



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:
S.B. NO. 2410, RELATING TO HEALTH.

BEFORE THE:
SENATE COMMITTEES ON HEALTH AND HUMAN SERVICES AND ON
COMMERCE AND CONSUMER PROTECTION

DATE: Friday, February 6, 2026 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Chelsea N. Okamoto, Deputy Attorney General

Chairs San Buenaventura and Keohokalole and Members of the Committees:

The Department of the Attorney General (Department) strongly supports this bill.

This bill will require manufacturers of electronic smoking devices and e-liquids to certify annually to the Department that the manufacturer received a Marketing Granted Order (MGO) from the United States Food and Drug Administration (FDA) and that the manufacturer complies with federal and state laws. This bill requires the Department to establish a publicly accessible directory of certified manufacturers and their products. This bill establishes civil penalties for manufacturers that fail to comply with certification requirements and establishes civil penalties for parties that sell products that are not listed in the directory. This bill also establishes inspection authority for the Department to enforce the directory.

The Family Smoking Prevention and Tobacco Control Act (TCA), 21 U.S.C. §387a, grants the FDA the power to regulate tobacco products, including e-cigarettes.¹ Under the TCA, manufacturers of new e-cigarette products must submit a Premarket Tobacco Product Application and receive an MGO before the product may be legally marketed in the United States. See 21 U.S.C. §387j(a)(2). If they do not receive a

¹ In August 2016, the FDA finalized a rule deeming e-cigarettes as a tobacco product that is subject to the FDA's regulation. See 21 C.F.R. pts 1100, 1140, and 1143 (2016).

MGO from the FDA, the products are considered "adulterated" under 21 U.S.C. §387b(6)(A).

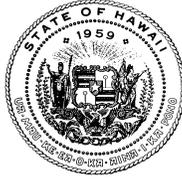
As of December 29, 2025, the FDA has only authorized thirty-nine tobacco and menthol flavored e-cigarette products, and the FDA has clearly stated those are the only products that may be lawfully sold in the United States.² Over the last year, the Department has made an active effort to educate tobacco retailers and distributors about the list of authorized FDA products.³ Nonetheless, many e-cigarette products that lack an MGO from the FDA are still sold in Hawaii.

This bill would create a state-managed directory, parallel to and in alignment with federal FDA regulations. This directory would provide much-needed clarity to retailers and distributors about which e-cigarette products are compliant with both state and federal regulations and are allowed for sale in the State. This bill would also empower the Department with enforcement of the directory, helping to eliminate illegal products from Hawaii's market.

We respectfully ask the Committee to pass this bill and thank you for this opportunity to testify.

² E-Cigarettes, "Vapes" and Other Electronic Nicotine Delivery Systems (ENDS) Authorized by the FDA (Dec. 29, 2025), <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/e-cigarettes-vapes-and-other-electronic-nicotine-delivery-systems-ends-authorized-fda> (last visited Jan. 28, 2026).

³ Attorney General Letters to Retailers and Distributors re Unauthorized Tobacco Products (Jan, 16, 2025), <https://ag.hawaii.gov/cjd/tobacco-enforcement-unit/letters-re-unauthorized-tobacco-products/>.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
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**Testimony in SUPPORT of S.B. 2410
RELATING TO HEALTH**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

SENATOR JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date: February 6, 2026, 9:00 AM

Room Number: Conference Room 229
and Videoconference

- 1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of the Attorney
- 2 General (AG) regarding any fiscal implications of maintaining a manufacturer and product
- 3 directory for electronic smoking devices (ESDs) and e-liquids.
- 4 **Department Position:** The Department supports Senate Bill 2410 (S.B. 2410) and defers to the
- 5 AG regarding the administrative and enforcement requirements of this measure.
- 6 **Department Testimony:** S.B. 2410 requires manufacturers of ESDs and e-liquid products to
- 7 submit proof to the AG that they received a marketing granted order (MGO) from the U.S. Food
- 8 and Drug Administration (FDA) and are in compliance with state and federal laws in order to sell
- 9 their products for retail sale or to consumers in Hawaii. The measure requires the AG to
- 10 compile and make a public directory of all ESDs and e-liquid manufacturers and certified
- 11 products.

1 Since the U.S. Surgeon General declared vaping as a youth epidemic in 2018,¹ the state
2 and federal government have not put in place adequate protections to prevent the marketing
3 of ESDs to youth. The result is that between 2019 and 2023, U.S. ESD sales increased by 47%
4 from 210.5 million to 309.4 million units.² Of the ESD products sold in the U.S., as much as 54%
5 are illegal.³ Many of these products contain toxic chemicals such as formaldehyde, lead, and
6 acrolein, and are designed with built-in video games and Bluetooth speakers and come in candy
7 or fruity flavors to attract youth.⁴ Additionally, the permissive federal enforcement practice
8 leaves many ESD products with submitted but pending premarket tobacco product applications
9 (PMTAs) on the market.⁵ States cannot enforce federal laws, and without additional state-level
10 legislation, the impasse continues with illegal ESD products remaining on store shelves and
11 available online.

12 In Hawaii, the story of delayed public health and enforcement action, and the need for
13 stronger state authority is supported by data. Young adults age 18 to 24, and 25 to 34 years old,
14 use ESDs at the highest rates amongst adults, at 23% and 25%, respectively.⁶ High school and
15 middle school students ESD use rates are 13% and 10%, and ever tried ESD rates are 28% and

¹ DHHS. (2018, December 17). *Surgeon General releases advisory on E-cigarette epidemic among youth* [Text]. HHS.Gov.

<https://www.hhs.gov/about/news/2018/12/18/surgeon-general-releases-advisory-e-cigarette-epidemic-among-youth.html>

² *Monitoring E-Cigarette Trends in the United States*. (2024). Truth Initiative; CDC Foundation. <https://tobacomonitoring.org/wp-content/uploads/2024/11/2024MonitoringE-CigaretteTrendsUS-1.pdf>

³ Commissioner, O. of the. (2025, September 30). *A Statement From FDA Commissioner Marty Makary, M.D., M.P.H.: Encouraging Retailers to Stop Selling Illegal Vapes*. FDA. FDA. <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-marty-makary-md-mph-encouraging-retailers-stop-selling-illegal-vapes>

⁴ Commissioner, O. of the. (2025, September 30). *A Statement From FDA Commissioner Marty Makary, M.D., M.P.H.: Encouraging Retailers to Stop Selling Illegal Vapes*. FDA. FDA. <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-marty-makary-md-mph-encouraging-retailers-stop-selling-illegal-vapes>

⁵ Public Health Law Center. (2022, May 16). *5/16/22—A Quick Recap: What’s Going on with the Premarket Review Process? | Public Health Law Center*. <https://www.publichealthlawcenter.org/commentary/220118/quick-recap-whats-going-premarket-review-process>

⁶ *Hawaii IBIS – Query Result- Hawaii Behavioral Risk Factors Surveillance System (BRFSS) Data-Electronic vapor product-Current use*. Retrieved February 2, 2026, from <https://hhdw.org/report/query/result/brfss/SmokeECigsCurr/SmokeECigsCurrCrude11.html>

1 17%, respectively.^{7,8,9,10} The middle school currently use and ever tried ESD rates increased
2 significantly from 2021 to 2023. DOH has received requests for resources from elementary
3 school teachers and administrators because their students are bringing and using ESDs on
4 campus.¹¹

5 ESD taxes are helping to lower usage for the price sensitive, and the DOH has increased
6 prevention education by providing quit resources for youth and young adults and resources for
7 educators and parents, but State authority is still needed so products that do not have the FDA
8 MGOs can be removed from the market.

9 To date, the FDA has an existing list of 39 ESD products authorized for sale in the U.S.,¹²
10 however as of September 2025, there are over 6,800 ESD products available for sale.¹³ S.B. 2410
11 would strengthen the ability for AG to enforce the FDA list by requiring that every manufacturer
12 of an ESD or e-liquid sold in the State must certify that an MGO was received and that they are
13 compliant with both state and federal laws.

14 The DOH is concerned with the changing nature of the vaping epidemic with shifts to
15 younger ages and the rise in use among young adults, the long-term health consequences, and
16 insufficient protections from ESD marketing. The DOH supports S.B. 2410 as a coordinated
17 public health measure to enforce FDA MGO and regulate illegal ESDs from being sold in Hawaii.

⁷ *Hawai'i IBIS - Query Result—Hawai'i Youth Risk Behavior Survey (YRBS) Data—Electronic vapor product—Current use, Middle Schools, County-level.* (n.d.). Retrieved February 2, 2026, from https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr_MS_CNTY.html

⁸ *Hawai'i IBIS - Query Result—Hawai'i Youth Risk Behavior Survey (YRBS) Data—Electronic vapor product—Ever use, Middle Schools, County-level.* (n.d.). Retrieved February 2, 2026, from https://hhdw.org/report/query/result/yrbs/VaporEver/VaporEver_MS_CNTY.html

⁹ *Hawai'i IBIS - Query Result—Hawai'i Youth Risk Behavior Survey (YRBS) Data—Electronic vapor product—Current use, High Schools, .* Retrieved February 2, 2026, from https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr_HS_ST.html

¹⁰ *Hawai'i IBIS - Query Result—Hawai'i Youth Risk Behavior Survey (YRBS) Data—Electronic vapor product—Ever use, High Schools, .* Retrieved February 2, 2026, from https://hhdw.org/report/query/result/yrbs/VaporEver/VaporEver_HS_ST.html

¹¹ Hawaii News Now. (2025, April 30). *As vaping increases among youth, health officials warn of links to anxiety and depression* [Video recording]. <https://www.youtube.com/watch?v=ffYL4E6SY4U>

¹² U.S. Food & Drug Administration. (2026, January 21). *Searchable Tobacco Products Database.* <https://www.accessdata.fda.gov/scripts/searchtobacco/>

¹³ CDC Foundation. (2025, September). *E-Cigarette & Tobacco Monitoring and Research.* Monitoring Tobacco Product Use. <https://tobacomonitoring.org/>

1 **Offered Amendments:** None

2 Thank you for the opportunity to testify on this measure.

OFFICE OF INFORMATION PRACTICES

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EMAIL: oip@hawaii.gov

To: Senate Committees on Health and Human Services and on
Commerce and Consumer Protection

From: Carlotta Amerino, Director

Date: February 6, 2026, 9:00 a.m.
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 2410
Relating to Health

Thank you for the opportunity to submit testimony on this bill, which would require electronic smoking device and e-liquid manufacturers to submit certifications with the Department of Taxation (TAX) annually. The Office of Information Practices (OIP) **takes no position on the substance of this bill, but has concerns about the overly broad confidentiality provision** on bill page 3.

Proposed subsection 28-___(d) makes confidential a manufacturer's submission to the Department of Health (DOH) of the "marketing granted order" issued by the Food and Drug Administration (FDA). Subsection 28-___(d) would prohibit the disclosure of this information even to other agencies. In other words, manufacturers are required to give DOH proof that each model or brand they wish to sell is approved by the FDA, but this subsection would make that proof completely confidential and prohibit showing that proof to any other agency, even the Department of the Attorney General. The records showing that a manufacturer has the FDA's approval to sell a product do not appear to be so confidential that they cannot be disclosed even to law enforcement agencies. There also is no

apparent reason why the public should not be allowed to know whether a product sold in Hawaii is FDA-approved.

Furthermore, after subsection 28-____(d) states that the information submitted by the manufacturer is confidential, it goes on to state that the manufacturer “may redact certain confidential commercial or financial information under subsection (c)(1).” This appears to mean that the manufacturers would be disclosing this information to DOH in redacted form in the first place, which further calls into question the purpose of the confidentiality provision. If a manufacturer has already redacted what it considers confidential commercial or financial information from the marketing granted order it submits to DOH, why should that redacted version still be withheld from the public as confidential commercial or financial information?

It is also unclear why the proposed subsection would give the discretion to redact information to the manufacturer, which is not subject to the UIPA. **OIP therefore respectfully recommends that the sentence allowing the manufacturer to redact information be removed, or, if kept, that the sentence be changed to give the discretion to redact information to DOH, instead of the manufacturer.**

The Uniform Information Practices Act (Modified) (UIPA), chapter 92F, Hawaii Revised Statutes (HRS), provides an exception to public disclosure of government records that applies to confidential commercial and financial information. The exception found in section 92F-13(3), HRS, for “records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function” already protects confidential business information. Therefore if the marketing granted order issued by the FDA does contains information qualifying as confidential commercial or financial

information, perhaps in the form of confidential marketing plans, then that section of the letter could still be withheld or redacted under the UIPA without need for a special confidentiality provision. **OIP therefore respectfully recommends the deletion of subsection 28-__ (d).** Alternatively, **if this Committee prefers to leave in the authorization for a manufacturer to redact the marketing granted order before disclosing it to DOH and to require DOH to only disclose marketing granted orders when required to by law,** OIP recommends that subsection 28-__ (d) be amended to read as follows:

“(d) Subject to DOH’s approval, the manufacturer may redact certain confidential commercial or financial information from a marketing granted order disclosed under subsection (c)(1), and DOH shall not publicly disclose a marketing granted order submitted under subsection (c)(1) except as required by chapter 92F and other applicable laws.”

Thank you for considering OIP’s testimony.



To: The Honorable Joy San Buenaventura, Chair
The Honorable Angus McKelvey, Vice Chair
Senate Committee on Health and Human Services

The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
Senate Committee on Commerce and Consumer Protection

From: Paula Arcena, External Affairs Vice President
Mike Nguyen, Director of Public Policy
Maria Rallojay, Public Policy Specialist

Hearing: Friday, February 6, 2026, 9:00am, Conference Room 229

RE: **SB2410 Relating to Health**

AlohaCare appreciates the opportunity to provide testimony in **support** of **SB2410**. This measure would (1) require electronic smoking device and e-liquid manufacturers to certify to the Department of Attorney General annually that the manufacturer received a Marketing Granted Order from the federal Food and Drug Administration and that the manufacturer is in compliance with federal regulations and state laws; (2) require the Department to compile and make public a directory of all electronic smoking device and e-liquid manufacturers and products duly certified; and (3) establishes penalties for manufacturers that fail to comply with certification requirements and for other parties that sell products that are not in the directory.

AlohaCare is a community-rooted, non-profit health plan founded by Hawai'i's Community Health Centers and the Queen Emma Clinics. We serve over 66,000 Medicaid and Medicaid-Medicare dual-eligible residents on all islands. Since 1994, AlohaCare has partnered with providers, government entities, and community-based organizations to meet the evolving needs of our safety net community as Hawai'i's only health plan focused solely on Medicaid-eligible individuals. Our mission is to serve individuals and communities in the true spirit of aloha by ensuring and advocating for equitable access to quality, whole-person care for all.

AlohaCare's commitment to whole-person care includes promoting the long-term well-being across the communities we serve. Vaping, especially among youth, has real and preventable health impacts. This may include nicotine addiction that can affect brain development and increased risk of progression to other tobacco use. Disposable e-cigarettes are also widely used by youth and are often highly appealing



to them due to design and ease of access. For these reasons, AlohaCare supports any measure that eliminates or limits the availability of e-cigarettes in our communities, particularly products that appeal to or are easily accessed by youth.

Mahalo for this opportunity to testify in **support** of **SB2410**.



HIPHI Board

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Dina Shek, JD
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For Children in Hawai'i

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Hawaiian Research Office

Danette Wong Tomiyasu, MBA
Retired, Hawai'i State Department of
Health

HIPHI Initiatives

Coalition for a
Tobacco-Free Hawai'i

Community-Based Research &
Evaluation

Community Health
Worker Initiatives

Environmental Health

Hawai'i Climate Change and Health
Working Group

Hawai'i Drug & Alcohol-Free Coalitions

Hawai'i Immunization Coalition

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Collective/Healthy Aging &
Community Living

Public Health Workforce Development

Date: February 4, 2026

To: Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. McKelvey, Vice Chair
Members of the Senate Committee on Health and Human Services

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Senate Committee on Commerce and Consumer
Protection

RE: Support for SB 2410, Relating to Health

Hrg: Friday, February 6, 2026, at 9:00 AM, Room 229

The Coalition for a Tobacco-Free Hawai'i, a program of Hawai'i Public Health Institute¹ is in **Support of SB 2410**, which would require electronic smoking device and e-liquid manufacturers to certify to the Department of Attorney General annually that the manufacturer received a Marketing Granted Order from the federal Food and Drug Administration and that the manufacturer is in compliance with federal regulations and state laws.

Only 39 Products on FDA Authorized List

Currently there are thousands of unauthorized e-cigarette products on the market driving youth initiation and uptake. The U.S. Food and Drug Administration (FDA) is the agency responsible for regulating the e-cigarette industry. The FDA has a pre-market tobacco product application process to evaluate e-cigarette products to ensure they are appropriate for the protection of public health. To meet the FDA's standards, an e-cigarette must assist adult smokers in reducing their use of combustible cigarettes without appealing to youth. This differs from the standard used for medical devices and prescription drugs—which must prove they are safe and effective—because all tobacco products are inherently harmful.

Remove Thousands of Unauthorized Products from Hawai'i

If SB 2410 passes as is, this would narrow the list of available e-cigarette products to only those that have received marketing authorization from the FDA. The list of authorized products is less than 40 because the majority of e-cigarettes products on the market appeal to youth. While there are a couple of menthol-flavored products on that list, this proposal would eliminate all other flavored electronic smoking devices other than tobacco.



We applaud the Legislature for considering this measure, and thank this committee for your consideration of SB 2410. We respectfully ask you to pass this measure as is.

Mahalo,

A handwritten signature in black ink that reads "Kevin Ramirez". The signature is fluid and cursive.

Kevin Ramirez
Coalition for a Tobacco-Free Hawai'i Program Manager
Hawai'i Public Health Institute

1 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.



Hawaii COPD Coalition

P O Box 240053

Honolulu, HI 96824

hicopd@gmail.com

(808)699-9839

February 3, 2026

RE: **Please hear and Pass SB2410, Relating to Health**

Dear Chairs San Beunaventura and Keohokalole and Vice Chairs McKelvey and Fukunaga and members of the Senate Committees on Health & Human Services and Commerce & Consumer Protection:

This measure is extremely critical to the health of the children of our state and our entire state as well. **Please hear AND pass SB2410** which would require the Department to compile and make public a directory of all electronic smoking devices and e-liquid manufacturers and products duly certified, as well as penalize any manufacturer and party selling products not in the directory in compliance with federal regulations and state laws and not in the directory.

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.

- This directory bill will ban all tobacco products that aren't on a pre-approved list of 39 products from the FDA.
- Passing this will remove thousands of different e-cigarette products currently available for purchase.
- Most products targeting youth will be made illegal, helping keep our keiki safe from Big Tobacco.
- California has established a similar practice to help ensure only approved products are sold in their state.

Please help protect the lungs and lives of our people from flavored and mislabeled nicotine products. We urge you to **please HEAR and vote in favor of SB2410 pass it out of committees only allow FDA approved and authorized ESDs listed in directory to be sold in our state.** The Hawaii COPD Coalition thanks you very much for your careful consideration of this most important and timely bill.

Very truly yours,

Valerie Chang

Valerie Chang

Executive Director



Hearing on 2-6-26

Testimony in Strong Opposition to Senate Bill 2410

Dear HHS/CPN Committees,

The Hawaii Smokers Alliance STRONGLY OPPOSES HB 2410 relating to the excessive and anti-competitive overregulation designed to damage or destroy our local vape retailers. Considering the Anti-smoking lobby source of this bill, there is no doubt that they would love to create a **costly and unworkable mess** for local businesses that sell these products while reducing available inventory to almost nothing. Furthermore, the businesses would be deprived of their chapter 91 rights to have Administrative Rules, public notice, and the proper review process.

The problem started with the FDA itself for denying or ignoring applications based on subjective and biased opinions by the FDA.

- **“Insufficient Evidence on Flavors:** The vast majority of denied applications were for flavored products (e.g., fruit, dessert, candy). The FDA's standard required **"robust"** evidence that flavored products were **"superior"** to tobacco-flavored products in aiding adult smokers to switch, which most companies failed to provide.”
- **“Failure to Demonstrate Public Health Benefit:** The FDA evaluates PMTAs (Pre-market Tobacco Product Applications) based on whether a product is "appropriate for the protection of the public health" (APPH). For most products, especially flavored ones, **applicants did not provide sufficient scientific evidence that their products helped adult smokers quit** or switch better than tobacco-flavored products.”(1)

“Sufficient, superior, or robust” could mean almost anything, so the FDA only approved a token number of products – 40 approved out of 27 million applications. Somehow a few flavored products were acceptable and most weren’t – for the same flavor. How???

As result this bill seeks to punish constituents and local businesses that sell these products because of the grossly unsatisfactory and biased actions of the FDA. The FDA also has court cases against it because of their failed handling of the process. Since the FDA is the source of the problem and the FDA has enforcement purview, it needs to be the FDAs job to fix the issue. The State of Hawaii Government shouldn't be dumping ground for their foolish problems.

Please remember that SB2410 is a purely special interest bill. Committee Members, how many normal constituents that aren't anti-smoking activists even know what CFR Title 21- chapter 1, K, part 1114. is or an FDA Marketing Order? I'm sure they care even less.

Therefore, passing this bill will impress a very small number of professional anti-smoking activists and anger vast numbers of people whose health and enjoyment has improved because of vaping products.

Respectfully request that this mean spirited, convoluted, mess of a bill not leave the HHS/CPN committees. Thank you for your time.

Sincerely,

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

808-952-0275. Hawaiiismokersalliance.net

(1) AI overview "why did the majority of ENDS not get marketing orders"



Hawaii Medical Association

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SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. McKelvey, Vice Chair

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Date: February 6, 2026

From: Hawaii Medical Association (HMA)

Elizabeth Ann Ignacio MD - Chair, HMA Public Policy Committee

Christina Marzo MD and Robert Carlisle MD, Vice Chairs, HMA Public Policy Committee

RE HB 2410 RELATING TO HEALTH: AG; Electronic Smoking Devices; E-Liquids; Marketing Granted Order; Directory; Penalties
Position: **Support**

This measure would require electronic smoking device and e-liquid manufacturers to certify to the Department of Attorney General annually that the manufacturer received a Marketing Granted Order from the federal Food and Drug Administration and that the manufacturer is in compliance with federal regulations and state laws; require the Department to compile and make public a directory of all electronic smoking device and e-liquid manufacturers and products duly certified; establish penalties for manufacturers that fail to comply with the certification requirements and for other parties that sell products that are not in the directory.

Local public health reporting indicates that 46% of Hawaii high school students who vape are vaping every day, reflecting strong patterns of frequent use among current youth vapers. Companies have aggressively marketed to youth using social media and enticing flavors. While the legal minimum age for purchasing tobacco products in Hawaii is 21, some teens are circumventing age verification by purchasing e-cigarettes online and then both using and reselling the products.

Teen vaping exposes adolescents to nicotine addiction, harms brain development (affecting attention, learning, and mood), and increases the risk of respiratory symptoms and later use of combustible tobacco and other substances.

HMA supports this measure that strengthens consumer protection and public health by helping prevent the sale of unauthorized vaping products that have not met federal premarket standards, while improving transparency and enforceability for retailers and regulators in our state.

Thank you for allowing the Hawaii Medical Association to submit testimony in support of this measure.

2026 Hawaii Medical Association Public Policy Coordination Team

Elizabeth A Ignacio, MD, Chair • Robert Carlisle, MD, Vice Chair • Christina Marzo, MD, Vice Chair
Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director

2026 Hawaii Medical Association Officers

Nadine Tenn-Salle, MD, President • Jerald Garcia, MD, President Elect • Elizabeth Ann Ignacio, MD, • Immediate Past President
Laeton Pang, MD, Treasurer • Thomas Kosasa, MD, Secretary • Marc Alexander, Executive Director

REFERENCES AND QUICK LINKS

DeGracia, Daniel. "Understanding Youth Vaping in Hawai'i." *LivingHealthy.Hawaii.gov*, 9 Dec. 2025, livinghealthy.hawaii.gov/tobacco-free/vaping/.

Erythropel HC, Jabba SV, Silinski P, et al. Variability in Constituents of E-Cigarette Products Containing Nicotine Analogues. *JAMA*. 2024;332(9):753–755. doi:10.1001/jama.2024.12408

Whitacre TR, Crippen A, Monthrope M, et al. Tobacco product flavour policies in the USA *Tobacco Control* 2025;34:688-693.

Pattani, Aneri. "Many Young Adults Who Began Vaping as Teens Can't Shake the Habit." *KFF Health News*, 12 June 2024, www.kffhealthnews.org/news/article/many-young-adults-who-began-vaping-as-teens-cant-shake-the-habit/

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2024 Hawaii Medical Association Public Policy Coordination Team

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Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director

SB-2410

Submitted on: 2/5/2026 8:54:47 AM

Testimony for HHS on 2/6/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Shani Carvalho	Testifying for Hamakua-Kohala Health	Support	Written Testimony Only

Comments:

Aloha nui, my name is Shani "Kai" Carvalho and I am in SUPPORT of SB2410 that will allow only FDA authorized ESD products to be sold in the state of Hawaii.

TESTIMONY IN SUPPORT OF SB 2410

TO: Chair San Buenaventura, Chair Keohokalole and Committee Members

FROM: Michael Paul, Certified Tobacco Treatment Specialist

DATE: February 6, 2026 (9:00 AM)

Hawai'i Health & Harm Reduction Center (HHRC) **strongly supports** SB 2410, which require the manufacturers of electronic smoking devices (ESDs) and e-liquids to certify that they have received a Marketing Granted Order from the FDA and that the manufacturer is compliant with all state and federal laws. As well, this bill directs the Department of Attorney General to create a public directory off all certified electronic smoking devices and e-liquids.

The Food and Drug Administration has only approved 39 ESD products for sale in the United States, and yet, today there are thousands of different ESD products widely available for sale in many Hawai'i retailers. When manufacturers apply for FDA approval of their tobacco products, including ESDs, the FDA evaluates the impact of the product on public health. This includes weighing how much a product may assist adult smokers in reducing or eliminating their combustible cigarette use versus the potential for youth appeal. Thousands of ESDs and e-liquids for sale in our state do not meet that standard.

In my experience as a tobacco treatment specialist helping adults to quit or reduce their dependence on tobacco products, I have met many people who started vaping in middle or high school, and now as adults struggle to quit. They express similar experiences of being lured in by the flavors and ease of use of ESDs.

If SB 2410 is passed thousands of products that appeal to youth, and in some cases have been openly marketed to them, fueling our high rates of youth vaping, would no longer be on store shelves. Out of the thousands of pre-marketing applications for ESD products that the FDA has evaluated, only 39 have been approved.

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions.



With the ongoing support of the Hawai'i Community Foundation, HHHRC continues to offer smoking cessation services that are tailored to meet the needs of our state's LGBTQ+ people, and other priority populations through its [Hawai'i's Last Drag](#) (HLD) program. We work with individuals in ways that are most appropriate for their current needs, with trainings conducted in person or via phone, text, or videoconferencing. We provide smoking cessation products to assist them with quitting the consumption of smoked tobacco and other nicotine products.

Thank you for the opportunity to testify on this measure.

February 6, 2026

Aloha Chairs San Buenaventura and Keohokalole, Vice Chairs McKelvey and Fukunaga, and members of the joint Senate Health and Human Services, and Commerce and Consumer Protection committees.

I am writing in support of SB 2410, "Relating to Health."

The Hawaii Attorney General has deemed that currently only representatives of the U.S. Food and Drug Administration has the authority to enforce its rules intended to govern illegally marketed tobacco products. Earlier this year the White House administration gutted the FDA's tobacco prevention and control division leaving enforcement efforts in limbo. Therefore it is imperative that the Hawaii State Legislature expand the Hawaii AG's office authority to also enforce against the unauthorized marketing and sale of electronic smoking devices. SB 2410 would grant that authority to the Hawaii AG's office.

E-cigarettes have quickly become one of the most popular nicotine devices sold illegally our our keiki and young people. In addition to serving as a way to hook our children at early ages on nicotine (which can also lead to increasing their vulnerability to other potentially deadly addictions, and to leading health risks such as cardiovascular disease, Hawaii's leading cause of death and disability).

Unfortunately, many of the e-cigarettes offered for sale in Hawaii are are not approved by the U.S. Food and Drug Administration as safe for sale or consumption and are therefore on the market illegally. Because of recent cuts to the FDA's Tobacco Control and Prevention Program by the current administration, the need to regulate those products falls is falling on state and local legislators to protect their constituents and environments.

I urge you to support SB 2410 to help reign in the illegal sale and use of those products and to support the Hawaii Attorney General's office in enforcing against their illegal sale to minors.

Mahalo for your attention to this important bill.

Respectfully submitted,

Don Weisman
Kailua, HI

SB-2410

Submitted on: 2/3/2026 6:13:28 AM

Testimony for HHS on 2/6/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

Please support this bill. Mahalo.

Date: February 3, 2026

To: The Honorable Joy A. San Buenaventura, Chair
The Honorable Angus L.K. McKelvey, Vice Chair
Members of the Senate Committee on Health and Human Services

The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection

Re: **Support for SB2410**, Relating to Health

Hrg: Friday February 6, 2026 at 9:00 am Conference Room 229 & Videoconference

Aloha Senate Committees on Health and Human Services, and, Commerce and Consumer Protection,

As a parent, community member and healthcare professional I am writing in **strong support of SB2410**, which requires electronic smoking device and e-liquid manufacturers to certify to the Department of Attorney General annually that the manufacturer received a Marketing Granted Order from the federal Food and Drug Administration and that the manufacturer is in compliance with federal regulations and state laws; requires the Department to compile and make public a directory of all electronic smoking device and e-liquid manufacturers and products duly certified; and, establishes penalties for manufacturers that fail to comply with the certification requirements and for other parties that sell products that are not in the directory.

SB2410 will remove thousands of unregulated e-cigarette products currently available for purchase in Hawai'i for which FDA approval for marketing *has not* been granted.

Most e-cigarette products which target our youth are unapproved and under **SB2410** will be removed from sale, helping protect our keiki from life-long nicotine addiction.

To date, sixteen states have established similar registries to ensure that only FDA-approved products are sold in their states.

I **strongly support SB2410**, respectfully ask you to pass it out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Keaau, HI

SB-2410

Submitted on: 2/3/2026 1:26:18 PM

Testimony for HHS on 2/6/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jay	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Jay Ihara, and I support SB2410. This bill aims to ban all tobacco products that are not included on a pre-approved list of 39 products approved by the FDA. If passed, it will eliminate thousands of e-cigarette products currently available for sale. Most products targeting youth will become illegal, helping to protect our children from the influence of Big Tobacco. California has implemented a similar strategy to ensure that only approved products are sold in their state.

Thank you for your time and consideration.

SB 2410

Ban on all tobacco products not on FDA pre-approved list

I am writing in strong support of SB 2410 which bans all tobacco products not on the FDA's pre-approved list. This will effectively ban thousands of tobacco products, mostly electronic tobacco devices, which until now have been unregulated and easily available to both teens and adults. At present there are 39 approved tobacco products. Most of the banned products have been specifically targeted towards youth, with attractive packaging, screens with games, and catchy flavors. The nicotine concentrations are very high and addictive, assuring a captive audience for years to come. The single use cartridges have been piling up on our beaches and streets, and are resulting in a fire risk from the lithium ion batteries and pollution from heavy metals , plastics, and nicotine.

This bill is a good start in ridding Hawaii of the burden of flavored tobaccos, which have had a devastating effect on our keiki, schools, and the environment. Many thanks for taking this step and voting to protect our kids.

Respectfully,

Linda Weiner, MD

Retired pediatrician, Kauai

SB-2410

Submitted on: 2/3/2026 2:07:52 PM

Testimony for HHS on 2/6/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Donita Garcia	Individual	Support	Written Testimony Only

Comments:

- This directory bill will ban all tobacco products that aren't on a pre-approved list of 39 products from the FDA.
- Passing this will remove thousands of different e-cigarette products currently available for purchase.
- Most products targeting youth will be made illegal, helping keep our keiki safe from Big Tobacco.
- California has established a similar practice to help ensure only approved products are sold in their state.

SB-2410

Submitted on: 2/3/2026 2:56:38 PM

Testimony for HHS on 2/6/2026 9:00:00 AM

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

Comments:

Aloha Chairs and Vice Chairs of the HHS/CCP committees.

I am in full support of SB2410. As a parent, recent grandparent and tobacco treatment specialist it is imperative that we work together to take control of the impact that these products have had on our youth and those who thought that they were doing the right thing in switching from smoking cigarettes.

- This directory bill will ban all tobacco products that aren't on a pre-approved list of 39 products from the FDA.
- Passing this will remove thousands of different e-cigarette products currently available for purchase.
- Most products targeting youth will be made illegal, helping keep our keiki safe from Big Tobacco.
- California has established a similar practice to help ensure only approved products are sold in their state.

Mahalo Valerie Smalley

SB-2410

Submitted on: 2/3/2026 7:01:59 PM

Testimony for HHS on 2/6/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Scott Stensrud	Individual	Support	Written Testimony Only

Comments:

I strongly support SB2410 which would create a registry of approved electronic smoking devices for sale. Currently the state has no way to keep illegal devices off of store shelves and can only ask retailers to stop selling them. Without this bill unscrupulous retailers will continue to sell these products putting their profits over the health of our people.

Please pass SB2410 and protect our environment and community health.

SB-2410

Submitted on: 2/4/2026 10:07:04 PM

Testimony for HHS on 2/6/2026 9:00:00 AM

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

Comments:

Aloha,

As a parent, pediatrician, and medical director of the Kapi’olani Smokefree Families Program, I strongly support this bill, which will prevent the sale of tobacco products that are not any of the 39 pre-approved products by the FDA.

The American Academy of Pediatrics has strongly supported elimination of tobacco and nicotine products. These products have been shown to be disproportionately used by young people. Big Tobacco and vaping companies are blatantly disregarding the FDA approval process and flooding the market with illegal unapproved nicotine products.

Hawaii has one of the highest rates of middle schoolers (16%) and high schoolers (26%) currently using e-cigarettes—it is twice the national average. Nicotine is a highly addictive drug that impacts the adolescent brain, reducing impulse control and affecting mood. Those who use e-cigarettes are four times more likely to smoke regular cigarettes later on. The e-cigarette industry claims these are cessation devices, but a recent study has shown that even if one adult can quit with these devices, the trade-off is 81 young people who will start the habit in their place. This is completely unacceptable.

Once young people are addicted to nicotine, it is extremely difficult to quit. By eliminating the wide range of unapproved nicotine products from Hawaii, we have the chance to improve the health of many, especially of our keiki.

On behalf of the keiki and young people of Hawaii, I urge you to support this bill.

Mahalo for your consideration and support of this important measure.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

SB-2410

Submitted on: 2/2/2026 6:17:13 PM

Testimony for HHS on 2/6/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sean Higa	Individual	Oppose	Written Testimony Only

Comments:

These excessive regulations will take away the vapes I enjoy. Please vote no to this bill.

SB-2410

Submitted on: 2/3/2026 10:26:39 AM

Testimony for HHS on 2/6/2026 9:00:00 AM

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

Comments:

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SB-2410

Submitted on: 2/4/2026 10:48:27 AM

Testimony for HHS on 2/6/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jason Park	Individual	Oppose	Written Testimony Only

Comments:

This topic is for the FDA not the State.

SB-2410

Submitted on: 2/4/2026 1:34:47 PM

Testimony for HHS on 2/6/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jeff Stevens	Individual	Oppose	Written Testimony Only

Comments:

Dear Committees,

The FDA needs to enforce their own regulations. This bill is stupid and bad for small businesses.

Regards,

Jeff Stevens



**STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY**
DEPARTMENT OF HEALTH - KA 'OIHANA OLAKINO

JOSH GREEN, MD
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII

KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'ŌKELE

JOHN C. (JACK) LEWIN, MD
ADMINISTRATOR

February 5, 2026

LATE

TO: SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. McKelvey, Vice Chair

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Honorable Members

FROM: John C. (Jack) Lewin, MD, Administrator, SHPDA, and Sr. Advisor to Governor
Josh Green, MD on Healthcare Innovation

RE: SB 2410 -- RELATING TO HEALTH

HEARING: Friday, February 6, 2026 @ 09:00 am; Conference Room 229

POSITION: SUPPORT with COMMENTS

TESTIMONY:

SHPDA strongly supports SB 2410 with comments. It moves Hawai'i toward a more enforceable, "legal products only" marketplace for electronic smoking devices (ESD) and e-liquids. The current environment makes it too easy for non-authorized products, often keiki-appealing and quickly iterating, to reach consumers faster than our local enforcement can respond. A public, up-to-date directory tied to manufacturer accountability is a practical mechanism to tighten compliance across the supply chain and reduce youth access and exposure.

This measure also strengthens the State's enforcement mechanisms by pairing a clear compliance standard with meaningful consequences for repeated violations, and by directing collected fees and penalties into the Tobacco Enforcement Special Fund for administration and enforcement. If implemented well, it can improve transparency for retailers and distributors, reduce ambiguity about what is allowed to be sold, and give agencies better tools to act quickly when products are clearly outside the permitted market.

On fiscal and operational specifics, we defer to the Department of the Attorney General. We would also defer to the Department of Health for public-health impact framing and youth-use considerations.

Mahalo for the opportunity to testify.

■ -- Jack Lewin, MD, Administrator, SHPDA