



To: The Honorable Yuki Lei Sugimura, Chair  
The Honorable Stacy Crivello, Vice Chair  
Members of the Policy, Agriculture and Economic Development Committee

From: Katie Folio, Coalition Coordinator, Hawai'i Public Health Institute

Date: November 20, 2018

Hrg: Policy, Agriculture and Economic Development Committee  
9:00 a.m. at the Kalana O Maui Building, 8<sup>th</sup> Floor

Re: **Strong Support for PEA 13, A Bill for an Ordinance to Amend Chapter 8.20, Maui County Code, Relating to Smoking**

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Thank you for the opportunity to offer testimony in **strong support of PEA-13**, which amends chapter 8.20 of the Maui County Code to update the definition of smoking and include electronic smoking devices (ESDs), similar to state law.

The Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) that is dedicated to reducing tobacco use through education, policy, and advocacy. With more than two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including Maui County's new law prohibiting smoking in vehicles when a minor is present.

#### **The Proposed Amendments are in Alignment with Hawaii State Statutes**

PEA-13 amends Maui County Code Chapter 8.20.010 and 8.20.020 and adds important definitions of the law, to be consistent with the Hawaii Revised Statutes Chapter 328-J on Smoking, which codified electronic smoking devices in 2015. We strongly support the proposed definition to remain consistent with HRS §328J-1:

"Smoke" or "smoking" means inhaling, exhaling, burning, or carrying any lighted or heated tobacco product or plant product intended for inhalation in any manner or in any form. "Smoking" includes the use of an electronic smoking device.

#### **Federal Regulation on ESDs is Severely Lacking**

ESDs, often referred to as e-cigarettes or vapes, heat and vaporize a solution that typically contains nicotine, and are often designed to mimic the look and feel of a real cigarette.<sup>1</sup> In May 2016, the Food and Drug Administration (FDA) issued a final "deeming rule" extending its regulatory authority to include electronic smoking devices and define them as tobacco products. The FDA's authority is limited to the manufacturing, sale, and marketing of these products. Currently, the only regulations in effect include a nicotine warning label requirement on all products and advertising and restricting sale federally to over 18 (individual states can raise the age.) Unfortunately, the FDA cannot statutorily prohibit the sale and use of these products, leaving responsibility for state and local governments to take action.

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<sup>1</sup> Americans for Nonsmokers' Rights, "Electronic Smoking Devices (ESDs) and Smokefree Laws", available at [www.no-smoke.org/eigs.html](http://www.no-smoke.org/eigs.html).



### **Secondhand Aerosol from ESDs are Not Harmless**

We commend Maui County Council's initiative to include vaping in our county's smoke-free air laws. ESDs do not emit only "harmless water vapor" as claimed by the industry. "Secondhand aerosol from ESDs contains nicotine, ultrafine particles and levels of toxins."<sup>2</sup> It is vital that we protect everyone from the dangers of secondhand aerosol. According to Dr. Stanton Glantz, Director for the Center for Tobacco Control Research and Education at the University of California, San Francisco, "If you are around somebody who is using e-cigarettes, you are breathing an aerosol of exhaled nicotine, ultra-fine particles, volatile organic compounds, and other toxins."<sup>3</sup> A study, in the New England Journal of Medicine found formaldehyde in high voltage ESDs at significantly higher concentrations than even regular cigarettes.

Allowing the use of ESDs in locations where smoking is prohibited is problematic as ESD use puts innocent bystanders at risk for illness, threatens the social norm, and undercuts years of progress by tobacco control groups. The World Health Organization (WHO) recommends that "legal steps should be taken to end use of e-cigarettes indoors in public and work places. Evidence suggest that exhaled e-cigarette aerosol increases the background air level of some toxicants, nicotine and particles."<sup>4</sup> Restricting ESD use is a growing trend across the U.S. More than 710 municipalities and eleven states currently restrict the use of ESDs in smoke-free environments.

### **ESD Use Among Youth and Young Adults is a Serious Public Health Epidemic**

The Coalition is also greatly concerned about the alarming rise in youth vaping. In Hawai'i, high school tobacco use rate has continued to drop over the last decade from 24.5% in 2000 to 6.0% in 2017, however the use of e-cigarettes is reversing this trend, threatening decades of Hawaii's progress in youth tobacco prevention.<sup>5</sup> Data released by the FDA and CDC from the 2018 National Youth Tobacco Survey is quite shocking: from 2017 to 2018, there was a 78 percent increase in current e-cigarette use among high school students and a 48 percent increase among middle school students. The total number of middle and high school students currently using e-cigarettes rose to 3.6 million — that's 1.5 million more students using these products than the previous year<sup>6</sup>. In Hawai'i teen use is more than twice as high as the national average, and Maui County youth use rates are even higher still, with 32.3% of our high school students now reporting that they currently vape, and 18.3% of our middle school students now regularly using (compared to 3.3% nationwide).

The State of Hawai'i has already made enormous progress protecting our residents and visitors from the harmful effects of secondhand smoke, through clean air laws that include workplaces as well as state beaches and parks. We urge the County of Maui to amend our own smoking definition to restrict the use of ESDs where smoking is currently prohibited, and bring our County smoke-free laws and smoking definitions in line with State law. We respectfully ask you to pass PEA-13 to ensure the safety of everyone.

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<sup>2</sup> Americans for Nonsmokers' Rights, "Electronic Smoking Devices and Secondhand Aerosol", available at [www.no-smoke.org/pdf/ecigarette-secondhand-aerosol.pdf](http://www.no-smoke.org/pdf/ecigarette-secondhand-aerosol.pdf).

<sup>3</sup> Ibid

<sup>4</sup> Noncommunicable diseases and mental health: Background on WHO report on regulation of e-cigarettes and similar products." Available at: <http://www.who.int/nmh/events/2014/background-e-cigarettes/en>

<sup>5</sup> The Hawaii Health Data Warehouse, State of Hawaii, Hawaii School Health Survey, Youth Tobacco Survey Module. Available at:

[http://www.hhdw.org/cms/uploads/Data%20Source\\_%20YTS/YTS\\_Prevalence\\_IND\\_00001.pdf](http://www.hhdw.org/cms/uploads/Data%20Source_%20YTS/YTS_Prevalence_IND_00001.pdf).

<sup>6</sup> Statement from FDA Commissioner Scott Gottlieb, M.D Available at:

<https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm625884.htm>



Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink that reads 'Katie Folio'.

Katie Folio

Community Coordinator for the Maui, Molokai, Lana'i Coalition for a Tobacco-Free Hawai'i