their unique communities.

Thank you for your consideration on this important matter

Valerie Smalley

**SB-1447-SD-1**

Submitted on: 3/14/2023 9:23:11 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Shani Carvalho	Individual	Support	Written Testimony Only

Comments:

I, Shani Carvalho, mother of four children ages 15, 13, 10, and 5 am in support of SB1447, as I feel this bill help to save my children and the youth of Hawaii from a lifetime of addiction by giving the counties the opportunity to make change as needed for their individual communities. The youth vaping epidemic has taken over the lives of our children, their friends, and school mates where youth as young as 6 years old have been found vaping in bathrooms. This is unacceptable on so many levels but we can start here by amending HRS §328J-11.5 to reauthorize counties to regulate the sale of tobacco products opens up the possibilities for innovative policies at the local level and to find new and effective ways to address the public health challenges posed by tobacco use.

**SB-1447-SD-1**

Submitted on: 3/14/2023 9:54:16 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jennifer Valera	Individual	Support	Written Testimony Only

Comments:

My name is Jen valera and I am in Support of SB1447. I am a mother of three keiki under the age of 16. My heart hurts when I see their classmates addicted to vaping. Electronic smoking devices play a major role in the increased rates of youth nicotine addiction which was in decline. Amending HRS §328J-11.5 to reauthorize counties to regulate the sale of tobacco products opens up the possibilities for innovative policies at the local level and to find new and effective ways to address the public health challenges posed by tobacco use. The counties are uniquely positioned to quickly address the health needs of their communities and have used that ability to great success, such as changing the age to purchase tobacco products to 21 years old, clean air laws, and smoke-free cars while keiki are present.

We adults need to show our keiki the way to a health lifestyle. Guiding them and supporting them on this journey. lets pass SB1447 and help Keep Hawai'i Future Alive.

**SB-1447-SD-1**

Submitted on: 3/14/2023 10:55:31 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kelsey Chuckovich	Individual	Support	Written Testimony Only

Comments:

Re: SB 1447

To: House Committee on Judiciary and Hawaiian Affairs

Aloha,

As a parent and concerned citizen, I am respectfully submitting testimony in support of SB 1447. E-Cigarettes are impacting our youth in Hawaii greatly, playing a major role in the increased rates of youth nicotine addiction.

This bill will allow counties to regulate the sale of tobacco products, which can reduce the overall use of tobacco in their communities, improve public health, reduce health care costs associated with tobacco- related illness.

The counties are uniquely positioned to quickly address the health needs of their communities and have used that ability to make successful changes, such as changing the age to purchase tobacco products to 21 years old, clean air laws, and smokefree car laws when children are inside.

Allowing counties to regulate the sale of tobacco products opens up the possibilities for innovative policies at the local level and will promote new and effective ways to address the public health challenges posed by tobacco use.

Thank you,

Kelsey Chuckovich

**SB-1447-SD-1**

Submitted on: 3/14/2023 11:46:09 AM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Zoey Duan	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and members of the Committee on Judiciary and Hawaiian Affairs,

I'm Zoey, a local youth from Nu'uaniu/Liliha and a commissioner on the Hawaii State Youth Commission, and I strongly support SB 1447, SD1.

Implementing smoke-free laws, youth access restrictions, regulations on advertisements and promotions, and retailer licensing restrictions of e-cigarettes and tobacco products will undoubtedly help prevent youth addiction to these products. This is especially since most youths who use vape and tobacco products are able to obtain them due to lack of comprehensive regulation, disincentive, and enforcement. 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 because they, misguided by tobacco corporations and ambiguous policies, believe it is "no biggie" to put such harmful substances in their bodies. By implementing more stringent policies and regulations that other states have seen to be greatly beneficial for preventing youth addiction, we can reverse the trends in youth e-cigarette use and avoid detrimental health consequences on youths like myself.

Additionally, while lobbyists, interest groups, and other stakeholders that profit off of us youths, especially those of ethnic native minorities, will tell you that the epidemic is not real, or that it has "gotten better," the reality is that the data they name are either 1) sourced by tobacco companies themselves 2) not an accurate description of the tragedies that I've seen with my own eyes in our schools and in our communities or 3) irrelevant when we consider the amount of keiki lives — 21,000 — that have and will continue to be lost due to tobacco products.

Therefore, I urge the committees to strongly support SB 1447, SD1, so that we can truly prevent the dangers of tobacco from affecting both my generation and our future generations.

Mahalo,

Zoey Duan

**SB-1447-SD-1**

Submitted on: 3/14/2023 1:50:53 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael Paul	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Chair, Vice-Chair, and Members,

My name is Michael Paul, I am a Tobacco Treatment Specialist in Honolulu and I support this bill. This bill, SB 1447, returns local control to the counties in regards to the sale of tobacco and nicotine products. The counties in our state have proven to be effective when it comes to quickly addressing the health and well-being of the people in their communities. They have been leaders in addressing tobacco and nicotine use among their constituents. In fact, they have been so effective, that proponents of the tobacco industry took away the ability for local counties to regulate the sale and purchase of tobacco products just a few short years ago.

It is easier for the tobacco industry to fight and stall legislation on a state-wide basis, than it is for them to fight each county separately. And it is a fight. A fight between a predatory industry more profitable than Disney and Apple combined and the people in our local communities that care about the health and well-being of their constituents, their neighbors, their families, and their patients. Please, return to the counties the power to regulate tobacco in their communities, the safety and well-being of our friends and neighbors depends on it.

Mahalo for your time,

-Michael Paul

**SB-1447-SD-1**

Submitted on: 3/14/2023 3:59:35 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Chris Cooper	Individual	Oppose	Written Testimony Only

Comments:

Opposed. We need statewide consistency.

**SB-1447-SD-1**

Submitted on: 3/14/2023 4:32:25 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ned Garcia	Individual	Oppose	Written Testimony Only

Comments:

The State legislature should decide.

**SB-1447-SD-1**

Submitted on: 3/14/2023 6:17:27 PM

Testimony for JHA on 3/15/2023 2:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Chris C.K. Arakaki	Individual	Oppose	Written Testimony Only

Comments:

Strongly opposed. The State needs to continue provide at the very least a uniform standard for businesses on this issue.