

Honolulu, Hawaii

FEB 15 2019

RE: S.B. No. 1009  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 1009 entitled:

"A BILL FOR AN ACT RELATING TO FLAVORED TOBACCO PRODUCTS,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit the  
sale or offering for sale of any flavored tobacco product,  
including menthol tobacco products, within the State beginning on  
January 1, 2020.

Your Committee received testimony in support of this measure  
from the Department of Health; Department of Education; Office of  
the Prosecuting Attorney of the County of Hawai'i; one member of  
the Hawai'i County Council, one member of the Maui County Council;  
Hawai'i Public Health Institute; Hawai'i Primary Care Association;  
Hawaii State Teachers Association; Hawai'i Pacific Health;  
Coalition for Tobacco Free Hawai'i's Youth Council; Hawaii Youth  
Services Network; Hawaii Dental Hygienists' Association; Lanai  
Community Health Center; Peer Education Program; American Cancer  
Society Cancer Action Network; University of Hawaii Student Health  
Advisory Council; The Root Cellar Studio Maui; Patients Without  
Time; American Heart Association; Keiki Injury Prevention  
Coalition; Bridge Club Hawaii; We Are One, Inc.; Blue Zones  
Project; Pediatric Therapies Hawaii; The Man Cave; Hawaii COPD  
Coalition; Ho'omanapono Political Action Committee; Pearl City  
Neighborhood Board No. 21; over eighty individuals; and a petition



signed by two hundred ninety-two individuals. Your Committee received testimony in opposition to this measure from Retail Merchants of Hawaii, Vape Kings, Smokeless Hawaii, Black Lava Vape, Hawaii Smokers Alliance, Volcano Fine Electronic Cigarettes, HI Lyfe Vaporz, Hawaii Petroleum Marketers Association, and more than fifty-five individuals. Your Committee received comments on this measure from the Department of the Attorney General and Hawaii Food Industry Association.

Your Committee finds that tobacco use remains the leading cause of preventable disease and death in the United States and in Hawaii. An estimated twenty-one thousand children in Hawaii currently under the age of eighteen will ultimately die prematurely from smoking. Public health experts have expressed concerns that flavored tobacco products promote youth initiation of tobacco use because flavors can mask the natural harshness and taste of tobacco, which makes flavored tobacco products easier to use and increases their appeal among new users. Your Committee further finds that flavored tobacco products, including menthol tobacco products, pose a substantial health risk to Hawaii's citizens, particularly to children and teenagers. The State has a substantial interest in protecting its residents from tobacco dependence and the illness and premature death associated with tobacco use.

Your Committee has amended this measure by:

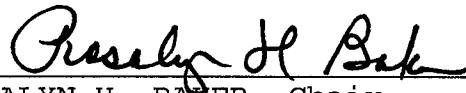
- (1) Adopting amendments suggested by the Department of the Attorney General to:
  - (A) Amend language establishing a rebuttable presumption that a tobacco product is a flavored tobacco product for consistency with other presumptive language in the Penal Code;
  - (B) Clarify that only flavored tobacco products, rather than all tobacco products, are to be considered contraband and forfeited;
  - (C) Specify the specific penalties for violations of the criminal offense established by this measure and make an associated conforming amendment; and



- (D) Remove language requiring this measure to be liberally construed, as this could lead to ambiguity when referring to criminal offenses; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1009, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1009, S.D. 1, and be referred to your Committee on Judiciary.

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

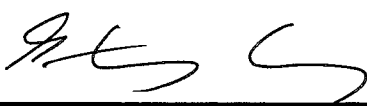


ROSALYN H. BAKER, Chair



The Senate  
 Thirtieth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

|   |                     |                 |                     |         |
|---|---------------------|-----------------|---------------------|---------|
| Bill / Resolution No.:*   | Committee Referral: | Date:           |                     |         |
| SB 1009   | CPH, JDC            | 2/13/19         |                     |         |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure.<br>If so, then the previous decision was to: _____ |                     |                 |                     |         |
| The Recommendation is:  |                     |                 |                     |         |
| <input type="checkbox"/> Pass, unamended<br>2312  |                     |                 |                     |         |
| <input checked="" type="checkbox"/> Pass, with amendments<br>2311   |                     |                 |                     |         |
| <input type="checkbox"/> Hold<br>2310   |                     |                 |                     |         |
| <input type="checkbox"/> Recommit<br>2313   |                     |                 |                     |         |
| Members   | Aye                 | Aye (WR)        | Nay                 | Excused |
| BAKER, Rosalyn H. (C)   | ✓                   |                 |                     |         |
| CHANG, Stanley (VC)   | ✓                   |                 |                     |         |
| KEOHOKALOPE, Jarrett  |                     |                 |                     | ✓       |
| NISHIHARA, Clarence K.  | ✓                   |                 |                     |         |
| RUDERMAN, Russell E.  | ✓                   |                 |                     |         |
| THIELEN, Laura H.   | ✓                   |                 |                     |         |
| FEVELLA, Kurt   | ✓                   |                 |                     |         |
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| <b>TOTAL</b>  | 6                   |                 |                     | 1       |
| Recommendation:   |                     |                 |                     |         |
| <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted  |                     |                 |                     |         |
| Chair's or Designee's Signature:  |                     |                 |                     |         |
|   |                     |                 |                     |         |
| Distribution:   |                     |                 |                     |         |
| Original  | Yellow              | Pink            | Goldenrod           |         |
| File with Committee Report  | Clerk's Office      | Drafting Agency | Committee File Copy |         |

\*Only one measure per Record of Votes