

Honolulu, Hawaii

MAR 03 2023

RE: S.B. No. 1447
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1447 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that county ordinances or regulations that regulate the sale of cigarettes, tobacco products, and electronic smoking devices are null and void only if they are in direct conflict with or less stringent than state law that governs smoking; and
- (2) Clarify that counties retain the authority to adopt ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices, as long as the ordinances do not directly conflict with and are more stringent than the provisions in state law that govern smoking.

Your Committee received testimony in support of this measure from the Department of Health, Hawai'i State Association of Counties, American Cancer Society Cancer Action Network, American Heart Association, Friends of Kamalani and Lydgate Park, Hawaii COPD Coalition, Hawai'i Public Health Institute, Campaign for Tobacco-Free Kids, American Lung Association in Hawai'i, Coalition



for a Tobacco-Free Hawai'i's Youth Council, and twelve individuals. Your Committee received testimony in opposition to this measure from Aloha Petroleum, Ltd. dba Aloha Petroleum; Kalalau Awawa, LLC dba Minit Stop; Par Hawaii, LLC; Americans for Tax Reform; Retail Merchants of Hawaii, Inc.; Hawaii Smokers Alliance; and eleven individuals.

Your Committee finds that geographic tobacco-related disparities are a serious public health problem in Hawaii that requires innovative, community-based solutions. According to the Department of Health, while 11.6 percent of adults in the general population smoke, adults in Hawaii County have the highest prevalence of smoking at 14.0 percent. Smoking within certain subcommunities throughout the State are even higher. Your Committee further finds that youth who live on neighbor islands evidence more current tobacco use than those who live in the City and County of Honolulu. Given the existence of these geographic disparities, there is an urgent need for counties to have the ability to regulate access to tobacco products especially among youth. Additionally, existing state laws have created ambiguity in the effectiveness of county ordinances to regulate smoking that are not in direct conflict with other provisions. This measure will preserve the legal ability of counties to adopt ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices in a manner that is more stringent than but not in direct conflict with state law in an effort to be responsive to pressing community needs.

Your Committee acknowledges the concerns raised in testimony that this measure, as currently written, does not clearly express that counties can pass local laws that are more stringent than state laws. Therefore, amendments to this measure are necessary to address this concern.

Accordingly, your Committee has amended this measure by:

- (1) Repealing existing statutory language that provides that all local ordinances or regulations that regulate the sale of cigarettes, tobacco products, and electronic smoking devices are preempted and that existing local laws and regulations conflicting with state law that governs smoking are null and void;



- (2) Amending section 1 to reflect its amended purpose;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) 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 and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1447, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1447, S.D. 1.

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

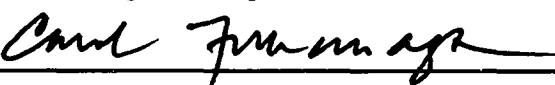


JARRETT KEOHOKALOLE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* SB1447	Committee Referral: PSM, CPN	Date: 2/21/23		
<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)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.				✓
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton	✓			
TOTAL	4	0	0	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