

**BILL046(23)**  
**Testimony**

**MISC. COMM. 520**

COUNCIL

## **COUNCIL Meeting**

Meeting Date: Oct 4, 2023 @ 10:00 AM

Support: 19

Oppose: 4

I wish to comment: 4

Name: Tina Yamaki	Email: tyamaki@rmhawaii.org	Zip: 96816
Representing: Retail Merchants of Hawaii	Position: Oppose	Submitted: Sep 29, 2023 @ 11:31 AM
Name: Jaime Rojas	Email: jaime@rojascommunications.com	Zip: 91730
Representing: National Association of Tobacco Outlets	Position: Oppose	Submitted: Sep 29, 2023 @ 12:58 PM
Testimony: I will provide testimony virtually		
Name: Luke Itomura	Email: litomura27@punahou.edu	Zip: 96701
Representing: Self	Position: Support	Submitted: Sep 29, 2023 @ 01:22 PM
Name: Jasmin Rios	Email: jasminmrios4@gmail.com	Zip: 96813
Representing: Self	Position: Oppose	Submitted: Sep 29, 2023 @ 02:30 PM
Testimony: Testimony online		
Name: Alan Johnson	Email: ajohnson@hinamauka.org	Zip: 96744
Representing: Hawaii Substance Abuse Coalition	Position: Support	Submitted: Sep 29, 2023 @ 04:36 PM
Name: Johnnie-Mae L. Perry	Email: waianaenb569@gmail.com	Zip: 96792
Representing: Hawaii Public Health Institute	Position: Support	Submitted: Sep 30, 2023 @ 02:47 AM
Testimony: In SUPPORT of Bill 46. Thank you for allowing me to advocate for our youth of Hawaii, for them to live a healthy tomorrow, and future.		
Name: CAROL PHILIPS	Email: carolphilips1@gmail.com	Zip: 96712
Representing: Self	Position: Support	Submitted: Sep 30, 2023 @ 09:38 AM
Testimony: Testimony in Support of Proposed Legislation Bill 46 (2023)  Honourable Members of the Honolulu City Council,  I am writing to express my strong support for the proposed legislation, Bill 46 (2023), relating to flavoured tobacco products. This important legislation seeks to address the rising concerns surrounding the use of flavoured tobacco products, particularly among our youth, and take necessary steps to protect public health within the City and County of Honolulu.  Flavored tobacco products, including electronic smoking devices and e-liquids, have become a significant public health concern, particularly among our younger population. The statistics revealed by the 2019 State of Hawaii Department of Health study, showing over 30 percent of high school students in Hawaii using electronic smoking devices, highlight the urgency of addressing this issue. These devices have been linked to severe lung disease, potential harm to brain development, and acute nicotine		

poisoning.

Bill 46 (2023) rightly acknowledges the tactics employed by the tobacco industry, including the use of flavours, to target and hook youth into nicotine addiction. Flavours have consistently been identified as one of the primary reasons why young individuals initiate tobacco use. By banning flavoured tobacco products, we take a critical step towards curbing this dangerous trend and protecting the future health of our youth.

Furthermore, the proposed legislation demonstrates a commitment to equity and social justice by acknowledging the historical targeting of certain communities with flavored tobacco products, such as menthol cigarettes marketed to Black communities. A comprehensive ban on all flavors in all tobacco and nicotine products ensures that no community is disproportionately affected by the negative health impacts of these products.

The provisions within Bill 46 (2023), such as amending definitions, implementing a presumption of flavour, and establishing administrative penalties, are well-considered and aligned with the overarching goal of safeguarding public health. By placing the onus on retailers to comply with the ban and imposing penalties for violations, the legislation takes a proactive approach in reducing the availability of flavoured tobacco products.

As a concerned resident and advocate for public health, I urge the Honolulu City Council to support and pass Bill 46 (2023). By enacting this legislation, we send a strong message that the health and well-being of our community, especially our young population, are of paramount importance. I applaud your efforts to protect our residents and future generations from the harmful effects of flavoured tobacco products.

Thank you for your dedication to the health and safety of our city.

Sincerely,

Carol Philips  
Haleiwa

Name: Eloise Bradham	Email: eloisebradham2@gmail.com	Zip: 96815
Representing: Self	Position: Support	Submitted: Sep 30, 2023 @ 01:21 PM
Testimony: I support Bill 46.		
Name: Mitzie Higa	Email: mhiga@hsta.org	Zip: 96819
Representing: Hawaii State Teachers Association	Position: Support	Submitted: Oct 2, 2023 @ 09:23 AM
Name: Xaria Hope Bio	Email: xaria.bio@gmail.com	Zip: 96706
Representing: Self	Position: Support	Submitted: Oct 2, 2023 @ 11:59 AM
Testimony: I support Bill 46.		
Name: Joshua Ching	Email: joshua.ching@yale.edu	Zip: 96797
Representing: Coalition for a Tobacco-Free Hawai'i's Youth Council	Position: Support	Submitted: Oct 2, 2023 @ 02:46 PM
Name: Michael Paul	Email: mpaul@hhrc.org	Zip: 96813



Representing: Hawaii Health & Harm Reduction Center	Position: Support	Submitted: Oct 2, 2023 @ 04:00 PM
Name: Trisha Kajimura	Email: tkajimura@pacthawaii.org	Zip: 96817
Representing: PACT	Position: Support	Submitted: Oct 2, 2023 @ 04:36 PM
<p>Testimony:</p> <p>TO: Chair Waters and Members of the Honolulu City Council</p> <p>FROM: Ryan Kusumoto, President &amp; CEO of Parents And Children Together (PACT)</p> <p>DATE: October 4, 2023 10:00 AM</p> <p>RE: TESTIMONY IN SUPPORT OF Bill 46(23) Relating to Flavored Tobacco Products</p> <p>PACT supports Bill 46(23), which defines and prohibits the sale of flavored tobacco products within the City and County of Honolulu.</p> <p>Founded in 1968, Parents And Children Together (PACT) is a statewide community-based organization providing a wide array of innovative and educational social services to families in need. Assisting more than 15,000 people across the state annually, PACT helps families identify, address, and successfully resolve challenges through 20 programs. Among our services are early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building programs.</p> <p>PACT's mission is to work together with Hawaii's children, individuals, and families to create safe and promising futures. Allowing the tobacco/e-cig industry to prey on youth does not empower youth to choose the futures they want for themselves. Currently, flavors in tobacco and e-cig products attract youth to try them and the nicotine in these products creates an addiction. Our high school youth vaping rate at over 30% is double that of the national average and it is estimated that 21,000 premature deaths from smoking will happen in the future to children alive now. (<a href="https://www.tobaccofreekids.org/problem/toll-us/hawaii">https://www.tobaccofreekids.org/problem/toll-us/hawaii</a>).</p> <p>Menthol flavored tobacco products must be included in this flavor ban because it is prevalent and preferred by young people. Menthol flavor masks the harsh flavor of tobacco, making it easier to continue smoking. Additionally, menthol tobacco use disproportionately impacts our Native Hawaiian and Pacific Islander communities with 78% of NHPI smokers using menthol cigarettes. (Hawai'i BRFSS 2008).</p> <p>We urge you to listen to the many voices of youth weighing in on this issue and requesting your help in ending this public health crisis. By implementing this preventive health policy you will save the state millions in healthcare costs as well as lives.</p> <p>Thank you for the opportunity to testify, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.</p>		
Name: Chani Chung	Email: chanichung77@gmail.com	Zip: 96814
Representing: Self	Position: Support	Submitted: Oct 2, 2023 @ 10:38 PM
<p>Testimony:</p> <p>I am in support of Bill 46, especially because of the fact that our state can focus on repealing preemption and that our state can see that the Honolulu county is taking action towards ending the sale and targeting of youth through flavored cigarettes and e-cigarettes, leading them to take action as well. Protecting our youth against tobacco products and also preferring CD1 language is important, and is why Bill 46 should be passed as soon as possible.</p>		
Name: Kristin Mills	Email: krismochi@hotmail.com	Zip: 96768
Representing:	Position:	Submitted:

Self	Support	Oct 3, 2023 @ 08:55 AM
Name: Peggy Mierzwa	Email: peggy@hiphi.org	Zip: 96813
Representing: Hawaii Public Health Institute	Position: I wish to comment	Submitted: Oct 3, 2023 @ 09:26 AM
Name: Jill Tamashiro	Email: jill.tamashiro@doh.hawaii.gov	Zip: 96813
Representing: Department of Health	Position: Oppose	Submitted: Oct 3, 2023 @ 10:27 AM
Name: Christopher Hudgins	Email: c.hudgins@air.global	Zip: 90254
Representing: National Hookah Community Association	Position: I wish to comment	Submitted: Oct 3, 2023 @ 11:30 AM
Name: Valerie Smalley	Email: cherub42004@msn.com	Zip: 96821
Representing: Self	Position: Support	Submitted: Oct 3, 2023 @ 02:09 PM
<p>Testimony:</p> <p>Aloha Chair Waters, Vice-Chair Kia aina, and Members of the Council,</p> <p>As a Nationally Certified Tobacco Treatment Specialist for the last 20 years, I support this bill. This is an addiction that for many takes multiple attempts over decades to quit, if they are lucky. As the smoking rates were going down, Big Tobacco targeted our Keiki. Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.</p> <p>Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008). Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.</p> <p>Big Tobacco knows that in order to have customers for life, they need to addict kids to nicotine when they are young.</p> <p>Please if you are considering exemptions to this bill that:</p> <ol style="list-style-type: none"> <li>1. There are clear guardrails that will continue to protect our youth</li> <li>2. The definition of a tobacco product is the same as the state definition</li> <li>3. The wholesale price of a premium cigar is \$12 or more, making the retail price of a premium cigar over \$20, which will deter youth from changing from e-cigarettes to a similarly priced product.</li> </ol> <p>Mahalo Valerie Smalley</p>		
Name: Liza Ryan Gill	Email: lizaryangill@gmail.com	Zip: 96822
Representing: Campaign for Tobacco-Free Kids	Position: Support	Submitted: Oct 3, 2023 @ 04:19 PM
Name: Don Weisman	Email: don.weisman@heart.org	Zip: 96813
Representing: American Heart Association	Position: I wish to comment	Submitted: Oct 3, 2023 @ 06:03 PM
Name:	Email:	Zip:

Pedro Haro	pedro.haro@lung.org	96813
Representing: American Lung Association in Hawaii	Position: I wish to comment	Submitted: Oct 3, 2023 @ 07:34 PM
Name: Bryan Mih	Email: bmih@hawaii.edu	Zip: 96822
Representing: Self	Position: Support	Submitted: Oct 3, 2023 @ 09:54 PM
<p>Testimony:</p> <p>Aloha Chair Waters, Vice-Chair Kiaaina, and Members of the Council,</p> <p>As a parent, pediatrician, and medical director of the Kapi'olani Smokefree Families Program, I strongly support this bill, which prohibits the sale or distribution of flavored tobacco products, including flavored e-liquids and menthol cigarettes.</p> <p>The American Academy of Pediatrics has strongly supported elimination of flavored tobacco products, including menthol. These products have been shown to be disproportionately used by young people, especially teenagers, as the menthol and other flavors make it easier to start using tobacco and nicotine.</p> <p>These products are targeted towards our keiki with flavors such as mango, bubblegum, gummy bear, and pineapple. The tobacco corporations have intentionally included menthol, which provides a soothing, cooling effect similar to that in cough drops. Menthol reduces the harsh irritation to the lining of the nose, mouth, and airways, which allows smokers and vapers to inhale more easily. This makes it much easier for young people to initiate tobacco use. The tobacco industry has a long history of marketing menthol cigarettes to youth and vulnerable groups. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes.</p> <p>Hawai'i has one of the highest rates of middle schoolers (16%) and high schoolers (26%) currently using e-cigarettes—it is twice the national average. Nicotine is a highly addictive drug that impacts the adolescent brain, reducing impulse control and affecting mood. Those who use e-cigarettes are four times more likely to smoke regular cigarettes later on. The e-cigarette industry claims these are cessation devices, but a recent study has shown that even if one adult can quit with these devices, the trade-off is 81 young people who will start the habit in their place. This is completely unacceptable.</p> <p>Once young people are addicted to nicotine, it is extremely difficult to quit. By eliminating these products from Honolulu County, we have the chance to improve the health of many, especially of our keiki. On behalf of the keiki and young people of Honolulu County, I urge you to support this bill in its most appropriate form (CD1).</p> <p>Mahalo for your consideration and support of this important measure.</p> <p>Sincerely,</p> <p>Bryan Mih, MD, MPH, FAAP Pediatrician</p>		
Name: Jay Ihara	Email: jay@hiphi.org	Zip: 96813
Representing: Hawaii Public Health Institute	Position: Support	Submitted: Oct 4, 2023 @ 05:34 AM
<p>Testimony:</p> <p>Aloha Chair Waters, Vice-Chair Kia'iana, and members of the Council,</p> <p>I'm writing in support of Bill 46</p> <p>Big Tobacco knows that in order to have customers for life, they need to addict kids to nicotine when they are young.</p> <p>Flavored products are driving this epidemic, where 85% of youth e-cigarette users use flavored products.</p> <p>Big Tobacco knows that in order to have customers for life, they need to addict kids to nicotine when they are young.</p> <p>Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use</p>		

e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey). Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.

Menthol is just as, if not more, harmful than any other flavor in tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit. If our aim is to protect our keiki and reduce the burden of tobacco in our communities, we must include menthol.

Ending the sale of all flavored tobacco will advance health equity – disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color. In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008). Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth.

Name: David Ball	Email: dball@punahou.edu	Zip: 96821
Representing: Self	Position: Support	Submitted: Oct 4, 2023 @ 08:58 AM
Testimony: Speaking as an educator and a father, please support this crucial legislation to protect minors from the tobacco lobby. These are carcinogens marketed to teens, and shouldn't be on Honolulu shelves. Please place kids over corporate profits.  Thank you for your advocacy for this critical legislation.  With aloha, David Ball, Waialae-Kahala		

Name: Zhizi Xiong	Email: alohadivinedesign@gmail.com	Zip: 96817
Representing: CARES	Position: Support	Submitted: Oct 4, 2023 @ 09:03 AM

Name: Colleen Fox	Email: cfox@email.com	Zip: 96822
Representing: Self	Position: Support	Submitted: Oct 4, 2023 @ 09:49 AM

Testimony:  
Please support Bill 46 in order to protect our youth and create consistent definitions of tobacco products. I am in support of banning flavored tobacco products, including vapes. Flavors in tobacco products entice users, particularly youth, while the nicotine keeps them hooked through adulthood.  
Similar to strategies used by Big Tobacco in the past, flavored vapes are designed to attract children through their sweet flavors, cute names, and candy-like packaging. We are seeing an epidemic of middle and high school vaping with these flavored vapes. Even elementary age kids are getting caught vaping in the schools. Kids as young as 11, dependent on nicotine and tobacco, are getting referred for treatment.  
These flavored products don't just get the attention of kids, they attract and sustain adult users as well. Though the average e-cigarette user starts at age 13, it's a problem that continues throughout adulthood. Banning flavored tobacco protects adults as much as it does our keiki. Flavored tobacco is intended to make nicotine and tobacco use more tolerable, which only supports continued use.  
Despite their marketing, vapes are not FDA approved cessation devices for adults. In fact, the high dosage of nicotine delivered through vapes make them more addictive than even cigarettes. We don't need to make these dangerous products more enticing through flavors.  
Recently, our previous wins in the battle against tobacco use have been diminished because of the sharp increase in vaping. The industry has changed tactics and we need to respond before even more people develop addiction. Banning flavored tobacco products is a positive first step in protecting the health of our community. Please support 46-23.



**TESTIMONY OF TINA YAMAKI, PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
October 4, 2023**

**Re: BILL 46 CD2 (2023) – RELATING TO FLAVORED TOBACCO PRODUCTS**

Aloha, Chair Waters members of the Honolulu City Council. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii is a statewide not-for-profit trade organization committed to supporting the retail industry and businesses in Hawaii. The retail industry is one of the largest employers in the state, with 27% of the jobs in Hawaii supported by the retail industry.

We respectfully oppose BILL 46 CD2 (2023) – Relating to Flavored Tobacco Products. This measure defines and prohibit the sales of flavored tobacco products within the City and County of Honolulu.

It is our understanding that **e-liquid available worldwide are “flavored.” Because many do not contain tobacco, e-liquids have no “natural tobacco” taste, or any taste for that matter, without the addition of flavorings.** These flavored e-liquids are enjoyed by many adults as well as menthol cigarettes, cigars, chewing and pipe tobacco.

This bill would **essentially ban all e-liquids as well as flavored tobacco products and compel people to purchase these goods online or on the black market or on military bases or try to make it themselves and essentially force many small local businesses who sells these items to shut down, thus leaving many of our family, friends, and neighbors out of work.**

If this is to deter underage use, Hawaii currently has a law in place that states that it is unlawful for a person under the age of 21 years to purchase electronic vaping devices, e-liquids, and tobacco products. However, adults that are 21 and older are able to purchase these items and enjoy them like menthol cigarettes or an electronic vaping device with their favorite flavored e-liquid.

We also want to make it clear that retailers are not the ones selling the vaping devices to those who are under 21 years of age. **Many of whom are underage are obtaining their cigarettes and vaping devices from their parents, family members, older of age friends or purchasing them on the black market.** We have seen a significant spike in theft and tobacco and vape products are a favorite to be stolen. Those selling the stolen goods do not care to see how old someone is.

**We wonder why are there NOT more stricter laws and consequences aimed at the minors who are vaping or those who purchase the products for the minors? Why is the Department of Education not cracking down on those who vape on campus if so many students are doing this? Why are adults who can legally purchase these items going to be denied if the aim is at minors?**

In addition, vapor products and e-liquids are NOT the same as a tobacco product. The New England Journal of Medicine published found that **electronic vaping devices were nearly twice as effective as conventional nicotine replacement products, like patches and gum, for quitting smoking.** The study was conducted in Britain and funded by the National Institute for Health Research and Cancer Research UK.

We urge you to hold this measure. Mahalo again for this opportunity to testify.



Luke Itomura  
Aiea, Hawaii

September 28, 2023

Chair Waters  
City and County of Honolulu

## **TESTIMONY IN STRONG SUPPORT OF BILL 46 CD1 LANGUAGE**

Dear Chair Waters and city council members,

My name is Luke Itomura and I am a current freshman at Punahou School. I am testifying to express my strong support for Bill 46 and its CD1 language. I stand along with countless Hawaii youth, who despise the youth-flavored vaping epidemic. We collectively believe that passing this legislation is an essential step in protecting the health and future of the youth.

At just 13 years old, I was offered a flavored vape by another youth for the first time. This youth smoker used many tactics to peer pressure me into trying it. Their main tactic was telling me it was a delicious Hawaiian Sun flavor. At that moment, I realized how easy it is to fall for the appeal of flavored vapes - 85% of young smokers in the world use flavored tobacco products.<sup>1</sup> My friends in the sixth grade had also mentioned that they were offered flavored vapes. For people as young as twelve, flavors like POG or Hawaiian Sun are an enticing death trap. What starts as innocent curiosity can turn into a lifelong addiction filled with lung cancer, mental illness, heart disease, and stroke. There is no other product on the market that kills 50% of its users.<sup>2</sup>

Bill 46 will act as a barrier preventing youth from being used by companies like Big Tobacco, who specifically target youth with their marketing in social media, magazines, and stores. Big Tobacco directly stated, "Younger adult smokers are the only source of replacement smokers. If younger adults turn away from smoking, the industry must decline (Big Tobacco, 1984)." Why play with the health of the youth, just so the tobacco industry can thrive? Moreover, a study conducted by Stanford University revealed that prohibiting flavored tobacco products has many advantages, including savings in healthcare expenses, a reduction in our carbon footprint, increased labor productivity, and reduced consumption of scarce physical resources.<sup>3</sup> 76% of Hawaii registered voters support this cause, justifying that this is a highly wanted policy.<sup>4</sup>

I passionately request the City Council members to support Bill 46, be agents of positive change, and to stand on a side of health, compassion, and a brighter future for our youth.

Thank you for your time and consideration.

Sincerely,

Luke Itomura



## **Bill046(23) Ban Flavored E-Cigarettes**

Chair Councilmember Waters, Vice Chair Councilmember Kiaāina

Council Meeting October 4, 2023 Wednesday at 10:00

Kapolei Hale

Introduced by TOMMY WATERS, MATT WEYER

### **HSAC Supports Bill046(23):**

*GOOD MORNING CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE  
MEMBERS:*

*My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies and recovery services.*



**The Hawaii Substance Abuse Coalition (HSAC) notes that the intent is to protect our youth from the health dangers of a lifelong addiction to youth caused by the epidemic from the use of flavored tobacco products.**

We are asking that you **Support the intent of the measure and consider the language in CD1**, as it will remove from stores many of the products that have been used to target our youth.

## **Reasons to Restrict Flavored Tobacco because of Excess Youth Use**

### **What about Flavored Tobacco?**

Flavors in tobacco products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019.

The historic rise in e-cigarettes by youth is fueled in part by extensive marketing campaigns to make the products more appealing to young people, as referred in the Surgeon General's report. Vaping increased 900% among high school students from 2011 to 2015.

In Hawaii, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawaii BRFSS, 2008).

### **Dangers of E-cigarettes are Documented:**

The Surgeon General's report details the harmful effects of e-cigarettes.

Advocates hear the call from 650,000 physicians belonging to numerous medical coalitions, reasserting our dedication to keeping patients safe from tobacco products.

Nicotine, regardless of its source, is highly addictive and has clear neurotoxic effects, especially on the developing brains of adolescents.

The aerosol from e-cigarettes is not harmless; it includes nicotine and other harmful and potentially harmful chemicals, including heavy metal and carcinogens. Since children's brain and lungs are still developing, it is especially important to protect children and non-users from secondhand e-cigarette aerosol.

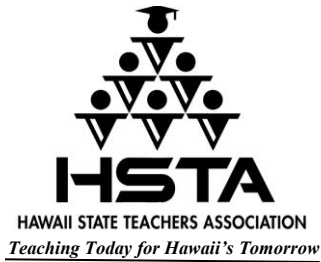
### **Summary**

Banning the sale of flavored tobacco products can help to reduce the danger to children from vaping, which is a growing major public health concern. Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a

lifetime of addiction.

We appreciate the opportunity to provide testimony and are available for questions

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Osa Tui, Jr.  
President  
Logan Okita  
Vice President  
Lisa Morrison  
Secretary-Treasurer  
Ann Mahi  
Executive Director

## TESTIMONY BEFORE THE HONOLULU CITY COUNCIL

RE: BILL 46, CD2 (2023) – RELATING TO FLAVORED VAPING PRODUCTS

WEDNESDAY, OCTOBER 4, 2023

OSA TUI, JR., PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Waters and Members of the Committee:

The Hawai'i State Teachers Association **strongly supports bill 46**, relating to flavored vaping products. **We do prefer the language in CD1**. The bill prohibits the sale of flavored tobacco products within the City and County of Honolulu. While currently a preemption of the counties regulating the sale of tobacco has not yet been overturned, this ordinance will initiate a trigger ban on flavored tobacco products should Act 206 be overturned or suspended by our state legislature.

**Teachers and other students are seeing an increase in the number of students who are vaping on our campuses, not just in our high schools, but our middle schools, and yes, even our elementary schools. We want to let you know again that our teachers are confiscating devices, students are being suspended, and unfortunately, these same students are losing learning time, because of it. However, these measures are NOT stopping or slowing down this vaping epidemic. Teachers are also reporting that students who are vaping are not focused, irritable, and often leave the classroom to go to the bathroom where they are caught vaping, and these students are acting out in some cases. It is concerning. Our students are the victims and are being preyed on by the vaping industry. There are vaping products that look like school supplies (USB drive and a felt tip marker!), these products are definitely marketed for our youth, along with the candy flavors.**

There are extremely high levels of nicotine in these products that are popular with kids, for example, **an Elf Bar has the equivalent amount of nicotine as 590 cigarettes, and you can imagine how these cause serious negative impacts to our students'** education due to the negative impact on memory, focus, cognition, impulse control, mood swings and increased anxiety levels.

**In September 2009, the FDA banned flavored cigarettes. The ban was intended to end the sale of tobacco products with chocolate, vanilla, clove and other flavorings that lure children and teenagers into smoking.** According to Dr. Margaret A. Hamburg, commissioner of food and drugs for the FDA from 2009 – 2015 “flavored cigarettes are a gateway for many children and young adults to become regular smokers.” Nevertheless, here we are in 2023 with a proliferation of flavored tobacco in the form of e-liquids luring our children into becoming lifelong and habitual nicotine users. **Unfortunately, this FDA flavor ban did not include vaping products. We can change that with this bill from our county to protect our youth, and show our state legislature that you are in agreement with this proposal, so they can then, in turn, put into law the counties may, in fact, regulate these tobacco/vaping products.**

**Flavored tobacco products have been a proven entry point for youth to start smoking.** Their packaging looks like it came off the shelf of a candy store, with flavors such as Strawberry Watermelon Bubblegum, Unicorn Milk, Sour Patch Kid, and Li Hing Mui. It is no surprise that 81% of youth who ever used tobacco, say they started with a flavored product, and 97% of youth who vape say, they only use a flavored product.

Unfortunately, e-cigarettes have evaded the laws to which other tobacco products are subject. The lack of a comprehensive approach has led to the rise of e-cigarette use, undoing decades of progress. **In 2019, 1 in 3 (30.6%) public high school students and nearly 1 in 5 (18%) public middle school students in Hawai‘i reported that they use e-cigarettes.**

**As lawmakers, you have the power to reverse the youth vaping epidemic by implementing comprehensive policies and programs, including ending the sale of flavored vaping products. Flavors in vaping products entice our youth, and the nicotine in these products keeps them addicted.**

In 2020, 8 in 10 youth who use e-cigarettes reported using a flavored product. Of youth e-cigarette users, 85% use flavored products, and fruit, candy/desserts/other sweets, mint, and menthol are reported as the most popular flavors. Ending the sale of all flavored vaping products will reduce their appeal and protect our children from a lifetime of addiction. It is important to note that menthol is one of the most popular flavors of youth in Hawai‘i, 78% of Native Hawaiians and Pacific Islanders who smoke use menthol cigarettes, thus we do not want this flavor exempted for vaping products.

**Adolescence is a time of crucial brain development; it has been documented that nicotine exposure during adolescence and young adulthood can cause addiction and harm the developing brain.** Additionally, nicotine is not the only



Osa Tui, Jr.  
President  
Logan Okita  
Vice President  
Lisa Morrison  
Secretary-Treasurer  
Ann Mahi  
Executive Director

harmful ingredient in electronic smoking devices; other harmful and potentially harmful ingredients include ultrafine particles that can be inhaled deep into the lungs, flavorants such as diacetyl, a chemical linked to serious lung disease, volatile organic compounds, and heavy metals such as nickel, tin, and lead.

- Flavors in these vaping products entice youth, while the nicotine keeps them hooked for life. In 2020, 8 in 10 youth who currently use e-cigarettes reported using a flavored product, up from 7 in 10 in 2019 (National Youth Tobacco Survey).
- Ending the sale of flavored tobacco products will reduce the appeal of these products and protect our keiki from a lifetime of addiction.
- Menthol is just as, if not more harmful than, any other flavored tobacco. Notorious for its ability to mask the harshness of tobacco, menthol makes it easier to start and harder to quit.
- We aim to protect our keiki and reduce the burden of vaping products in our communities, and we must include menthol.
- Ending the sale of flavored vaping products will advance health equity - disparities in tobacco use are due to the tobacco industry's history of marketing menthol cigarettes to youth and people of color.
- In Hawai'i, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes (Hawai'i BRFSS, 2008).
- Mint and menthol-flavored e-cigarettes are one of the most popular flavors among youth. Please do NOT exempt them.

**Lastly, thank you for not adding any fines for our youth, as HSTA opposes fines on our youth, as we feel our students are the victims in this case. It is the predatory tactics of the vaping industry on our youth that need to be regulated and taxed. So please do NOT add any fines or punishment on our youth who are the victims here. We just want to make this stance clear from the start.**

**Here are some messages from some of our teachers regarding this vaping epidemic and how it is affecting learning at school, despite vaping products constantly being confiscated and students being sent to the principal, and how, they too, want our students protected. Our administrators in high schools are collecting large rubbish bags of vaping products each semester. We need our lawmakers to help us and be the heroes!**

“My son goes to a middle school in the Central O‘ahu District, and at his school, the bathrooms were locked after reports of students vaping in them. The effect of that impacted everyone because no one could use them anymore.”

“More than the harmful physical effects (shortness of breath, difficulties walking up the stairs, etc.), I see a lot of the negative social effects that vaping has had. When teachers take vapes away and send students to the office, they sometimes find that the vape was actually a parent’s, and the parent will get mad at the teacher for confiscating it. Students have gotten into fights over vapes, and it becomes a whole production of ‘covertly’ passing it to each other. All of this ends up hurting the students academically, because instead of focusing on the classroom material, their whole focus remains on how to get their hands on a vape pen, how to pass it to their friends, how to charge it without getting busted, and how to get their next hit. It’s such a shame that kids are able to get their hands on such addictive products from such a young age, and that they’re being marketed at kids.”

“I’m having to monitor bathrooms more. Students travel to spots that are farther from their classes to vape out of sight in more private bathrooms. They also leave the devices in there for kids from other classes to use, texting one another during class. Their addiction to nicotine is often so established, they want to leave class a few times each period, and while in class they are agitated.”

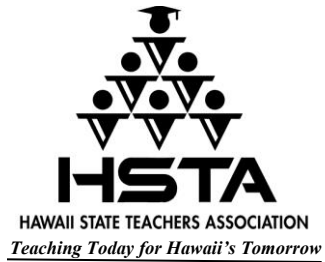
“Vaping models far too closely drug use behavior. The ‘cool’ factor is leading our kids down the wrong path to higher risk of drug abuse.”

“Because the devices are so small and look like USB flash drives, it is hard to detect if students have them. They also smell like perfume so you don’t know if it’s actually perfume or them using a vape.”

“Kids who are addicted to vaping ask to use the restroom, drink water, or go to their locker every period, and sometimes multiple times during the same period, so they can hit their puff in the hall or in secret. It’s a huge problem that results in missed class time and kids are more and more addicted to nicotine.”

“An honest conversation we have to have is why should I not vape when my family and/or friends do? If it’s so harmful, why do people do it? Additionally, on our campus, students are vaping in the classroom, but teachers don’t know or catch it because they’re unfamiliar with what a vape is. Students are bold, perhaps because vaping is easily done in public spaces—I’ve been to restaurants where people will pull them out.”

“We see suspensions all the time due to vaping, and students miss a lot of school when they’re caught. They vape in class and in all bathrooms, putting the health of others at risk as well.”



Osa Tui, Jr.  
President  
Logan Okita  
Vice President  
Lisa Morrison  
Secretary-Treasurer  
Ann Mahi  
Executive Director

“Vaping is becoming more frequent among students from elementary to high school. It’s almost like a dare that our students think they need to try to see who can get away with using it in class without getting caught.”

**To reduce the youth vaping epidemic and ensure the long-term health and well-being of our keiki, the Hawai’i State Teachers Association requests you support this bill although we do prefer the language in CD1.**



To Chair Tommy Waters, Vice Chair Esther Kiaʻaina, and members of the Honolulu City Council.

On behalf of the Coalition for a Tobacco-Free Hawaiʻi's (CTFH) Youth Council, we are in **support of Bill 46**. We, however, would like to acknowledge a preference for the language of CD1. By providing exceptions to hookah, loose-leaf tobacco, and premium cigars, the added language provides numerous loopholes for the tobacco industry to exploit in continuing to profit off the addiction of marginalized populations through flavors. A comprehensive ban on flavored tobacco products provides the most equitable and effective strategy to begin combatting the youth vaping epidemic in Honolulu today.

The CTFH Youth Council is a nationally-recognized group of youth leaders fighting to envision and create a Hawaiʻi, centered on uplifting community public health, beyond the reaches of Big Tobacco. Our council comprises over 80 middle, high school, and college students, with representation from across all of Hawaiʻi's counties.

Hawaiʻi is facing a youth vaping epidemic. Across the U.S., Hawaiʻi high school and middle school students have disproportionately high use rates of e-cigarette products. Containing toxic chemicals like nicotine and formaldehyde, these products have long-term health impacts, significantly harming the developing brain, altering nerve cell functioning, and exposing users to acute nicotine poisoning. Without necessary policy action, over 21,000 Hawaiʻi youth alive today will die from tobacco-related illness if smoking rates don't change.

Beyond numbers, countless youth from across Hawaiʻi have chronicled their experiences with tobacco—whether turning to these products for comfort when they have no support system to confide in, witnessing the toll it takes on their family and friends through generations of addiction, or struggling to overcome the painful withdrawals and cravings of addiction themselves.

Central to the youth vaping epidemic is an industry with a troubling history in our island home. From exploiting Native Hawaiian labor on tobacco plantations to bastardizing the image of sexualized “hula



girls” on cigarette advertisements, Big Tobacco has capitalized on Hawai‘i’s unique culture and legacy of colonialism to turn a profit off the backs of the most vulnerable. Of those groups, youth have often been the most targeted, in Hawai‘i and beyond. For many, commercial tobacco use has manifested into a coping mechanism, creating a temporary sense of relaxation to deal with struggles like anxiety, body dysmorphia, and even intergenerational trauma, increasing dependence on the device while preserving the underlying symptoms—making e-cigarettes a deadly tool for profit in a worsening crisis of youth mental health. Today, consistent with the countless stories of Hawai‘i youth fighting nicotine addiction or watching their friends and family do so, Big Tobacco is exploiting our people, our culture, and our vulnerabilities through the use of flavored tobacco products.

Aloha Sun Juice, Lilikoi Lychee, Pass-O-Guava Nectar, Luau Punch, POG, and Pineapple Orange are just a few of the more than 15,500 e-cigarette flavors—often designed specifically to entice local palettes—lining store shelves. It comes as no surprise, then, that 81% of youth who ever used tobacco started with a flavored product, and 97% of youth who vape currently use a flavored product. Menthol in particular, one of the most popular flavors among Hawai‘i youth, uses added chemicals to create a cooling sensation that, coupled with its minty flavor, makes it easier to start vaping and harder to quit. The industry, which considers Hawai‘i a “Menthol State,” has invested heavily in promoting these products across the islands, driving public health disparities in Native Hawaiian and Pacific Islander communities, with 78% of smokers from these communities using menthol cigarettes. Flavors, then, are the pinnacle of Big Tobacco’s modern design for Hawai‘i—creating devices that specifically market to and addict the communities whose systemic vulnerabilities are a direct consequence of the history of exploitation they participate in.

The industry, however, won’t go down without a fight. Spending \$26 million annually on marketing and hundreds of thousands on lobbying in Hawai‘i alone, the tobacco industry’s relentless presence in daily life on the islands isn’t an accident—it’s intentional. It’s the primary reason that the Honolulu City Council is presently prevented from regulating the sale of tobacco in this county, a consequence of a 2018 gut-and-replace law passed behind closed doors. Big Tobacco has not only attempted to assert control over our people, our culture, and our vulnerabilities but has actively come into our home and dictated the duties and functions of our own government.

Possession, use, and purchase, or PUP laws, institute monetary penalties on youth for tobacco use and are a common policy proposal the tobacco industry uses to escape accountability for their aggressive and manipulative marketing practices. These laws work to punish and stigmatize children and significantly detract from more effective tobacco control efforts. With some proposals pushing upwards of \$200 fines, the financial burden of PUP laws would inevitably pass onto the families of

youth forced to pay them—and given that Native Hawaiian, Filipino, and African American youth are disproportionately impacted by e-cigarette use, instituting these policies would double down on the failed, Reagan-era War on Drugs policies that drive economic disparities along racial lines while protecting the profits of so-called “law-abiding” businesses. Addiction is not an issue to punish, nor one to “fix”. It’s a consequence of an unregulated industry running rampant in communities that are already hurting the most.

**Banning the sale of *all* flavored tobacco products** at the county level would work to end this deadly cycle of addiction, manipulation, and exploitation. Despite the fact that the State preempts the County’s authority in regulating tobacco sales, the passage of Bill 46 would be an unwavering expression of defiance against the financial influence of the tobacco industry and a signal to other elected officials that the people of Honolulu are ready to fight the youth vaping epidemic now.

**We strongly urge that Bill 46 be passed. It’s time to put people over the profits of Big Tobacco. It’s time to protect our keiki.**

## TESTIMONY IN SUPPORT OF BILL 46

TO: Members of the Honolulu City Council

FROM: Michael Paul  
Tobacco Treatment Specialist, Hawai'i's Last Drag

DATE: October 4, 2023 (10:00 AM)

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Hawai'i Health & Harm Reduction Center (HHRC) supports Bill 46, which would prohibit the sale of flavored tobacco products in Honolulu County.

With the ongoing support of the Hawai'i Community Foundation, HHRC continues to offer smoking cessation services that are tailored to meet the needs of our state's LGBTQ+ people through its [Hawai'i's Last Drag](#) (HLD) program.

I proudly work as one of HLD's certified tobacco treatment specialists. We work with individuals in ways that are most appropriate for their current needs, with trainings conducted in person or via phone, text, or videoconferencing. We provide smoking cessation products to assist them with quitting the consumption of smoked tobacco and other nicotine products.

In my tobacco treatment work I encounter more people who use e-cigarettes and have never smoked than I have former smokers that have switched to e-cigarettes/vapes. Overwhelmingly these "never smokers" cite the flavors of these products as the reason they started using them. Flavors make the delivery of nicotine, a highly addictive substance, more palatable to new users. I have frequently seen younger people swapping vapes to try each other's flavors, tying a social component into increased physical dependence.

People who smoke menthol flavored cigarettes have a more challenging time quitting smoking than those that do not smoke menthols. Understanding this, tobacco companies have targeted and continue to target specific populations like African Americans and LGBTQ+ persons, increasing health disparities in communities that already face significant obstacles to their health and well-being, including access to preventative health care services.

Menthol is added to nearly all cigarettes, not just those that are menthol flavored. Per the CDC, [“almost all the cigarettes sold in the United States contain some natural or lab-created menthol.”](#) Menthol has a cooling effect and reduces the harshness of tobacco smoke, even at levels so low that no menthol flavor is detectable.

HHHRC’s mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai‘i and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions. Many of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.

Dear Chair Waters, Vice-Chair Kiaāina, and Members of the Council,

I am in strong support of Bill 46. Hawaii has among the highest rates of middle school and high school e-cigarette (ESD) use in the nation and youth vaping has been declared an epidemic by the U.S. Surgeon General.

As a parent and a health educator, this is extremely concerning as there are numerous health impacts from e-cigarettes. Nicotine addiction affects kids' ability to focus and learn at school, it affects their physical and mental/emotional health, it affects their relationships, and it affects their self-confidence. The list goes on. Further, once teens become addicted to nicotine, it's very difficult to quit. Teens are also particularly vulnerable to nicotine, which permanently impacts their still developing brain.

It's no coincidence that the rise in youth e-cigarette use has coincided with an explosion of sweet and minty e-liquid flavors used to hook kids. Tobacco companies are making and marketing deadly and addictive products right here in Hawaii that look and taste like our favorite childhood flavors (Hawaiian POG, Ono Orange Cream, Hawaiian Sweet Rolls, and Halawa Guava). They make these flavors to "hook" their next customers... Our youth! And it's not OK. Data has shown that 8 out of 10 youth who ever used tobacco products started with a flavored product, and more than half of youth tobacco users use menthol products.

I ask you to please support Bill 46 and prohibit the sale of **ALL** flavored tobacco and electronic smoking devices, including menthol, mint, and wintergreen in the wording of this bill. This is vital to the health of our youth and health equity! Menthol, mint, and wintergreen flavors are particularly enticing, as they mask the harshness, allowing for deeper and longer inhalations, making menthol cigarettes and e-cigarettes another popular starter product and harder to quit. The tobacco industry has a long history of marketing menthol cigarettes to youth and vulnerable groups. In Hawaii, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes.

We need to protect our keiki. The scientific evidence is clear, flavored tobacco and electronic smoking devices (including menthol, mint, and wintergreen) have the greatest appeal to youth. We must end the sale of these products and create better transparency that these products include a great amount of addictive nicotine.

Sincerely, Kristin Mills, M.S., M.A.

Parent, Epidemiologist, and Public Health Educator



## HIPHI Board

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*Defender*

## HIPHI Initiatives

Coalition for a  
Tobacco-Free Hawai'i

Community Health  
Worker Initiative

COVID-19 Response

Hawai'i Drug & Alcohol Free  
Coalitions

Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Collective

Date: October 1, 2023

To: Tommy Waters, Chair  
Esther Kia'aina, Vice Chair  
Members of the Council of the City & County of Honolulu

Re: Comments Bill 46 FD1 Relating to Flavored Tobacco Products

Mtg: Wednesday October 4, 2023, 10:00 AM

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Hawai'i Public Health Institute<sup>i</sup> (HIPHI) takes this opportunity to weigh in on Bill 46 FD 1. We continue to support the intent of Bill 46 Relating to Flavored Tobacco Products which would end the sale of flavored tobacco products in the City and County of Honolulu, which would take effect when the power to regulate the sale of tobacco products is restored to the counties. We continue to applaud the Council for considering such an important and timely policy. We do recommend the Council use the same definition for "tobacco products" as found in the Hawai'i Revised Statute Chapter 328J.

81% of Hawai'i youth started with a flavored product,<sup>ii</sup> and by ending the sale of all menthol and other flavored tobacco products, the county can prioritize the health and safety of our community. A report by the US Food and Drug Administration, issued in 2013, found that menthol cigarettes led to increased smoking initiation among youth and young adults, more significant addiction, and decreased success in quitting smoking. Candy, sweet, and menthol flavored tobacco attracts youth and makes nicotine tolerable.

Unregulated menthol and flavored tobacco products severely threaten our established tobacco control policies and do not protect our children. Flavored tobacco products have such a negative impact on public health that over **360 localities have passed restrictions on the sale of flavored tobacco products**, and at least 170 of those communities restrict the sale of menthol cigarettes as well as other flavored tobacco products.<sup>ii</sup>

### Flavored products are driving youth use.

Flavors in tobacco products entice youth, and nicotine keeps them addicted. In 2020, 8 in 10 youth who use e-cigarettes reported using a flavored product. Of youth e-cigarette users, 85% use flavored products, and fruit, candy/desserts/other sweets, *mint*, and *menthol* are reported as the most popular flavors<sup>iii</sup>. Ending the sale of **all** flavored tobacco products will reduce their appeal and protect our children from a lifetime of addiction.

Tobacco companies use menthol as a calculated tactic to hook new consumers. Menthol's cooling properties mask the harshness of tobacco. It is marketed to youth and vulnerable groups. Menthol is one of the most popular flavors of youth in Hawai'i, 78% of Native Hawaiians and Pacific Islanders who smoke use menthol cigarettes<sup>iv</sup>.

Kids have shifted dramatically to disposable and menthol e-cigarettes, two categories of products left on the market under current federal restrictions. These shifts show that the only way to end this crisis is to eliminate **all** flavored e-cigarettes<sup>v</sup>.

### **Hawai'i voters want restrictions.**

In a December 2022 poll<sup>vi</sup> of registered voters on O'ahu conducted by Ward Research Inc., 93% of respondents said that school aged children vaping or using e-cigarettes is a major problem; 79% support a law prohibiting all flavors, including menthol, of tobacco products, and e-cigarettes; and, 84% believe that the use of e-cigarettes or vaping devices is harmful for Hawai'i's children, teens and families.

Our community has made it clear they want this public health crisis addressed. Our young people are victims of an industry with limitless resources to ensure they hook the next generation of nicotine users. Their tactics are predatory, and they do not care about the harm they impose on society. Their goal is profit, and they will do whatever necessary, which includes requesting various exemptions to continue to make billions yearly. For example, R.J. Reynolds Tobacco Co.'s profit was up by 68.2% in the "new" category that includes e-cigarettes and modern oral & snus products. Their profit in this category for 2022 was \$1.4B.<sup>vii</sup>

### **Exemptions are Loopholes**

For these reasons, it is important to pass a bill that does not allow for the industry to utilize unclear language as loopholes to exploit our most vulnerable populations. This common tactic is used again and again. Cupholder size hookahs, costing a mere \$15.00 and coming in a variety of bright neon colors,<sup>viii</sup> are items attractive to young people who use these low cost hookahs to smoke sweet, candy flavored shisha. One retail site states, "[T]here is no shortage of options when it comes to hookah flavor variety. With hundreds of choices, the number of ways to combine flavors is nearly limitless."<sup>ix</sup> The tobacco industry is using an exemption for flavored shisha to entice and hook young people ensuring life-long customers. Clear guidance on both the sale of flavored shisha to stop broadscale access and providing clarity on the term hookah are vital.

Furthermore, it is important to make sure e-cigarette users do not switch to other products once they stop purchasing flavored products. For this reason it is necessary to make sure "premium" cigars are priced beyond the price of ESDs. The wholesale price of \$12 would equate to about a \$24 retail cost. That price point is beyond that of an ESD, and would discourage product switching. The CDC has found that increasing the price of tobacco products is the single most effective way to reduce consumption particularly for young adults who are two to three times more likely to respond to increases in price than adults.<sup>x</sup>

By passing a strong bill, the county will send a clear message to the public that the City and County of Honolulu is committed to uplifting the health and well-being of its residents and show that community health is more important than tobacco profits for tobacco companies and their stakeholders.

Thank you for considering our testimony. We support the importance of collaboration and want to continue to work toward a meaningful policy that would end the sale of flavored tobacco products in the City & County of Honolulu.

Mahalo,



Peggy Mierzwa  
Director of Policy & Advocacy  
Hawai'i Public Health Institute

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<sup>i</sup> The Hawai'i Public Health Institute (HIPHI) is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

<sup>ii</sup> <https://www.tobaccofreekids.org/assets/factsheets/0398.pdf>

<sup>iii</sup> <https://www.tobaccofreekids.org/what-we-do/industry-watch/e-cigarettes#:~:text=Flavored%20products%20are%20driving%20youth,as%20the%20most%20popular%20flavors>.

<sup>iv</sup> <https://med.stanford.edu/news/all-news/2020/08/vaping-linked-to-covid-19-risk-in-teens-and-young-adults.html>

<sup>v</sup> <https://www.tobaccofreekids.org/what-we-do/industry-watch/e-cigarettes#:~:text=Flavored%20products%20are%20driving%20youth,as%20the%20most%20popular%20flavors>.

<sup>vi</sup> This study by Ward Research, Inc. summarizes findings from a phone survey among n=719 Hawaii registered voters (maximum sampling error +/- 3.6%), conducted between November 4-29, 2022.

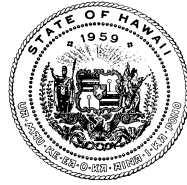
<sup>vii</sup> [https://journalnow.com/news/local/business/reynolds-tobacco-workforce-trimmed-by-nearly-11-in-2022/article\\_217d80d6-c352-11ed-8441-af5d96c15e1e.html#:~:text=Reynolds'%20adjusted%20profit%20from%20operations,Reynolds%20Tobacco%20Co](https://journalnow.com/news/local/business/reynolds-tobacco-workforce-trimmed-by-nearly-11-in-2022/article_217d80d6-c352-11ed-8441-af5d96c15e1e.html#:~:text=Reynolds'%20adjusted%20profit%20from%20operations,Reynolds%20Tobacco%20Co).

<sup>viii</sup> <https://thehookahlab.com/products/cup-holder-hookah>

<sup>ix</sup> <https://thehookahlab.com/collections/hookah-tobacco>

<sup>x</sup> [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/economics/econ\\_facts/index.htm#:~:text=Increasing%20the%20price%20of%20tobacco,effective%20way%20to%20reduce%20consumption.&text=A%2010%25%20increase%20in%20price,consumption%20by%203%E2%80%935%25](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm#:~:text=Increasing%20the%20price%20of%20tobacco,effective%20way%20to%20reduce%20consumption.&text=A%2010%25%20increase%20in%20price,consumption%20by%203%E2%80%935%25).





STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
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Honolulu, HI 96801-3378  
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**Testimony in OPPOSITION to Bill 46-23, C.D. 2  
RELATING TO FLAVORED TOBACCO PRODUCTS**

REGULAR MEETING  
HONOLULU CITY COUNCIL

Hearing Date: October 4, 2023

Room Number: Council Chambers &  
Videoconference

1 **Fiscal Implications:** The fiscal impact of a ban on flavored tobacco products in Honolulu  
2 County would result in modest reductions in the State's tax revenues while at the same time  
3 leading to reductions in chronic diseases and health care spending, including Medicaid spending  
4 in the state.

5 **Department Testimony:** The Department of Health (DOH) respectfully opposes Bill 46-23,  
6 Council Draft 2 (C.D. 2). DOH specifically opposes changes to the definition of "Tobacco  
7 Product" in this measure version and the exemptions carved out for hookah, premium cigars,  
8 loose leaf tobacco and shisha tobacco products. The Department recommends returning to the  
9 original definition of "Tobacco Product" in Bill 46-23, that is inclusive and based on [Article 14:](#)  
10 [Smoking, §41-14.1 Definitions, Revised Ordinance of Honolulu](#) (ROH) which aligns with the  
11 definition found in [§328J-1, Hawaii Revised Statutes](#) (HRS). The Department opposes changes  
12 to the definition of "Tobacco Products" through exempting certain products which will create  
13 inconsistent policies between the County and State, and set a precedence for eroding Hawaii's  
14 comprehensive smokefree regulations. The recommended definition for "Tobacco Products"  
15 along with language clarifying the disposition of the electronic smoking devices (ESDs) and  
16 e-liquids are offered as Amendments at the end of the written testimony.

1 In 2022, cigars were the second most commonly used tobacco product among high school  
2 and middle school youth in the United States (next to e-cigarettes).<sup>1</sup> The availability of cigars in  
3 a variety of flavors that are banned in cigarettes, and the fact that they are often sold as a single  
4 stick or in small quantities makes them alluring to price-sensitive youth.<sup>2</sup> Shisha tobacco  
5 products also pose risks to health as in a typical one-hour hookah session, users may inhale 100-  
6 200 times the amount of smoke compared to a regular combustible cigarette.<sup>3</sup> Hookah tobacco  
7 and smoke contain chemicals known to cause lung, bladder and oral cancer.<sup>4</sup> Loose leaf tobacco  
8 also poses risk for cancer of the mouth, throat, and pancreas.<sup>5</sup> Their availability in a variety of  
9 flavors may increase their appeal to youth.<sup>6</sup>

10 The absence of protective policies to act as a preventive buffer between the promotion of  
11 enticing ESDs, also known as e-cigarettes, and youth, contributed to the ongoing rise in frequent  
12 use and unrestricted access to nicotine. It is estimated that 20.7% or 6,200 high schoolers and  
13 12% or 2,300 middle schoolers in Honolulu reported current use of ESDs.<sup>7,8</sup> The unrestricted  
14 promotion of e-cigarettes has addicted a new generation of young people to nicotine, increased  
15 exposure to harmful substances and likelihood for smoking cigarettes in the future.<sup>9</sup> U.S. retail  
16 sales data showed that sales of the highest levels of nicotine grew from 5% of total e-cigarette  
17 sales in 2017 to 81% in 2022.<sup>10</sup> These data raise serious public health and safety concerns

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<sup>1</sup> Park-Lee, E. (2022). Tobacco Product Use Among Middle and High School Students—United States, 2022. *MMWR. Morbidity and Mortality Weekly Report*, 71. <https://doi.org/10.15585/mmwr.mm7145a1>

<sup>2</sup> CDCTobaccoFree. (2023, March 24). *Cigars*. Centers for Disease Control and Prevention. [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/tobacco\\_industry/cigars/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/cigars/index.htm)

<sup>3</sup> CDCTobaccoFree. (2021, April 23). *Hookahs*. Centers for Disease Control and Prevention. [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/tobacco\\_industry/hookahs/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/hookahs/index.htm)

<sup>4</sup> CDCTobaccoFree. (2021, April 23). *Hookahs*. Centers for Disease Control and Prevention. [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/tobacco\\_industry/hookahs/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/hookahs/index.htm)

<sup>5</sup> *Smokeless tobacco products*. (n.d.). Mayo Clinic. Retrieved September 12, 2023, from <https://www.mayoclinic.org/healthy-lifestyle/quit-smoking/in-depth/chewing-tobacco/art-20047428>

<sup>6</sup> Campaign for Tobacco-Free Kids. August 3, 2023. Flavored Tobacco Products Attract Kids. Retrieved September 12, 2023 from chrome-extension://efaidnbmninnibpcjpcglclefindmkaj/https://assets.tobaccofreekids.org/factsheets/0383.pdf

<sup>7</sup> *Hawai'i IBIS - Query Result—Hawai'i Youth Risk Behavior Survey (YRBS) Data—Electronic vapor product—Current use, High Schools, County-level*. (2017-2021). Retrieved August 23, 2023, from [https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr\\_HS\\_CNTY.html](https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr_HS_CNTY.html)

<sup>8</sup> *Hawai'i IBIS - Query Result—Hawai'i Youth Risk Behavior Survey (YRBS) Data—Electronic vapor product—Current use, Middle Schools, County-level*. (2017-2021). Retrieved August 23, 2023, from [https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr\\_MS\\_CNTY.html](https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr_MS_CNTY.html)

<sup>9</sup> US Department of Health and Human Services. E-cigarette Use Among Youth and Young Adults: A Report of the Surgeon General. pdf icon [PDF – 8.47MB]. Atlanta, GA: US Department of Health and Human Services, CDC; 2016. Accessed July 27, 2018.

<sup>10</sup> Ali, F. R. M., Seaman, E. L., Crane, E., Schillo, B., & King, B. A. (2023). Trends in US E-cigarette Sales and Prices by Nicotine Strength, Overall and by Product and Flavor Type, 2017–2022. *Nicotine & Tobacco Research*, 25(5), 1052–1056. <https://doi.org/10.1093/ntr/ntac284>

1 because of the long-term effects of nicotine on youth brain development.<sup>11</sup> Comprehensive  
2 evidence-based prevention policies are needed that restrict the sale of flavored tobacco products.

3 Alluring flavored tobacco products continue to drive the youth vaping epidemic. Nearly  
4 85% of U.S. youth who currently use e-cigarettes use flavors.<sup>12</sup> The most popular flavors  
5 continue to be fruit, followed by candy/dessert/sweets, mint, and menthol.<sup>13</sup> Among users of  
6 cartridge or pod-based e-cigarettes, over half reported using either fruit (58.4%) or menthol  
7 (53.9%), followed by candy/desserts/sweets (30.3%) and mint (27.6%).<sup>14</sup>

8 Menthol flavors are too often exempted from tobacco control policies.<sup>15</sup> Menthol is an  
9 organic compound that has cooling, analgesic, and irritative properties, which can change the  
10 way the brain registers the sensations of taste and pain and when in cigarettes can make harmful  
11 chemicals more easily absorbed in the body.<sup>16,17</sup> Menthol also facilitates absorption by masking  
12 the harshness of, and making it easier to inhale, cigarette smoke. The availability of menthol  
13 cigarettes likely increases experimentation and progression to regular smoking and the  
14 availability of menthol increases the likelihood of addiction for youth smokers.<sup>18,19</sup> Exempting  
15 menthol perpetuates social injustice as menthol flavoring has been used by the tobacco industry  
16 to appeal to youth, racial minorities, and marginalized populations. The tobacco industry has

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<sup>11</sup> *The Effects of Nicotine on The Adolescent Brain—Vaping Side Effects. Get the Facts Here.* - Tobacco Free CA. (n.d.). Retrieved January 28, 2021, from <https://tobaccofreeca.com/e-cigarettes/the-effects-of-nicotine-on-the-adolescent-brain/>

<sup>12</sup> Cooper, M. (2022). Notes from the Field: E-cigarette Use Among Middle and High School Students — United States, 2022. *MMWR. Morbidity and Mortality Weekly Report*, 71. <https://doi.org/10.15585/mmwr.mm7140a3>

<sup>13</sup> Cooper, M. (2022). Notes from the Field: E-cigarette Use Among Middle and High School Students — United States, 2022. *MMWR. Morbidity and Mortality Weekly Report*, 71. <https://doi.org/10.15585/mmwr.mm7140a3>

<sup>14</sup> Cooper, M. (2022). Notes from the Field: E-cigarette Use Among Middle and High School Students — United States, 2022. *MMWR. Morbidity and Mortality Weekly Report*, 71. <https://doi.org/10.15585/mmwr.mm7140a3>

<sup>15</sup> *The importance of strong local flavored tobacco policies.* (n.d.). Truth Initiative. Retrieved February 1, 2021, from <https://truthinitiative.org/research-resources/emerging-tobacco-products/study-highlights-importance-strong-local-flavored>

<sup>16</sup> 45 U.S. Department of Health and Human Services. *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General.* U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

<sup>17</sup> U.S. Department of Health and Human Services. *Tobacco Use Among U.S. Racial/Ethnic Minority Groups—African Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General.* U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 1998

<sup>18</sup> 8 U.S. Food and Drug Administration, Tobacco Products Scientific Advisory Committee. *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations.* March 23, 2011. Available at: <https://wayback.archiveit.org/7993/20170405201731/https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>

<sup>19</sup> U.S. Food and Drug Administration. *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes.* 2013. Available at: <http://purl.fdlp.gov/GPO/gpo39032>

targeted minority groups such as the lesbian, gay, bisexual, and transgender (LGBT) community, Asian Americans, Pacific Islanders, Native Hawaiians, and African Americans.<sup>20,21,22</sup> Menthol use is also high among those with behavioral health conditions and those who are socioeconomically disadvantaged.<sup>23,24</sup>

Higher proportions of youth e-cigarette use in Hawai‘i counties call for more urgent action on the local level. The number of youth in Honolulu (8,500) who currently use e-cigarettes is alarming.<sup>25,26</sup> To uphold consistency and standard definitions in all jurisdictions, the DOH respectfully opposes the definition of tobacco products in this measure as well as the exemptions for hookah, loose leaf tobacco, premium cigars, and shisha tobacco products. Maintaining the consistency in definition will also provide clarity for enforcement by the City and County of Honolulu according to [§41-14.6\(c\) Enforcement-Administration, ROH](#). The DOH respectfully recommends amendments to align the definition of “Tobacco Product” Bill 46-23, C.D.2 with §328J, HRS, remove exemptions for hookah, premium cigars, loose leaf tobacco and shisha tobacco products, and clarify the cost of proper disposal of ESDs and e-liquids as hazardous waste.

Thank you for the opportunity to testify.

#### **Offered Amendments:**

The following amendments are respectfully requested:

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<sup>20</sup> Washington, H. (2002). *Burning Love: Big Tobacco Takes Aim at LGBT Youths* | *AJPH* | Vol. 92 Issue 7. American Journal of Public Health. <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.92.7.1086>

<sup>21</sup> Muggli, M. E., Pollay, R. W., Lew, R., & Joseph, A. M. (2002). Targeting of Asian Americans and Pacific Islanders by the tobacco industry: Results from the Minnesota Tobacco Document Depository. *Tobacco Control*, 11(3), 201–209. <https://doi.org/10.1136/tc.11.3.201>

<sup>22</sup> Primack, B. A., Bost, J. E., Land, S. R., & Fine, M. J. (2007). Volume of Tobacco Advertising in African American Markets: Systematic Review and Meta-Analysis. *Public Health Reports*, 122(5), 607–615.

<sup>23</sup> National Survey on Drug Use and health, 2018

<sup>24</sup> National Survey on Drug Use and health, 2018

<sup>25</sup> Hawai‘i IBIS - Query Result—Hawai‘i Youth Risk Behavior Survey (YRBS) Data—Electronic vapor product—Current use, High Schools, County-level. (2017-2021). Retrieved August 23, 2023, from [https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr\\_HS\\_CNTY.html](https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr_HS_CNTY.html)

<sup>26</sup> Hawai‘i IBIS - Query Result—Hawai‘i Youth Risk Behavior Survey (YRBS) Data—Electronic vapor product—Current use, Middle Schools, County-level. (2017-2021). Retrieved August 23, 2023, from [https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr\\_MS\\_CNTY.html](https://hhdw.org/report/query/result/yrbs/VaporCurr/VaporCurr_MS_CNTY.html)

- 1       • In Bill 46-23, C.D. 2, remove the exemptions and all reference and definitions for “Hookah”,  
2       “Loose Leaf Tobacco”, “Shisha Tobacco Product” and “Premium Cigar”
- 3       • On Page 4 of the measure, replace the existing definition of tobacco product with the language  
4       found in §328J-1, HRS which reads,
  - 5           ○ ““Tobacco product” means any product made or derived from tobacco, that contains  
6           nicotine or other substances, and is intended for human consumption or is likely to be  
7           consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested  
8           by any other means, including, but not limited to, a cigarette, cigar, pipe tobacco,  
9           chewing tobacco, snuff, snus, or an electronic smoking device. “Tobacco product” does  
10          not include drugs, devices, or combination products approved for sale by the United  
11          States Food and Drug Administration, as those terms are defined in the Federal Food,  
12          Drug, and Cosmetic Act.”
- 13       • On Pages 5-6, in Section 2, subsection ( c), revise the text as follows: “The cost of proper  
14       disposal of electronic smoking devices and e-liquids as hazardous waste pursuant to Chapter 11-  
15       266.1, the Hawaii Administrative Rules must be borne by the retailer”



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Preserving Hookah Culture & Protecting Hookah Tradition across the USA

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October 4, 2023

The National Hookah Community Association (NHCA) brings together, and serves as the voice of, hookah producers, distributors, sellers, hookah lounge owners, consumers, and community members who support the preservation of hookah's cultural traditions. We thank you for recognizing the cultural significance of hookah to minority and immigrant populations and exempting it from the proposed flavored tobacco ban in Bill 46. In order to further protect public health and the cultural importance of hookah, we request two clarifications.

As we raised at the Committee on Housing, Sustainability and Health hearing, the current language would exclude all electronic devices from the hookah exemption. We agree that this exemption should not be used as a loophole for otherwise banned products but believe the current language could restrict certain important hookah products. It is important to note that shisha does not come in liquid form and can only be smoked in a hookah. We suggest the following amendments to ensure that no vape or e-liquid devices receive an exemption while still allowing for traditional leaf shisha (not liquid) to be smoked using an electric heat source. Electric heat eliminates the need for lighting and using hot coals as a heat source, creating a net safety benefit. We propose doing so by adding a height requirement to prevent vape devices from being erroneously marketed as "e-hookah".

**Hookah.** A type of waterpipe, used to smoke shisha tobacco products, with a long flexible tube for drawing aerosol through water. Components of a hookah may include heads, stems, bowls, and hoses. This term does not include an e-hookah or other electronic smoking devices under 10 inches in height.

**Shisha Tobacco Product.** A tobacco product smoked or intended to be smoked in a hookah. The term includes, and may be referred to as, hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh. The term does not include any electronic devices, such as an electronic hookah, electronic cigarette, or electronic tobacco product under 10 inches in height.

The cultural significance of hookah to many populations is not only the shisha itself, but also a ritual of gathering and hospitality. This may occur in welcoming someone to one's home or in a hookah lounge as a place to gather and engage in conversation. As such we want to recognize the significance of hookah lounges and ensure that these minority-owned businesses can continue to operate. From our understanding in conversations with the council, provision §41-\_.2(d)(3), which exempts shisha tobacco products sold in "retail tobacco stores," also applies to hookah lounges allowing these businesses to remain in operation. If this is not the case, we request that the council clarify this provision to allow these businesses, which are important gathering places, to continue.

We thank you for supporting communities that have long practiced hookah as part of their heritage and its exemption from the flavored tobacco ban.

National Hookah Community Association



October 4th, 2023

Dear Councilmembers,

The Campaign for Tobacco-Free Kids **strongly supports the intent of Bill 046 FD1** to end the sale of flavored tobacco products in the City and County of Honolulu and provides comment on the included exemptions.

The Campaign for Tobacco-Free Kids & the Tobacco-Free Kids Action Fund are pleased to submit this letter in support of a **comprehensive** ban on the sale of flavored tobacco products in the city and county of Honolulu to reduce tobacco use, particularly among youth. The Campaign for Tobacco-Free Kids is the nation's largest non-profit, non-governmental advocacy organization solely devoted to reducing tobacco use and its deadly toll by advocating for public policies that prevent kids from using tobacco and help smokers quit. It is encouraging to see cities and counties continue to take thoughtful, evidence-based steps to reduce the number of kids who start using tobacco and help tobacco users quit.

We understand that this bill would not take effect unless the state repealed the preemption on tobacco sale regulation by the counties. The counties of Hawai'i have a long history of enacting tobacco control before the state takes action and we hope that the state will allow the counties to resume their role in protecting their residents against pernicious actors like Big Tobacco.

While Hawai'i has made great strides in reducing tobacco use, tobacco use remains the number one preventable cause of premature death and disease in Hawai'i and the nation, killing 480,000 Americans annually, including 1,400 in Hawai'i. **As you discuss policy options, we stand with dozens of other national health organizations to urge you to end the sale of all flavored tobacco products including *candy-flavored e-cigarettes, sweet-flavored cigarillos, menthol cigarettes, and hookah products.***

**Prohibiting the sale of all flavored tobacco products in all tobacco retailers is a critical step that will help protect children living in Hawai'i from the unrelenting efforts by the tobacco industry to hook them to a deadly addiction.** Flavored tobacco products are designed to alter the taste and reduce the harshness of tobacco products so they are more appealing and easy for beginners, who are almost always kids. These products are pervasive and are marketed and sold in a variety of kid-friendly flavors. With their colorful packaging and sweet flavors, flavored tobacco products are often hard to distinguish from the candy displays near which they are



frequently placed in retail outlets. **Eight out of ten youth who have ever used a tobacco product started with a *flavored* product.**<sup>1</sup>

### **Flavored Tobacco Products Are Pervasive**

A 2009 federal law, the Family Smoking Prevention and Tobacco Control Act, prohibited the sale of cigarettes with characterizing flavors other than menthol or tobacco, including candy and fruit flavors. While overall cigarette sales have been declining since the 2009 law, the proportion of smokers using *menthol* cigarettes (the only remaining flavored cigarette) has been increasing.<sup>2</sup> Menthol cigarettes comprised 37 percent of the market in 2020.<sup>3</sup>

The Tobacco Control Act's prohibition on characterizing flavors did not apply to other tobacco products, and as a result, tobacco companies have significantly stepped up the introduction and marketing of flavored non-cigarette tobacco products. In fact, the overall market for flavored tobacco products is actually growing. In recent years, there has been an explosion of sweet-flavored tobacco products, especially e-cigarettes and cigars. These products are available in a wide assortment of flavors – like mango, blue razz, pink punch and mint for e-cigarettes and chocolate, watermelon, and cherry dynamite for cigars. Tobacco companies are making and marketing deadly and addictive products that look and taste like a new line of flavors from a Ben and Jerry's ice cream store.

Flavors are not just a critical part of the product design, but are a key marketing ploy for the industry. The 2016 Surgeon General Report on e-cigarettes concluded, "E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to youth and young adults."<sup>4</sup> The 2021 National Youth Tobacco Survey found that 70.3% of middle and high school

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<sup>1</sup> Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.

<sup>2</sup> Villanti, A., et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, 25(Suppl 2):ii14-ii20, 2016.

<sup>3</sup> U.S. Federal Trade Commission (FTC), Cigarette Report for 2020, 2021, <https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2020-smokeless-tobacco-report-2020/p114508fy20cigarettereport.pdf> [data for top 4 manufacturers only].

<sup>4</sup> HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.





students—17.77 million youth—had been exposed to e-cigarette advertisements from at least one source.<sup>5</sup>

Sales of cigars (i.e., large cigars, cigarillos, and small cigars) have more than doubled between 2000 and 2020, and much of the growth is attributable to smaller types of cigars, many of which are flavored and inexpensive.<sup>6</sup> Nielsen convenience store market scanner data showed that over half (53.3%) of cigar sales in 2020 were for flavored cigars. Among flavored cigars sold in these stores in 2020, the most popular flavors were sweet or candy (30.6%) and fruit (29.5%).<sup>7</sup> Earlier data show the number of unique cigar flavor names more than doubling from 108 to 250 over the same time period.<sup>8</sup> The top five most popular cigar brands among 12- to 17-year olds who have used cigars – Black & Mild, Swisher Sweets, White Owl, Backwoods, and Dutch Masters – all come in flavor varieties.<sup>9</sup> These products are often sold singly or can be priced as low as 3 or 4 for 99 cents, making them even more appealing to price-sensitive youth. Note that cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke.<sup>10</sup>

Although tobacco companies claim to be responding to adult tobacco users' demand for variety, it's clear that flavored tobacco products play a key role in enticing new users, particularly kids, to a lifetime of addiction. This growing market of flavored tobacco products is undermining progress in reducing youth tobacco use.

### Flavored Tobacco Products Are Popular Among Youth

These sweet products have fueled the popularity of e-cigarettes and cigars among youth. A government study found that **eight out of ten kids who have ever used tobacco products started with a flavored product.**<sup>11</sup> Across all tobacco products, the data is clear: flavored

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<sup>5</sup> Gentzke, A, et al., "Tobacco Product Use and Associated Factors Among Middle and High School Students—National Youth Tobacco Survey, United States, 2021," *MMWR* 71(5): 1-29, March 10, 2022, <https://www.cdc.gov/mmwr/volumes/71/ss/pdfs/ss7105a1-H.pdf>.

<sup>6</sup> U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics.

<sup>7</sup> Delnevo, CD, et al. "Cigar Sales in Convenience Stores in the US, 2009-2020," *JAMA* 326(23):2429-2432.

<sup>8</sup> Delnevo, CD, Giovenco, DP, & Miller, EJ, "Changes in the Mass-merchandise Cigar Market since the Tobacco Control Act," *Tobacco Regulatory Science*, 3(2 Suppl 1):S8-S16, 2017.

<sup>9</sup> SAMHSA's public online data analysis system (PDAS). National Survey on Drug Use and Health, 2015, [https://pdas.samhsa.gov/#/survey/NSDUH-2015-DS0001/crosstab/?row=CGR30BR2&column=CATAG2&weight=ANALWT\\_C&results\\_received=true](https://pdas.samhsa.gov/#/survey/NSDUH-2015-DS0001/crosstab/?row=CGR30BR2&column=CATAG2&weight=ANALWT_C&results_received=true).

<sup>10</sup> National Cancer Institute (NCI), *Cigars: Health Effects and Trends. Smoking and Tobacco Control Monograph No. 9*, 1998, [http://cancercontrol.cancer.gov/Brp/tcrb/monographs/9/m9\\_complete.pdf](http://cancercontrol.cancer.gov/Brp/tcrb/monographs/9/m9_complete.pdf). Chang, CM, et al., "Systematic review of cigar smoking and all cause and smoking related mortality," *BMC Public Health*, 2015.

<sup>11</sup> Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.



tobacco products are overwhelmingly used by youth as a starter product, and preference for flavors declines with age.

Nationally, e-cigarettes have been the most commonly used tobacco product among youth since 2014. Today, youth e-cigarette use remains a serious public health concern, with over 2.5 million youth, including 14.1% of US high schoolers, reporting current e-cigarette use in 2022, according to the National Youth Tobacco Survey (NYTS).<sup>12</sup> According to the 2019 Hawai'i Youth Risk Behavior Survey, 30.1% of Hawai'i high school students and 17.7% of middle school students are current e-cigarette users.<sup>13</sup>

Kids are not just experimenting with e-cigarettes, but are using them frequently, leading to an addiction that is difficult to break. According to the 2022 NYTS, 46% of high school e-cigarette users reported vaping on 20 or more days/month, and 30.1% reported daily use.<sup>14</sup> This youth addiction crisis has been fueled by the growth of high nicotine e-cigarettes—many contain as much or more nicotine as a pack of twenty cigarettes. Nicotine is a highly addictive drug that can have lasting damaging effects on adolescent brain development—the brain keeps developing until about age 25. In particular, nicotine use can harm the parts of the adolescent brain responsible for attention, learning, mood and impulse control.<sup>15</sup> The Surgeon General concluded that, “The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”<sup>16</sup>

Youth e-cigarette users are also at risk of smoking cigarettes. A 2018 report from the National Academies of Science, Engineering & Medicine found that “There is substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and

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<sup>12</sup> Cooper, M et al., “E-Cigarette Use Among Middle and High School Students—United States, 2022,” *MMWR*, 71(40): 1283-1285, October 7, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a3-H.pdf>.

<sup>13</sup> Centers for Disease Control and Prevention (CDC). 2019 High School Youth Risk Behavior Survey Data. Available at <http://nccd.cdc.gov/youthonline/>.

<sup>14</sup> Cooper, M et al., “E-Cigarette Use Among Middle and High School Students—United States, 2022,” *MMWR*, 71(40): 1283-1285, October 7, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a3-H.pdf>.

<sup>15</sup> HHS, *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*, CDC, Office of Smoking and Health (OSH), 2014, <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html>. See also: CDC Office on Smoking and Health, “Quick Facts on the Risks of E-cigarettes for Kids, Teens, and Young Adults,” March 2019. Accessed August 9, 2019.

<sup>16</sup> HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.



young adults.”<sup>17</sup> More recent research confirms this finding.<sup>18</sup> Therefore, it is critical for any policy restricting sales of flavored tobacco products to include e-cigarettes.

In February 2020, the FDA restricted some flavors in cartridge-based e-cigarettes, but exempted all menthol-flavored e-cigarettes and left flavored e-liquids and disposable e-cigarettes widely available in every imaginable flavor, including flavors that uniquely appeal to Hawai’i’s children – like luau punch and lychee ice. New data show that the market share of these products has grown substantially and that youth quickly migrated to the flavored products that were exempt from the FDA’s policy. In 2022, 55.3% of US youth e-cigarette users reported using disposable e-cigarettes and 26.6% of users of flavored e-cigarettes reported using menthol e-cigarettes.<sup>19</sup>

While the FDA recently announced that it had denied marketing applications for certain flavored e-cigarettes, many of the flavored products most popular among kids, like Juul, are still on the market. Every day these products remain on the market, our kids remain in jeopardy. Because of the delays and gaps in the FDA’s actions, it is critical that states and cities step up their efforts to eliminate ALL flavored e-cigarettes, as well as other flavored tobacco products. The evidence is also clear that as long as any flavored e-cigarettes – including menthol-flavored products – are on the market, kids will shift to them and we will not end this public health crisis. Hawai’i must close the gaps left by the FDA and protect our kids from these dangerous and addictive products.

### **Menthol Cigarettes and Flavored Cigars Increase Youth Smoking and Exacerbate Health Disparities**

No other flavored product contributes more to the death and disease caused by tobacco use than menthol cigarettes. Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating smoking. As the only flavored cigarette left on the market, it’s also no surprise that menthol cigarettes are popular among youth. About half of youth who have ever tried smoking started with menthol-flavored cigarettes.<sup>20</sup> The FDA’s Tobacco Product Scientific Advisory Committee (TPSAC) has reported that:

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<sup>17</sup> National Academies of Sciences, Engineering, and Medicine (NASEM), *Public Health Consequences of E-Cigarettes*, 2018, <http://nationalacademies.org/hmd/Reports/2018/public-health-consequences-of-e-cigarettes.aspx>.

<sup>18</sup> Berry, KM, et al., “Association of Electronic Cigarette Use with Subsequent Initiation of Tobacco Cigarettes in US Youths,” *JAMA Network Open*, 2(2), published online February 1, 2019; Pierce, JP, et al., “Use of E-Cigarettes and Other Tobacco Products and Progression to Daily Cigarette Smoking,” *Pediatrics*, 147(2), published online January 11, 2021.

<sup>19</sup> Cooper, M et al., “E-Cigarette Use Among Middle and High School Students—United States, 2022,” *MMWR*, 71(40): 1283-1285, October 7, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a3-H.pdf>.

<sup>20</sup> Ambrose, BK, et al., “Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014,” *Journal of the American Medical Association*, published online October 26, 2015.



- Menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking.
- Young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.

According to the 2019 Hawaii Youth Risk Behavior Survey, 59% of Hawaii's high school cigarette smokers and 38% of middle school cigarette smokers used menthol cigarettes.

In addition, cheap, flavored cigars – sold in hundreds of flavors like cherry dynamite, tropical twist and chocolate – have flooded the market in recent years and fueled the popularity of these products with kids. The 2022 National Youth Tobacco Survey shows that cigars are the second most popular tobacco product (after e-cigarettes) among all high school students and are especially popular among Black high school students.<sup>21</sup>

***Tobacco companies have a long history of targeting communities with menthol marketing.***

Tobacco industry marketing, often targeted at minority communities, has been instrumental in increasing the use of menthol products and in the disproportionate use of menthol products by minority groups and youth. TPSAC concluded that menthol cigarettes are marketed disproportionately to younger smokers and Black Americans.<sup>22</sup> Dating back to the 1950s, the tobacco industry has targeted these communities with marketing for menthol cigarettes through sponsorship of community and music events, targeted magazine advertising, youthful imagery, and marketing in the retail environment. Nationwide, as a result of this targeting, 85% of Black smokers smoke menthol cigarettes, compared to 29% of White smokers.<sup>23</sup> Nationally, menthol is also disproportionately high among Asian and Hispanic smokers, LGBTQ+ smokers, smokers with mental health problems, socioeconomically disadvantaged populations, and pregnant women.<sup>24</sup>

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<sup>21</sup> Park-Lee E, et al. "Tobacco Product Use Among Middle and High School Students — United States, 2022." *MMWR* 71(45):1429–1435, November 11, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7145a1-H.pdf>.

<sup>22</sup> TPSAC, *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011.

<sup>23</sup> Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.

<sup>24</sup> Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.



There is also evidence that the industry has targeted the Hawaiian population. In the 1980s, a marketing group strategized how to reach native Hawaiians with Kool cigarettes, a popular menthol brand. The agency recommended that Kool employ “ethnic advertising” in Hawai’i, recommending the use of models that were “fun, happy-go-lucky young people in their 20s...[who have] full social calendars and spend a lot of time outdoors at the beach... people who display what islanders call the aloha spirit.”<sup>25</sup> An assessment of tobacco advertising in Hawai’i found that Kool, a popular menthol brand, was the most heavily advertised brand across Hawai’i in the early 2000s.<sup>26</sup> The 2020 Behavioral Risk Factor Surveillance System shows that prevalence is high among ethnic groups that comprise a significant proportion of Hawaii’s population, with 79% of Filipino smokers, 78% of Native Hawaiian smokers, and 69% of Japanese smokers usually smoking menthol cigarettes.

***Menthol cigarettes are a major reason why Black Americans suffer disproportionately from tobacco use.*** The tobacco industry’s “investment” in the African American community has had a destructive impact. In 2013, the FDA released a report finding that menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction, and decreased success in quitting smoking.<sup>27</sup> Tobacco use is the number one cause of preventable death among Black Americans, claiming 45,000 Black lives every year.<sup>28</sup> Tobacco use is a major contributor to three of the leading causes of death among Black Americans - heart disease, cancer and stroke.<sup>29</sup> The higher rates of some tobacco-caused diseases among Black Americans result, in part, from their greater use of menthol cigarettes, which are associated with reduced

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<sup>25</sup> Anderson, SJ, “Marketing of menthol and consumer perceptions: a review of tobacco industry documents,” *Tobacco Control*, 20(Suppl 2): ii20-ii28, 2011.

<sup>26</sup> Glanz, K, et al., “Operation Storefront Hawaii: Tobacco Advertising and Promotion in Hawaii Stores,” *Journal of Health Communication*, 11(7): 699-707, 2006.

<sup>27</sup> FDA, *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes*, 2013.

<sup>28</sup> American Cancer Society, “Cancer Facts & Figures for African Americans, 2016-2018,” 2016, <http://www.cancer.org/acs/groups/content/@editorial/documents/document/acspc-047403.pdf>. American Heart Association, “African Americans and Cardiovascular Diseases: Statistical Fact Sheet, 2012 Update,” [http://www.heart.org/idc/groups/heart-public/@wcm/@sop/@smd/documents/downloadable/ucm\\_319568.pdf](http://www.heart.org/idc/groups/heart-public/@wcm/@sop/@smd/documents/downloadable/ucm_319568.pdf). HHS, “Tobacco Use Among US Racial/Ethnic Minority Groups—African Americans, American Indians and Alaskan Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General,” 1998, [http://www.cdc.gov/tobacco/data\\_statistics/sgr/1998/complete\\_report/pdfs/complete\\_report.pdf](http://www.cdc.gov/tobacco/data_statistics/sgr/1998/complete_report/pdfs/complete_report.pdf)

<sup>29</sup> HHS, “Tobacco Use Among US Racial/Ethnic Minority Groups—African Americans, American Indians and Alaskan Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General,” 1998; CDC, National Vital Statistics Report, Vol. 68, No. 9. Table 10, 2019 [https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68\\_09-508.pdf](https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68_09-508.pdf).



cessation.<sup>30</sup> Researchers estimate that among the Black community, 157,000 smoking-related premature deaths and 1.5 million excess life-years between the years 1980 and 2018 can be attributed to menthol cigarettes.<sup>31</sup>

**Action to prohibit menthol cigarettes is long overdue.** In 2011, TPSAC concluded that “Removal of menthol cigarettes from the marketplace would benefit public health in the United States.”<sup>32</sup> Over a decade after TPSAC issues its report—in April 2022—the FDA issued proposed rulemaking to prohibit menthol cigarettes and flavored cigars. However, until any FDA action is finalized, states and cities should continue their growing efforts to end the sale of menthol cigarettes and other flavored tobacco products. It will take time for the FDA to finalize and implement the necessary regulations to prohibit menthol cigarettes and flavored cigars, and tobacco industry lawsuits could cause more delays. States and cities have an obligation to protect the health of their citizens and must act now to stop tobacco companies from targeting kids and other groups with menthol cigarettes and other flavored products. We can’t afford more delay in taking action to protect kids and save lives.

**The scientific evidence leaves no doubt that menthol cigarettes and other flavored tobacco products increase the number of people, particularly kids, who try the product, become addicted and die a premature death as a result.** Prohibiting the sale of menthol cigarettes and other flavored tobacco products is an important step toward protecting our children from the tobacco industry’s aggressive efforts to hook children to a deadly, addictive product. This issue is about protecting our kids, saving lives, and advancing health equity.

**Thank you for considering a strong and comprehensive policy without exemptions. This ordinance will save lives in Hawai’i.**

Sincerely,

Liza Ryan Gill

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<sup>30</sup> HHS, “Tobacco Use Among US Racial/Ethnic Minority Groups—African Americans, American Indians and Alaskan Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General,” 1998; HHS, *Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General*, 2014. See also Alexander, LA, et al., “Why we must continue to investigate menthol’s role in the African American smoking paradox,” *Nicotine & Tobacco Research*, 18(S1): S91-S101, 2016.

<sup>31</sup> Mendez, D and Lee, TT, “Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980-2018,” *Tobacco Control*, published online September 16, 2021.

<sup>32</sup> Tobacco Products Scientific Advisory Committee (TPSAC), *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011  
<http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>.





## Campaign for Tobacco-Free Kids, Hawaii

Relating to the Proposed Exemptions for hookah/shisha and “premium” cigars, please see the photos below for examples of products that have been created to fit within loopholes created for hookah and cigars.



DISPOSABLE E-HOOKAHS



CAMPAIGN  
for  
TOBACCO-FREE  
Kids®

# Not Your Grandfather's Cigar

*A New Generation of Cheap and Sweet Cigars  
Threatens a New Generation of Kids*



CAMPAIGN  
for  
TOBACCO-FREE  
Kids®





## **American Heart Association comments on Bill 46, CD2, Relating to Flavored Tobacco Products**

The tobacco industry has a long history of using exemptions to circumvent the intent of otherwise well-meaning legislation to reduce consumption of its highly addictive, and health damaging products.

The exemptions offered in Bill 46, CD2 would almost certainly be used by the tobacco industry to attract young customers to new products that until now have not been problematic in the Hawaii market. Hookah has not been attractive to the Hawaii market, but if flavored hookah were allowed to remain exempted from flavor restrictions we would likely see an industry shift to promoting hookah as an alternative to other products restricted by the law. The industry would continue to focus on the same Hawaii communities disparately affected by its targeted marketing and abundance of retail outlets.

Native Hawaiians already smoke at significantly higher rates than the rest of Hawaii's population and start smoking at an earlier age, according to the Hawaii Department of Health. If flavored hookah is exempted, the hookah industry will continue to use flavors like red gummy bear, island papaya, fruit loopz, Carebear, and pineapple ice (already found on the menu at a Honolulu hookah location) to hook new users. In California, where flavored hookah was exempted from flavor restrictions, the communities most heavily using those flavored products are not the Middle Eastern or Southeast Asian populations the industry claims use hookah as a cultural practice. Instead, 40% of California's hookah users now come from its Hispanic/Latino communities. These types of exemptions perpetuate health inequities in underserved communities.

California also saw a proliferation of hookah shops and bars in areas near college campuses. Because the proposed Honolulu exemption would still allow access to those 18 and above, our doors would be open to the tobacco industry to target and addict our young people using its same tactics. Nationally, among current youth tobacco users, hookah users have the highest percentage of using a flavored product.

Hookah is commonly, but incorrectly, perceived as less harmful than cigarette smoking. Compared with cigarettes, hookah contains:

5 times more cancer-causing agents 100 times more tar

4 times more nicotine

11 times more carbon monoxide

Hookah users may inhale as much smoke in one session as a cigarette smoker would inhale in 100 cigarettes (5 packs).

Youth who use hookah are twice as likely to pick up a cigarette addiction.

Tobacco isn't the only product smoked out of hookahs. Some people also use it to smoke marijuana.

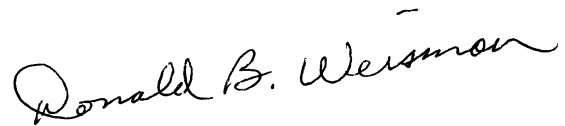
The American Heart Association, based on an analysis of Honolulu's proposed flavor restrictions law by the [Public Health Law Center](#) (PHLC), the nation's preeminent legal experts on commercial tobacco control policy, also feels that the premium cigar exemption offered in CD2 is unnecessary. The PHLC's analysis finds that the majority of premium cigars would not be classified as "flavored" under the proposed Bill 46, CD1 because the descriptive flavors in natural premium cigars originate from the processing of the tobacco leaf, not from the addition or infusion of artificial flavors. In sum, the description of the cigar as "full bodied," "mild," etc. likely has to do with the production process itself, e.g., fermenting and aging, rather than the addition of non-tobacco flavors in most premium cigars.

Based on that analysis, the American Heart Association respectfully asks that the premium cigar exemption be removed from Bill 46 as unnecessary and potentially opening the door to loopholes which could be used by the industry to circumvent the proposed law's intent.

The American Heart Association reserves our support for a comprehensive policy that does not exempt any tobacco products from flavors restrictions.

Mahalo for this opportunity to offer comment on Bill 46, and to strongly recommend that the Council restore the language of Bill 46 to its CD1 version to ensure that the bill's intent is fully achieved.

Respectfully submitted,

A handwritten signature in black ink that reads "Donald B. Weisman". The signature is written in a cursive, flowing style with a horizontal line above the name.

Donald B. Weisman

Government Relations/Communications and Marketing Director

**HONOLULU CITY COUNCIL**

**Tommy Waters**  
**Chair & Presiding Officer**  
**Esther Kia'aina**  
**Vice Chair**

**Wednesday, October 4, 2023**

**Testimony offering Amendments for Bill 46, CD1 Relating to Flavored Tobacco Products**

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education, and advocacy. The work of the American Lung Association in Hawai'i and across the nation is focused on four strategic imperatives: to defeat lung cancer; to improve the air we breathe; to reduce the burden of lung disease on individuals and their families; and to eliminate tobacco use and tobacco-related diseases.

**The American Lung Association calls on the City and County of Honolulu to support an amended version of Bill 46, CD 1 to restrict the sales of flavored tobacco products to protect youth. Tobacco use remains Hawai'i's and the nation's leading cause of preventable death and disease, taking an estimated 480,000 lives every year in the U.S.**

**It is imperative that the bill restricts all flavors of tobacco, with no exceptions, including menthol and inclusive of all tobacco products for the following reasons:**

- 1. Menthol keeps the most vulnerable addicted.** Overwhelming scientific evidence not only supports the restriction of menthol cigarettes to protect public health and save thousands of lives, but also indicates that restrictions should be implemented urgently. Menthol cigarettes made up 37% of the cigarette market in 2021, an all-time high in the years these data have been tracked<sup>1</sup>. Menthol flavored tobacco products disproportionately affect minorities and other vulnerable populations.
- 2. Menthol is a barrier for quitting tobacco.** In a letter to the Food and Drug Administration dated January 22, 2021, the Hawai'i State Attorney General stated that menthol tobacco products "remain a major barrier to smoking cessation and reduction of smoking-related diseases. Although the tobacco industry argues that a ban will increase illicit trade, these warnings are overblown and self-serving. Robust measures for monitoring and enforcement are already in place. A ban on menthol cigarettes will benefit public health and there are no compelling reasons why these products should remain on the market."
- 3. Menthol is preferred by young people because it masks harsh flavors of tobacco.** Research has shown that mint (or menthol) flavors are attractive to the young people. In fact, close to 40% of youth

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<sup>1</sup> Federal Trade Commission. Cigarette Report for 2021. Issued 2023. Available at:  
[https://www.ftc.gov/system/files/ftc\\_gov/pdf/p114508cigarettereport2021.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/p114508cigarettereport2021.pdf).

<sup>1</sup> **Hawaii** who smoke use menthol cigarettes.<sup>2</sup> In addition, mint and menthol are among the most popular flavors for teens who vape nicotine<sup>3</sup>.

4. **No tobacco product should be exempt from this policy:** while it's tempting to carve out exemptions for certain types of tobacco products, tobacco companies have a history of exploiting those loopholes. In some markets where cigars have been exempted from similar restrictions, they have simply retooled their products to qualify under available exemptions. In addition, different classifications for different tobacco products can lead to confused retailers and unbalanced enforcement, leaving our keiki vulnerable for addiction.

The need for Hawai'i to protect youth from tobacco is more urgent than ever, with youth e-cigarette use reaching epidemic levels. According to the Centers for Disease Control, in 2019 nearly every 1 in 3 high schoolers in Hawai'i vaped regularly. This is an over 70% increase in youth vaping rates since 2017. Native Hawaiians and Pacific Islanders have even higher vaping rates than the youth state average.<sup>4</sup>

Because of the evidence presented, **we strongly recommend that there are no exemptions for any tobacco products, including any types of cigars, hookahs, or shisha, under Bill 46.**

The original version of the bill made it clear that the Honolulu City and County Council had a clear mandate to curb youth vaping. By cutting out all exemptions it gives the clearest and most effective path for the Council to ensure that future generations of youth will not be addicted to tobacco products. The state law passed in Massachusetts<sup>5</sup> could serve as a good model.

The American Lung Association in Hawai'i urges Councilmembers to support and advocate for policies to protect youth from tobacco use by restricting flavored tobacco products. We urge for your support of Bill 46, CD 1 with the suggested amendments.

Pedro Haro  
Executive Director  
American Lung Association in Hawai'i  
pedro.haro@lung.org

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<sup>2</sup> Gentzke AS, Wang TW, Cornelius M, et al. [Tobacco Product Use and Associated Factors Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021](#). MMWR Surveill Summ 2022;71(No. SS-5):1–29.

<sup>3</sup> Cooper M, Park-Lee E, Ren C, Cornelius M, Jamal A, Cullen KA. [Notes from the Field: E-cigarette Use Among Middle and High School Students — United States, 2022](#). MMWR Morb Mortal Wkly Rep 2022;71:1283–1285.

<sup>4</sup> American Lung Association. *State of Tobacco Control – Hawai'i*. 2022

<sup>5</sup> See [Massachusetts General Laws, chapter 270, section 28](#).



2023

# Stop Smoking

vapes  
ENDS | electronic nicotine delivery system  
electronic smoking devices  
e-cigarettes  
tobacco products

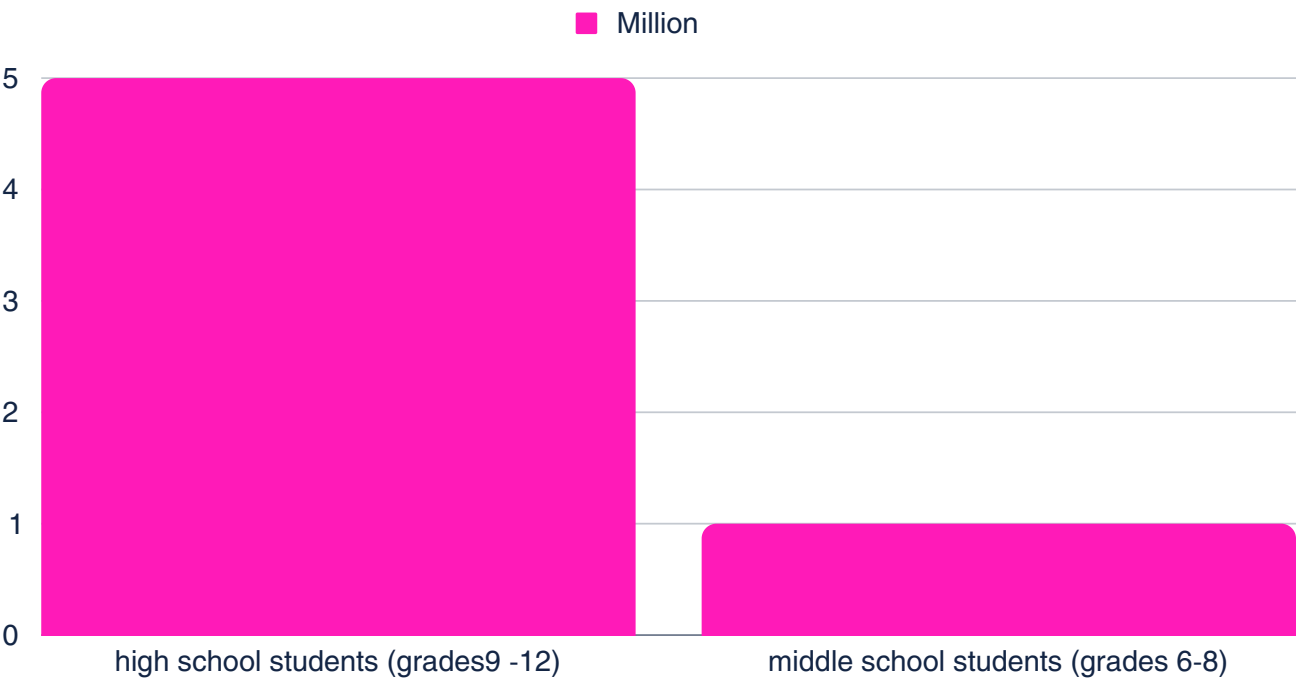
...FOR THE HEALTH OF HAWAII'S STUDENTS



# Introduction

## Overview

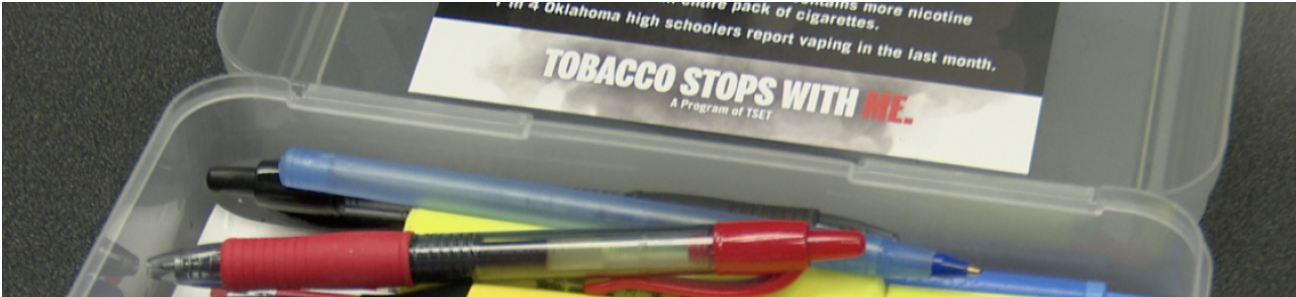
The [US Surgeon General](#) has declared nicotine addiction a public health crisis because of evolved tobacco products. We must take action now to protect the health of our nation’s students. According to the [CDC, The Center of Disease Control](#), the youth vape epidemic is heavily impacting middle & high schoolers.



**How many middle & high schoolers use tobacco products?  
What kind of tobacco products are they using?**

“In 2021, an estimated 34.0% of high school students (5.22 million) and 11.3% of middle school students (1.34 million) reported ever using a tobacco product (i.e., electronic cigarettes [e-cigarettes], cigarettes, cigars, smokeless tobacco, hookahs, pipe tobacco, heated tobacco products, nicotine pouches, and bidis [small brown cigarettes wrapped in a leaf]).”

[The CDC’s National Youth Tobacco Survey, 2021](#)







A vape disguised as a school supply.

KJRH Oklahoma News

# State & Federal Agencies

Federal, state & county agencies which manage vape policies to protect students’ health.

Agency	Level of Government	Responsibility
<b>ATF</b> Bureau of Alcohol, Tobacco & Firearms	Federal	♥ Regulates federal policy relating to alcohol, tobacco & firearms
<b>BOE</b> Board of Education	State	♥ Manage statewide education policy
<b>CDC</b> Center for Disease Control & Prevention	Federal	♥ Public health information
<b>DOE</b> Department of Education	State	♥ State of Hawaii public school education system
<b>DOH</b> Department of Health	State	♥ Hawaii’s health agency
<b>FDA</b> Food & Drug Administration	Federal	♥ Ensures safety of medical products, veterinary drugs, food supply
		♥ Medical research, clinical trials & health studies.





Preventing Online Sales of E-Cigarettes to Children Act (2019)	ATF	♥ New regulations for sellers.
PACT (2021) Preventing All Cigarette Trafficking Act	ATF	♥ Proposes restrictions to mailing vapes.
USPS Policy (2021)	ATF	♥ An amendment of the PACT act.

# The Alcohol Drug Abuse & Mental Health Administration Reorganization Act (1992)

## FDA | Substance Abuse & Mental Health Services Administration (SAMHSA)

In 1973, the **Alcohol, Drug Abuse & Mental Health Administration (ADAMHA)** was established as an umbrella organization. It’s administrator is presidentially appointed to provide general supervision & policy direction for its 3 institutes:

- The National Institute of Mental Health (NIMH)
- The National Institute on Drug Abuse (NIDA)
- The National Institute on Alcohol Abuse and Alcoholism (NIAAA)

Alcohol, smoking, drug abuse & mental health are interconnected issues. Congress wanted to focus on providing solutions to these health concerns with “research, training & service” by integrating the work. The focus of the 3 institutes is to improve the quality of biomedical & behavioral research efforts to advise policy. The work of the 3 institutes is to provide direction for health policy rooted in scientific research.

Read about the ADAMHA from NIH.

The **Alcohol, Drug Abuse & Mental Health Services Administration (ADAMHA) Reorganization Act** of 1992 was amended to reflect the requirements of the awarding system of grants relating to tobacco and other issues.

### Congressional Grants for Tobacco (§ 300x–22):

- Congress provides grants for States to manage smoking if they meet the requirements of the Synar program

- [These grants are for primary prevention programs](#)
  - **Community Mental Health Services Block Grant**
    - a grant to provide mental health services
  - **Substance Use Prevention, Treatment & Recovery Services Block (SUBG) Grant**
    - a grant to fund prevention & treatment of abuse

## The Synar Amendment (1992 & 1996)

In July 1992, when Congress enacted the **Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act (PL 102-321)**, it included “**The Synar Amendment**” to Section 1926 of the Public Health Service Act (**42U.S.C. 300x-26**) aimed at decreasing youth access to tobacco. It created **the Synar Program** which is successful in preventing youth tobacco use.

This amendment is named after its sponsor, Congressman Mike Synar of Oklahoma. The Synar Amendment requires States to mandate laws prohibiting the sales & distribution of tobacco products to minors.

States must follow the policies outlined in Synar Amendments to receive their full grants & awards to fund prevention programs. **When T21 (2021) was enacted, States need to prove compliance to new standards. Read the Synar guidelines.**

In Jan 1996, new Synar regulations were added to provide more guidelines to States.

### The new Synar regulations requires States to:

- prohibit sales to anyone under 21 years old
- enforce underage access laws to reduce illegal sales to underage youths
- conduct annual & unannounced inspections to make sure retailers are not selling to anyone under 21
- report State’s sampling methodology, Synar survey results, Synar inspection report & the Synar inspection protocol
- Synar survey results must include results for sales to youths & young adults under 21 years old

### Exemptions:

Tobacco 21 does not exempt anyone or group from the age limit. State & cities that exempt members of the military from Tobacco 21 laws are in violation of the federal law. There are no exemptions.

Single State Authorities  
State Substance Abuse Prevention Agencies  
State Synar Coordinators

**SUBJECT:** Revision to the Substance Abuse and Mental Health Services Administration (SAMHSA) Synar Guidance on Tobacco Regulation for the Substance Abuse Prevention and Treatment Block Grant (SABG), in Response to **Public Law (PL) 116-94 Appropriations Bill signed into law on December 20, 2019**, which Increased the Minimum Age for Purchasing Tobacco Products from 18 to 21.

## **BACKGROUND**

In July 1992, Congress enacted the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act (PL 102-321), which includes an amendment to Section 1926 of the Public Health Service Act (42U.S.C. 300x-26) aimed at decreasing youth access to tobacco. This amendment, named for its sponsor, Congressman Mike Synar of Oklahoma, requires states (that is, all states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and six Pacific jurisdictions) to enact and enforce laws prohibiting the sale or distribution of tobacco products to individuals under the age of 18. States must follow the Synar Amendment to receive their full SABG awards.

On January 19, 1996, SAMHSA published “Tobacco Regulation for Substance Abuse Prevention and Treatment Block Grants” in the *Federal Register*, amending 45 C.F.R. Part 96 to add section 96.130 – State Law Regarding the Sale of Tobacco Products to Individuals Under the Age of 18 – known as the Synar regulation. SAMHSA then revised and issued guidance documents, providing instructions to states on compliance rate goals, use of funds, state reporting requirements, conforming amendments, and penalties.

# **Tobacco 21 (2019)**

**What does the act do:** In 2019, the President enacted into law ‘Tobacco 21 or T21’ to raise the federal age limit for tobacco products from 18 to 21 years of age. It is now illegal to sell tobacco products to anyone under 21. The new federal law applies with no exceptions.

- raise the federal age limit from 18-21 years old
- no tobacco products can be sold to anyone under 21

**What products does this apply to?**

- cigarettes
- smokeless tobacco
- hookah tobacco
- cigars
- pipe tobacco
- vapes (ENDS, e-cigarettes & e-liquids)

# **Preventing Online Sales of E-Cigarettes to Children Act (2019)**

**What the Act does:** The Act was created to reduce access to online sales by legislating these additional policies.

- new tax & licensing policy
- new age limit
- new USPS restriction
- new National Institutes of Health policy

Tax & Licensing Policy	Age Limit Policy	USPS Policy	NIH Policy
<ul style="list-style-type: none"><li>● subjects the sale &amp; delivery of vapes to requirements: tax, licensing &amp; labeling</li></ul>	<ul style="list-style-type: none"><li>● prohibits the sale &amp; delivery to anyone under the legal limit</li></ul>	<ul style="list-style-type: none"><li>● requires the U.S. Postal Service to prohibit the mailing of vapes</li></ul>	<ul style="list-style-type: none"><li>● requires the National Institutes of Health to conduct a health study on the impacts of vapes on youths &amp; young adults</li></ul>

# The PACT Act (2021)

## ATF | Bureau of Alcohol, Tobacco, Firearms & Explosives

**What does the Act do:** In March 2021, Congress amended the “[PACT | Preventing All Cigarette Trafficking Act](#)” to include new regulations for the delivery & sales of vapes.

- Sellers must register products with ATF as per new law ([15 U.S.C. §§ 375 and 376](#)).
- Sellers must register with any states they ship the vapes to.
- Sellers must comply with state, local or tribal tax laws.

The new law is also designed to extend PACT Act’s age verification requirements and to require proper labeling on packages.

[The PACT Act Registration Form.](#)

## Vapes and E-Cigarettes

On March 27, 2021, Congress amended the [Preventing All Cigarette Trafficking \(PACT Act\)](#) to include new regulations regarding the delivery and sales of electronic nicotine delivery systems (ENDS), which include e-cigarettes, “vapes”, flavored and smokeless tobacco.

Any person or business that sells, transfers or ships for profit any ENDS in interstate commerce must now register with ATF according to 15 U.S.C. §§ 375 and 376. They must also register with any states that they ship vapes into.



# Tax Compliance

Under the PACT Act, delivery sales of electronic nicotine delivery systems must also comply with state, local or tribal laws involving excise taxes on these devices.

## Preventing Online Sales of E-Cigarettes to Minors

The [Preventing Online Sales of E-Cigarettes to Children Act](#) was created in 2019 to reduce children and teens access to online sales of smokeless tobacco products. According to a 2020 study by the [Centers for Disease Control and Prevention \(CDC\)](#), 85% of high school students and 74% of middle school students who used tobacco products in the past 30 days reported using a flavored tobacco product during that time. CDC also identified that most of the student users were influenced by mass media and their peers to use ENDS related products which often resulted in [health issues](#) such as delayed brain development, lung damage and the possibility of future addiction to other drugs.



## USPS Policy

**What does this policy do:** The USPS proposes to revise legal restrictions for ‘Hazardous, Restricted and Perishable Mail’ to ban the shipping of vapes. It is from the PACT act.

- **enact legal restrictions for USPS to ban the shipping of vapes.**
- **a partnership of ATF & USPS.**

## Postal Ban on Shipping Vapes

The amended PACT Act statute bans the [U.S. Postal Service \(USPS\)](#) from mailing vapes and other smokeless tobacco products. This amendment to the PACT Act is a coordinated partnership between ATF and USPS, and includes the [Food and Drug Administrations' Tobacco 21](#) law that prohibits the selling of all tobacco products to people under the age of 21 years old. The final rule was published in the Federal Register on 10/21/2021 as 39 CFR Parts 111 and 121, at p 58398.

According to a [2019 CDC](#) industry update, one out of every 10 high school students reported using tobacco products, due in part to easy access through mail deliveries and online sellers. In response to this issue, the PACT Act Amendment prohibits sellers from using the U.S. Post Office to ship e-cigarettes, vapes, flavored and smokeless tobacco products. The PACT Act applies to all shipments in interstate commerce ([15 U.S.C. § 376](#)) as well as to all delivery sales.

**To Be Continued...**

## Questions?

[www.alohadivinedesign.com](http://www.alohadivinedesign.com) | Honolulu, Hawaii | 808 . 724 . 0047