

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 1147
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committees on Health and Commerce and Consumer Protection, to which was referred S.B. No. 1147 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the offense of unlawful shipment of tobacco products;
- (2) Include e-liquid and electronic smoking devices within the definition of "tobacco products", as used in the cigarette tax and tobacco tax law;
- (3) Increase the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products;
- (4) Increase the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products; and
- (5) Repeal certain provisions of the Hawaii Revised Statutes relating to electronic smoking devices.

Your Committees received testimony in support of this measure from the Department of Attorney General, Department of Health,



Department of Taxation, Hawaii COPD Coalition, American Lung Association in Hawaii, Hawaii Substance Abuse Coalition, AlohaCare, Blue Zones Project, The Friends of Kamalani and Lydgate Park, Hawaii Appleseed Center for Law and Economic Justice, Hawai'i Public Health Institute, Hawaii State Teachers Association, American Cancer Society Cancer Action Network, and twenty-four individuals. Your Committees received testimony in opposition to this measure from the American Vaping Association, Taxpayers Protection Alliance, Americans for Tax Reform, and twenty-two individuals. Your Committees received comments on this measure from Tax Foundation of Hawaii, Hawaii Food Industry Association and Hawai'i Primary Care Association.

Your Committees find that tobacco use is the single most preventable cause of disease, disability, and death in the United States. Your Committees also find that e-cigarette use among youth and young adults is strongly associated with the use of other tobacco products, including combustible tobacco products. This measure imposes a tax on e-liquids and e-cigarettes similar to other tobacco products in order to encourage users of e-liquids to quit, sustain cessation, prevent youth initiation, and reduce consumption among those who continue to use them.

Your Committees note that S.B. No. 63 also aims to curb the use of e-cigarettes by prohibiting the sale of those products other than through in-person exchange retail sales. Your Committees find that portions of that measure can be appropriately added to this one. Your Committees also heard the testimony of the Department of the Attorney General, which noted that portions of S.B. No. 63 contained provisions that conflicted with due process rights. Finally, your Committees heard the testimony of the Department of Taxation, which requested that the measure take effect no earlier than January 1, 2022, to give the Department time to update its forms, instructions, and computer system.

Therefore, your Committees have amended this measure by:

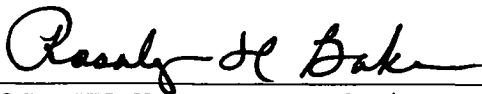
- (1) Inserting section 2 of S.B. No. 63, which prohibits the sale of flavored tobacco products, mislabeling of e-liquid products containing nicotine, and sale of tobacco products other than through retail sales via in-person exchange;



- (2) Adopting the amendments made by S.B. No. 63 to the definition of "tobacco products" and new definitions of "e-liquid" and "electronic smoking devices" as used in the cigarette tax and tobacco tax law, with section 3 of S.B. No. 63, which similarly amends those definitions;
- (3) Amending portions of the measure to avoid infringing on a person's due process rights;
- (4) Inserting blank fee amounts for wholesale licenses and retail tobacco permits;
- (5) Providing for the disposition of fines for unlawful shipment of tobacco products into the Hawaii Tobacco Prevention and Control Trust Fund;
- (6) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (7) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Health and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1147, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1147, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

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



ROSALYN H. BAKER, Chair

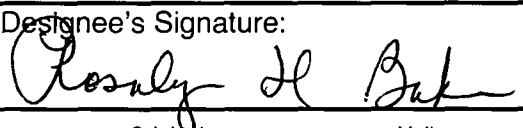


JARRETT KEOHOKALOLE, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Health
HTH

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|--|---------------------|----------|-----|---------|
| Bill / Resolution No.:* | Committee Referral: | Date: | | |
| SB1147 | HTH/CPN, JPC/WAM | 2-9-2021 | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| KEOHOKALOLE, Jarrett (C) | ✓ | | | |
| BAKER, Rosalyn (VC) | ✓ | | | |
| MORIWAKI, Sharon Y. | ✓ | | | |
| SAN BUENAVENTURA, Joy A. | ✓ | | | |
| FEVELLA, Kurt | ✓ | | | |
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| TOTAL | 5 | - | - | - |
| 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

The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

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|---|---|---------------------------------------|---------------------|---------|
| Bill / Resolution No.:* | Committee Referral: | Date: | | |
| SB1147 | HTH/CPN, JDC/WAM | 02/09/21 | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: | | | | |
| <input type="checkbox"/> Pass, unamended 2312 | <input checked="" type="checkbox"/> Pass, with amendments 2311 | <input type="checkbox"/> Hold 2310 | | |
| <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| BAKER, Rosalyn H. (C) | / | | | |
| CHANG, Stanley (VC) | / | | | |
| MISALUCHA, Bennette E. | / | | | |
| NISHIHARA, Clarence K. | / | | | |
| RIVIERE, Gil | / | | | |
| SAN BUENAVENTURA, Joy A. | / | | | |
| FEVELLA, Kurt | / | | | |
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| TOTAL | 7 | — | — | — |
| Recommendation: | | | | |
| <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature: | | | | |
| <i>Clarence K Nishihara</i> | | | | |
| Distribution: | | | | |
| Original | Yellow | Pink | Goldenrod | |
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