

STAND. COM. REP. NO. **676**

Honolulu, Hawaii

FEB 19 , 2021

RE: H.B. No. 826
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 826, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to:

- (1) Expand the purposes for which monies in the Tobacco Enforcement Special Fund may be used, to include all functions of the Department of the Attorney General;
- (2) Better regulate and ensure the removal of unsafe, noncertified electronic nicotine delivery systems from the marketplace by expanding the scope of the Electronic Smoking Device Retailer Registration Unit within the Department of the Attorney General to include enforcement of compliance of electronic smoking devices with the federal Food, Drug, and Cosmetic Act;
- (3) Establish a special fund for the deposit of monies collected for violations of electronic smoking device compliance; and
- (4) Curb the use of electronic smoking devices and tobacco products by amending the fine amounts for persons under



twenty-one years of age who purchase or possess such devices or products.

Your Committee received testimony in support of this measure from the Hawaii State Teachers Association. Your Committee received testimony in opposition to this measure from the Department of Health, American Heart Association, Coalition for a Tobacco-Free Hawai'i, Black Lava Vape, American Cancer Society Cancer Action Network, Smoke-Free Alternatives Trade Association, AlohaCare, Blue Zones Project, Hawaii Smokers Alliance, American Vaping Association, and numerous individuals. Your Committee received comments on this measure from the Department of Budget and Finance, Department of the Attorney General, and two individuals.

Your Committee finds that the federal Centers for Disease Control and Prevention have stated that electronic smoking devices are not safe for youth, young adults, and pregnant adults. However, the use of electronic smoking devices has been increasing exponentially among youth in Hawaii. Your Committee further finds that the rapid growth of the electronic smoking device industry necessitates further regulation to protect consumers.

Your Committee acknowledges the concerns raised in testimony by the Department of the Attorney General, regarding the expanded use of tobacco funds as well as the creation of Department enforcement authority and whether that could be deemed contrary to the obligations established by the 1998 Tobacco Master Settlement Agreement. Your Committee notes that the intent of this measure is to not compromise the existing Tobacco Master Settlement Agreement mandated enforcement activities, but rather to provide additionally enforcement-related resources to the Department of the Attorney General to protect public health for all nicotine related products. Your Committee also notes that a substantial portion of the Master Settlement Agreement funds already go into the general fund, and as such, the enforcement activities proposed by this measure are unlikely to jeopardize Hawaii's receipt of tobacco fund monies.

Your Committee further finds that more robust enforcement for underage electronic smoking device usage in the State is necessary. However, your Committee notes that the proposed amendment in this measure to the existing fines for purchase or possession of electronic smoking devices by persons under twenty-



one years of age is not meant to be exorbitant. Rather, it is meant to promote further discussion on the most appropriate means to deter the use of electronic smoking devices by youth, including whether the fine should be imposed on adults that help youth acquire these devices.

Your Committee has amended this measure by:

- (1) Clarifying that the intent of this measure is to not compromise the existing Tobacco Master Settlement Agreement mandated enforcement activities, but to provide additional enforcement-related resources to the Department of the Attorney General to protect public health for all nicotine related products;
- (2) Including a blank appropriation for the hiring of permanent staff and equipment within the Department of the Attorney General; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Should your Committee on Finance choose to hear this measure, your Committee respectfully requests that it consider inserting an appropriation amount of \$768,100 for seven full-time equivalent (7.0 FTE) permanent positions and related equipment for the Department of the Attorney General to carry out the additional responsibilities and duties proposed by this measure.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 826, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as H.B. No. 826, H.D. 2.



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



AARON LING JOHANSON, Chair



