

STAND. COM. REP. NO. 1704

Honolulu, Hawaii

MAR 14 , 2019

RE: S.B. No. 1405  
S.D. 2  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Health, to which was referred S.B. No. 1405, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ELECTRONIC SMOKING PRODUCTS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish the offense of unlawful shipment of e-liquid products;
- (2) Amend the definition of tobacco products to include e-liquids for the purposes of taxation and regulation;
- (3) Increase the tobacco wholesaler or dealer license and retail tobacco permit fees;
- (4) Allocate portions of the tobacco tax revenues to the Hawaii Tobacco Prevention and Control Trust Fund and to support tobacco and cancer prevention research; and
- (5) Repeal various statutory provisions relating to electronic smoking devices made obsolete by this measure.



The Department of Health, a member of the County Council of the County of Maui, Coalition for a Tobacco-Free Hawai'i, American Heart Association, Hawai'i Pacific Health, Blue Zones Project, Student Health Advisory Council, Hawaii COPD Coalition, Hawaii State Teachers Association, Hawaii Primary Care Association, American Cancer Society Cancer Action Network, Keiki Injury Prevention Coalition, O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, and numerous individuals testified in support of this measure. Black Lava Vape, Irie Hawaii Stores, VOLCANO Fine Electronic Cigarettes, HI Lyfe Vaporz, Retail Merchants of Hawaii, Hawaii Smokers Alliance, and numerous individuals testified in opposition to this measure. The Department of the Attorney General, Department of Taxation, Hawaii Petroleum Marketers Association, and Tax Foundation of Hawaii provided comments.

Your Committee has amended this measure by:


- (1) Inserting a severability clause to preserve the valid portions of this Act should any portion be deemed invalid or preempted by future federal action; and
- (2) Making technical, nonsubstantive amendments.

Should your Committee on Judiciary deliberate this measure further, your Committee on Health requests that the Department of Health and American Heart Association provide statistical information on the efficacy of e-cigarette use by those seeking to quit smoking to your Committee on Health, to be distributed to all interested legislators. Your Committee further requests that the Attorney General provide information on possible conflicts with federal law, in particular the interstate commerce clause, and on the possibility of any equal protection violations that may arise out of restricting the ability of Hawaii merchants and retailers to receive tobacco products while allowing out-of-state merchants and retailers to continue shipping tobacco products.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1405, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1405, S.D. 2, H.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on  
behalf of the members of the  
Committee on Health,

  
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JOHN M. MIZUNO, Chair



