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NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

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HOUSE COMMITTEE ON JUDICIARY
SB1168; SD1, RELATING TO TOBACCO PRODUCTS

Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health

March 29, 2012
2:00PM, Room 325

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Department's Position: Support.

Fiscal Implications: None.

Purpose and Justification: This measure amends HRS §709-908 making it unlawful for persons under 18 years of age to use tobacco products and gives a law enforcement officer the option to confiscate the tobacco product used in violation of this section. The measure proposes to establish a parallel, similar to that for alcohol, where it would be unlawful for a minor to not only purchase but to use tobacco products.

The Department appreciates the testimony of law enforcement and others in opposition to SB1168 SD1 since the current draft allows police only to confiscate the tobacco in use rather than the tobacco in possession by minors, and reduces the consequences for confiscation of tobacco being used rather than in possession. Law enforcement is a valued partner in our goal to eliminate youth smoking, but we do not believe creating a criminal record for the youth, which may jeopardize college applications or employment prospects, is a punishment that fits the offense. We respectfully submit that existing public

1 health anti-smoking interventions have proven to be effective with steady declines over the past decade
2 without youth criminalization.

3

4 Percentage of High School Students Who are Current Smokers:

5 <u>Year</u>	<u>High School</u>
6 2000	24.5%
7 2003	14.9%
8 2005	12.6%
9 2007	9.7%
10 2009	11.3%

11 (Source: Youth Tobacco Survey, DOH, www.HHDW.org)

12

13 SB1168 SD1 permits a law enforcement officer to confiscate tobacco products and that sends a clear and
14 correct message that if consistently enforced, persons under 18 years of age should not use tobacco
15 products. Furthermore, this is accomplished without removing an officer from the street.

16

17 On a related matter of restricting tobacco products to minors, the Department of Health respectfully
18 request consideration of amended language to SB1168 SD1 that 1) defines electronic cigarettes as Other
19 Tobacco Products and 2) establishes bans on the sale of electronic cigarettes to persons under 18 years
20 of age.

21

22 There are currently no age restrictions or health regulations of any kind regarding electronic cigarettes.

23 The Department of Health, with the strong support of electronic cigarette retailers and manufacturers,

1 proposes banning sales to minors as a common sense precaution to a nicotine-delivery device for which
2 little research on its health effects exists.

3

4 SECTION ____ . Section 709-908, Hawaii Revised Statutes, is amended by
5 amending subsection (1) to read as follows:

6 "(1) It shall be unlawful to sell or furnish tobacco in any
7 shape or form, including chewing tobacco and snuff, to a minor under
8 eighteen years of age. For the purposes of this section:

9 "Tobacco" and "tobacco products" include electronic cigarettes.

10 "Electronic cigarette" or "e-cigarette" means any mechanical
11 heating element, battery, or electronic circuit that is intended to
12 deliver a vapor of nicotine or any other substance, the use or
13 inhalation of which simulates smoking. The term shall include any
14 such device, whether manufactured, distributed, marketed, or sold as
15 an e-cigarette, e-cigar, or e-pipe or under any other product name or
16 descriptor, or any cartridge or component of the device or related
17 product."

18

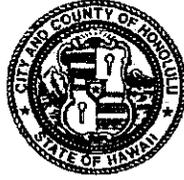
19 Smoking and tobacco use are Hawaii's and the nation's leading cause of preventable illness and death
20 resulting in over 1,100 resident deaths annually and costing over \$640 million for health care and lost
21 productivity. Hawaii's smoking and tobacco use rates are low for both middle and high school students
22 as a result of a supportive foundation of protective laws and a comprehensive tobacco control effort by
23 the Department and community partners.

24

1 A combination of SB1168 SD1 and amended language on electronic cigarettes proposed by the
2 Department of Health strengthens the body of supportive laws and community norms to prevent youth
3 from beginning an addictive tobacco use lifestyle. Thank you for the opportunity to testify on this
4 measure.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org



PETER B. CARLISLE
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE KH-JNB

March 29, 2012

The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members
Committee on Judiciary
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

Subject: Senate Bill No. 1168, S.D. 1, Relating to Tobacco Products

I am Kent Harada, Acting Major of the Community Affairs Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill No. 1168, S.D. 1, in its present form. We need to send a stronger message to minors that purchasing, possessing, or using tobacco in any form is not acceptable and there are consequences to these actions.

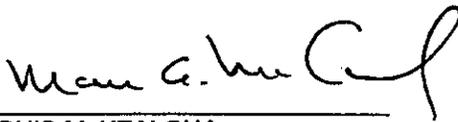
As a result, we prefer Senate Bill No. 1168 in its original form. The consequence for using or possessing tobacco products under Senate Bill No. 1168 is a status offense. It involves community service and monetary fines. Senate Bill No. 1168 does not record a criminal record, and it provides constructive learning in a tobacco use reduction program that helps our youths to break away from any tobacco addictions.

Our youths need to understand that there are consequences for their behavior. By just confiscating cigarettes, our youths do not learn the impact of smoking. Learning is a process that involves education and enforcement. By educating our youths, they learn about the harmful effects of smoking and to make better decisions. Through enforcement, they learn the consequences. Tobacco is a serious addiction and relevant programs are needed to make a difference in our society.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


for LOUIS M. KEALOHA
Chief of Police


KENT HARADA, Acting Major
Community Affairs Division



To: The Honorable Gilbert Keith-Agaran, Chair, Committee on Judiciary
The Honorable Karl Rhoads, Vice Chair, Committee on Judiciary
Members, House Committee on Judiciary
From: Deborah Zysman, MPH, Executive Director
Hrg: House Committee on Judiciary; March 29, 2012 at 2:00 p.m. in Rm 325
Re: **Support the intent of SB 1168, SD1, Relating to Tobacco Products**

Thank you for the opportunity to comment in support of the intent of SB 1168, SD1 which makes youth use of tobacco products unlawful and allows law enforcement to confiscate any tobacco product being used by a minor. The Coalition for a Tobacco Free Hawaii (Coalition) is the only independent organization in Hawaii whose sole mission is to reduce tobacco use through education, policy and advocacy.

The Coalition supports the intent of SB 1168, SD1 which would make it unlawful for a minor under 18 years of age to use tobacco and allows law enforcement to confiscate the tobacco product in use by a minor. The Coalition has opposed similar measures in the past because the consequence could have resulted in a criminal record for the minor.

Although the Coalition supports the intent of SB 1168, SD1, we continue to urge further consideration of other measures that have proven to decrease youth tobacco use including:

- continued strong funding for tobacco prevention programs and counter-marketing campaigns;
- increasing the taxes on tobacco products, and creating parity between the taxes on other tobacco products and cigarettes;
- restricting the ways tobacco is sold and advertised to young people.

Thank you for the opportunity to testify on this matter.

A handwritten signature in black ink, appearing to read "Deborah M. Zysman". The signature is stylized and cursive.

Deborah Zysman, MPH
Executive Director

Testimony for SB1168 on 3/29/2012 2:00:00 PM

Testimony for SB1168 on 3/29/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, March 27, 2012 2:27 PM

To: JUDtestimony

Cc: toddhairgrove@hotmail.com

Testimony for JUD 3/29/2012 2:00:00 PM SB1168

Conference room: 325

Testifier position: Support

Testifier will be present: Yes

Submitted by: Todd Hairgrove

Organization: Individual

E-mail: toddhairgrove@hotmail.com

Submitted on: 3/27/2012

Comments:

Pass bill

March 28, 2012

3/29/12
2:00pm

Representative Gilbert S.C. Keith-Agaran, Chair
and Members
Judiciary Committee
The House
State Capitol
Honolulu, Hawaii 96813

Dear Chair Gilbert Keith-Agaran and Members:

Subject: Senate Bill No. 1168, SD 1, Relating to Tobacco Products

My name is Jackie Oshiro. I'm currently a senior at St. Andrew's Priory, and I stand in strong support of Senate Bill 1168, SD 1, which prohibits the use of tobacco products by minors under eighteen.

Under Hawaii's current laws, although a person must be eighteen or older in order to purchase tobacco products, there are no provisions that say one must be the same age to use these products. The eighteen or older purchasing law is so that minors will not abuse these products, and yet the *use* of them is not condemned under the same law. It simply does not make sense.

As a high school student in Hawaii, I have seen friends and classmates abuse this loophole and take up smoking. I cannot say that I like what it has done to them. Besides the well-known physical effects of tobacco such as cancer, it must be remembered that children under eighteen are still in high school, they still have school to focus on. These should be the things on students' minds. But with friends who smoke, it is less than half a day before they start complaining that they need a cigarette or that they cannot wait until school is over so that they can go off campus and smoke. It is a distraction, and I have seen these friends' grades drop after taking up these bad habits.

In further support of this bill, I believe that people, no matter their age, should be held accountable for their actions. If a minor is smoking and smoking is illegal, then the minor must deal with the consequences. Even though many institutions try to steer people in the right direction, ultimately, the decision to do right or wrong falls on the individual. And just because a person is under the age of eighteen does not mean that they are incapable of making rational decisions. If we are babying children by readily allowing them to do something they ought not to be doing, then we are not helping them in any way, shape, or form to become society-contributing, rational decision-making adults. Although this bill simply makes it so that law enforcement officers may confiscate the tobacco products being used by minor, it is still far more than the law does under status quo.

We all know that smoking is bad and that people, especially children whose bodies and minds are still developing, should not be doing it. It is time to take action, and Senate Bill 1168, SD 1 is a big step in the right decision.

Thank you for your time, and I can only ask for your strongest positive consideration.



Jacqueline Oshiro
Senior at St. Andrew's Priory School

3/29/12
2:00 pm

The Honorable Keith-Agaran Gilbert
And Members
Committee on Judiciary
The House
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran Gilbert and Members:

Subject: Senate Bill No. 1168, SD1, Relating to Tobacco Products

My name is Courtney Nomiya, and I am a 16-year-old student at St. Andrew's Priory.

I stand in strong support of Senate Bill no. 1168, SD1 which prohibits individuals under 18 years of age from using tobacco and allows a police officer to confiscate the drug.

As a person with family members who have experimented with tobacco, including minors, I can attest to its horrific, harmful effects. Not only does it create a multitude of lung problems and ensure long-term illness, it also creates an unhealthy daily lifestyle that detracts the overall mental and physical condition of the individual. My family members who have experimented with tobacco have not yet fully recovered and continue to struggle with finding a stable job and a permanent household.

The way that today's teenagers could understand these consequences and take responsibility for their actions is through the enforcement of this bill. By raising awareness of the harmful effects of tobacco and having law enforcement officials physically remove the drug from possession, teenagers like me would take the issue seriously and understand the possible negative ramifications of their actions. Personally speaking, confiscation of something in my possession by one legally in charge would definitely wake me up and force me to rethink my actions as well as my lifestyle.

If Hawaii is to truly take a stand and show concern for its minors on the issue of tobacco use, this bill would be the answer. Thus, I can only ask for your strongest support on this bill.

Thank you for the opportunity to testify.

Courtney Nomiya

Courtney Nomiya
Student at St. Andrew's Priory

3/29/12
2:50pm

March 29, 2012

The Honorable Gilbert Keith-Agaran
And Members
House Committee on Judiciary

Dear Chair Keith-Agaran and Members of the House Committee on Judiciary:

Subject: SB1168, SD1 – Relating to Tobacco Products

My name is Melissa Lee and I am a senior at St. Andrew's Priory School. Thank you for your consideration of my testimony in support of SB 1168, SD 1. I understand the importance of encouraging Hawaii's youth to make responsible decisions. In this case, we are considering methods to discourage minors from using tobacco products.

Although it is currently illegal for minors to purchase tobacco products, there are virtually no penalties for minors should they be observed using tobacco. In the end, these laws place too few restrictions on the most self-destructive part of the tobacco market: the consuming of tobacco itself. SB 1168, SD 1 will allow police authorities to confiscate a minor's tobacco products should he or she be found using them, creating a greater level of enforcement to help discourage minors from tobacco use.

Overall, I feel that SB 1168, SD 1 is a positive step towards helping eliminate tobacco use amongst Hawaii's youth. I would like to thank you again for considering my testimony, and I respectfully ask for your support.

Sincerely,

Melissa Lee
St. Andrew's Priory School

Testimony for SB1168 on 3/29/2012 2:00:00 PM

Testimony for SB1168 on 3/29/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Wednesday, March 28, 2012 11:43 PM

To: JUDtestimony

Cc: cacc@hawaii.edu

Testimony for JUD 3/29/2012 2:00:00 PM SB1168

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Christi

Organization: Individual

E-mail: cacc@hawaii.edu

Submitted on: 3/28/2012

Comments:

I am a 21 year old college student, and I would like to send my support of this bill. I have worked with students from pre-school to middle school, so I have a great concern for the well-being of children. I would hate to see one of my students ruin their health by smoking or using tobacco products. I am also against secondhand smoke and personally cannot tolerate it. I hate the feeling I get when I see a smoker, knowing I'll have to hold my breath when I walk by them so I don't inhale smoke. I do not want teenagers to be able to ruin their health or the health of those around them. I care about the health of those who live in this beautiful state. Please, let us keep Hawaii a beautiful, clean state by passing this bill.

Testimony for SB1168 on 3/29/2012 2:00:00 PM

Testimony for SB1168 on 3/29/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 29, 2012 2:08 AM

To: JUDtestimony

Cc: shaunatanaka@hotmail.com

Testimony for JUD 3/29/2012 2:00:00 PM SB1168

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Shauna Tanaka Hirota

Organization: Individual

E-mail: shaunatanaka@hotmail.com

Submitted on: 3/29/2012

Comments:

Dear Sir and Madam:

I am writing in support of Senate Bill 1168. As a high school teacher, I am able to see firsthand what students really think, feel and do. Six years ago, my freshmen participated in Project Citizen, during which we brainstormed possible issues to focus on. The students eventually decided to support a bill that would prohibit their peers from being able to not only purchase, but more importantly, prohibit the possession and consumption of tobacco products. Part of the process was to do research on their topic focusing specifically on public policy and various viewpoints. Never had I seen my students get more involved and become more dedicated to a "school" project. Every single person in that class participated in this project because it was more than just an assignment. They truly believed that their peers should not be able to possess and consume tobacco. They researched and understood all the ramifications of not only the tobacco products, but also what they were asking our lawmakers to do. They understood that they were asking to be held responsible for breaking this law and all agreed that it was more important to save the lives and futures of their peers. Many adults did not believe that my freshmen were really willing to not only support but create a law that could potentially punish their peers and themselves. My students believed that as teenagers, although they act like they do not want any rules and limitations, they do need and benefit from having clear boundaries. They also felt that not having a law prohibiting consumption and possession sent the wrong message to teens. As an adult who works with teenagers, who I sincerely believe will benefit from this bill's passage, I support the passage of Senate Bill 1168.

Thank you,

Shauna Hirota

Social Studies Teacher

Moanalua High School

Testimony for SB1168 on 3/29/2012 2:00:00 PM

Testimony for SB1168 on 3/29/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 29, 2012 2:54 AM

To: JUDtestimony

Cc: irwinbonus@creighton.edu

Testimony for JUD 3/29/2012 2:00:00 PM SB1168

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Irwin Bonus

Organization: Individual

E-mail: irwinbonus@creighton.edu

Submitted on: 3/29/2012

Comments:

Testimony for SB1168 on 3/29/2012 2:00:00 PM

Testimony for SB1168 on 3/29/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 29, 2012 4:45 AM

To: JUDtestimony

Cc: sbisho@hotmail.com

Testimony for JUD 3/29/2012 2:00:00 PM SB1168

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Sonya Bishop

Organization: Individual

E-mail: sbisho@hotmail.com

Submitted on: 3/29/2012

Comments:

Testimony for SB1168 on 3/29/2012 2:00:00 PM

Testimony for SB1168 on 3/29/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 29, 2012 7:24 AM

To: JUDtestimony

Cc: mz9995@hotmail.com

Testimony for JUD 3/29/2012 2:00:00 PM SB1168

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Micheal Zehner

Organization: Individual

E-mail: mz9995@hotmail.com

Submitted on: 3/29/2012

Comments:

This bill is excessive. Also, even the anti-smoking lobby has admitted before that it doesn't lower youth smoking rates.

Testimony for SB1168 on 3/29/2012 2:00:00 PM

Testimony for SB1168 on 3/29/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 29, 2012 7:30 AM

To: JUDtestimony

Cc: konaking@live.com

Testimony for JUD 3/29/2012 2:00:00 PM SB1168

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jeff Stevens

Organization: Individual

E-mail: konaking@live.com

Submitted on: 3/29/2012

Comments:

Can the police spend their time going after actual crime? This bill is pure foolishness.

Testimony for SB1168 on 3/29/2012 2:00:00 PM

Testimony for SB1168 on 3/29/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, March 29, 2012 8:44 AM

To: JUDtestimony

Cc: starjenchan@gmail.com

Testimony for JUD 3/29/2012 2:00:00 PM SB1168

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jenny Chan

Organization: Individual

E-mail: starjenchan@gmail.com

Submitted on: 3/29/2012

Comments:

This issue should be left to the parents not the state.