

STAND. COM. REP. NO. 3480
Honolulu, Hawaii

RE: H.B. No. 2457
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii
Sir:

Your Committees on Commerce, Consumer Protection, and Health and Education, to which was referred H.B. No. 2457, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE YOUTH VAPING EPIDEMIC,"
beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Department of Education to establish a safe harbor program by which persons under twenty-one years of age may dispose of electronic smoking devices in their possession;
- (2) Require public school teachers and educators to confiscate electronic smoking devices;
- (3) Ban the sale of flavored tobacco products, prohibit the mislabeling of e-liquid products containing nicotine, and establish fines and penalties for violations, beginning on January 1, 2021;
- (4) Amend the fines for the purchase or possession of tobacco products and electronic smoking devices by persons under twenty-one years of age; and
- (5) Authorize a court to impose, as a penalty on a person eighteen to twenty-one years of age who is convicted of purchase or possession of a tobacco product or electronic smoking device, the requirement to complete a tobacco education program, complete a tobacco use cessation program, or perform community service instead of paying a fine.

Your Committees received testimony in support of this measure from the Department of Health; Office of the Prosecuting Attorney, County of Hawaii; Maui Police Department; Honolulu Police Department; Hawaii Substance Abuse Coalition; HIPHI Youth Council; Hawaii Public Health Institute; Hawaii Pacific Health; Blue Zones Project; Hawaii Youth Services Network; The Man Cave; Pono Hawaii Initiative; Filipino Women's Civic Club Foundation of Hawaii; Hawaii Primary Care Association; Pediatric Therapies Hawaii; Shaka Tea; We Are One, Inc.; Hui No Ke Ola Pono; American Academy of Pediatrics, Hawaii Chapter; The Friends of Kamalani and Lydgate Park; University of Hawaii Student Health Advisory Council; Pioneering Healthier Communities Initiative; Hawaii Children's Action Network Speaks!; American Cancer Society Cancer Action Network; West Hawaii Community Health Center; Hawaii State Teachers Association; Flavors Hook Kids Hawaii; Kapiolani Smokefree Families; Kamehameha Schools; Windward Nazarene Academy; Maui Preparatory Academy; St. Andrew's Schools; Doris Todd Christian Academy; Maui Christian Academy; Maui Adventist School; Waldorf School; Holy Nativity School; Mid-Pacific; Damien Memorial School; Hawaii Community Foundation; Ken's Towing Service, Inc.; Filipino Nurses Organization of Hawaii; American Heart Association; Hawaii Dental Association; First United Methodist Church of Honolulu; Chamber of Commerce Hawaii; members of various native Hawaiian organizations; and one hundred fifteen individuals. Your Committees received testimony in opposition to this measure from Irie Hawaii; Vape Kings LLC; Cigar Association of America, Inc.; HI Lyfe Vaporz, LLC; R Street Institute; Retail Merchants of Hawaii; The Shop 808; and sixty-seven individuals. Your Committees received comments on this measure from the Department of Education, Department of the Attorney General, and Hawaii Food Industry Association.

Your Committees find that there has been a dramatic increase in the use of electronic smoking devices by Hawaii's youth and that a significant driver of this increase is the availability of flavored products. The tobacco industry and electronic smoking device industry have significantly increased the introduction and marketing of flavored non-cigarette tobacco products for electronic smoking devices. Adding flavors to tobacco changes the taste and reduces the harshness of the otherwise unflavored tobacco product, making smoking more appealing and easier for beginners to try. Therefore, to ensure the health and safety of consumers, especially youth and teenagers, it is necessary to further regulate the electronic smoking device industry, particularly the sale of flavored non-cigarette tobacco products.

Your Committees note that S.B. No. 2538, S.D. 1 (Regular Session of 2020), which was previously passed by the Senate, is a substantially similar measure related to prohibiting the sale and distribution of all flavored tobacco products in the State.

Accordingly, your Committees have amended this measure by:

- (1) Deleting its contents and inserting the contents of S.B. No. 2538, S.D. 1, which:

- (A) Bans the sale of flavored tobacco products;
- (B) Prohibits the mislabeling of e-liquid products containing nicotine;
- (C) Establishes fines and penalties for violations;
- (D) Authorizes a court to impose, as a penalty on a person eighteen to twenty-one years of age who is convicted of possession of a tobacco product or electronic smoking device, the requirement to complete a tobacco education program, complete a tobacco use cessation program, or perform community service instead of paying a fine; and
- (E) Requires a parent or guardian of a minor to select from among the penalties for a minor convicted of possession of a tobacco product or electronic smoking device;

(2) Clarifying the definitions of "electronic smoking device", "e-liquid", and "tobacco product"; and

(3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Health and Education that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2457, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2457, H.D. 2, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

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

MICHELLE N. KIDANI, Chair

ROSALYN H. BAKER, Chair