

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawaii  
Sir:

Your Committees on Health and Lower & Higher Education, to which was referred H.B. No. 2457 entitled:

"A BILL FOR AN ACT RELATING TO THE YOUTH VAPING EPIDEMIC,"

beg leave to report as follows:

The purpose of this measure is to prohibit the sale or distribution of all flavored tobacco products in the State. Among other things, this measure:

- (1) Bans the sale of flavored tobacco products; prohibits the mislabeling of e-liquid products containing nicotine; and establishes fines and penalties for violations, beginning on January 1, 2021;
- (2) Requires the Department of Education to establish a safe harbor program by which persons under 21 years of age may dispose of electronic cigarettes in their possession;
- (3) Requires public school teachers or educators to confiscate electronic cigarettes;
- (4) Increases fines for the purchase or possession of tobacco products and electronic smoking devices by persons under 21 years of age;
- (5) Authorizes a court to impose, as a penalty on a person 18-21 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
- (6) 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.

Your Committees received testimony in support of this measure from the Office of the Prosecuting Attorney, County of Hawaii; Hawaii Primary Care Association; Hawaii Dental Hygienists' Association; Irie Hawaii; Tobacco King LLC; Hawaii Pacific Health; Hawaii COPD Coalition; Coalition for a Tobacco-Free Hawaii; American Cancer Society Cancer Action Network; Hui No Ke Ola Pono; Flavors Hook Kids Hawaii; Kapiolani Smokefree Families; Hawaii Dental Association; The Friends of Kamalani and Lydgate Park; American Academy of Pediatrics, Hawaii Chapter; Hawaii Association of Independent Schools; American Heart Association; over a hundred individuals, and a petition signed by numerous individuals. Your Committees received testimony in opposition to this measure from Hawaii Smokers Alliance; Hawaii Food Industry Association; Cigar Association of America, Inc.; and numerous individuals. Your Committees received comments on this measure from the Department of Education, Department of Health, Department of the Attorney General, and Hawaii State Teachers Association.

Your Committees find that flavored tobacco products are a significant threat to public health. Further, twenty-six local jurisdictions in four states—California, Colorado, Massachusetts, and Minnesota—have enacted legislation to prohibit the sale of flavored tobacco products, including menthol. Your Committees also find that Hawaii should also take steps to regulate flavored tobacco products to reduce tobacco-related health disparities and address the youth vaping epidemic.

Your Committees further find that the Hawaii Tobacco Prevention and Control Trust Fund is comprised of tobacco settlement monies and interest accrued from the investment of monies in the trust fund. The purpose of the trust fund is dictated by the terms of the tobacco master settlement agreement, pursuant to chapter 328L, Hawaii Revised Statutes. Therefore, monies paid from fines in this measure should not be deposited into the trust fund.

Your Committees note that the Department of Health and other organizations did not support the fines proposed by this measure.

Your Committees also note the testimony from the Department of Health, expressing concerns over the Department's ability to receive and dispose of electronic smoking devices that are confiscated or given up willingly through a safe harbor program. Your Committees have also heard the concerns raised in testimony by the Department of the Attorney General regarding the disposition of a minor's adjudication as a law violator as this is under the purview of the family court judge, not the parents or guardians.

Your Committees request that the Department of Health and Department of Education provide more data on vaping and electronic smoking devices in the State, should your Committee on Judiciary deliberate on this measure.

Your Committees have amended this measure by:

- (1) Changing all references of "electronic cigarette" to "electronic smoking device";
- (2) Removing the provision that notified a minor's parent or guardian of a possession violation and allowed them to select the penalty for the minor;
- (3) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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

Respectfully submitted on behalf of the members of the Committees on  
Health and Lower & Higher Education,

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JUSTIN H. WOODSON, Chair

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JOHN M. MIZUNO, Chair