
A BILL FOR AN ACT

RELATING TO FLAVORED TOBACCO PRODUCTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there has been a
2 proliferation of flavored tobacco products in recent years.
3 Many of these products contain fruit, chocolate, honey, candy,
4 mint, cocoa, dessert, herb, spice, or other flavors that are
5 particularly attractive to children. According to public health
6 experts, children are more likely to choose flavored tobacco
7 when they start smoking or use other tobacco products, in part,
8 because the product names for flavored tobacco products are
9 similar to product names for candy, drinks, and other products
10 marketed directly to children.

11 The legislature further finds that the existence of these
12 products increases the incidence of tobacco use among children
13 and that the earlier that an individual begins using tobacco
14 products, the more likely the individual will become addicted to
15 and use them throughout the person's lifetime. As a result,
16 flavored tobacco products result in:

- 17 (1) Greater tobacco use;
18 (2) Increased addiction;



1 (3) Greater incidence of smoking and other tobacco-related
2 illnesses and deaths; and

3 (4) Higher health care costs.

4 The purpose of this Act is to prohibit the sale and
5 distribution of flavored tobacco products because the
6 legislature finds that tobacco flavorings present a significant
7 threat to public health.

8 SECTION 2. The Hawaii Revised Statutes is amended by
9 adding a new chapter to be appropriately designated and to read
10 as follows:

11 "CHAPTER

12 FLAVORED TOBACCO PRODUCTS

13 § -1 Definitions. As used in this part, unless the
14 context otherwise requires:

15 "Characterizing flavor" means a distinguishable taste or
16 aroma, other than tobacco, menthol, or clove, imparted either
17 prior to or during consumption.

18 "Chewing tobacco" means loose tobacco or a flat compressed
19 cake of tobacco a portion of which is inserted into the mouth.

20 "Cigarette" means any product that contains nicotine, is
21 intended to be burned or heated under ordinary condition of use,
22 and consists of or contains:

- 1 (1) Any roll of tobacco wrapped in paper or in any
2 substance not containing tobacco;
- 3 (2) Tobacco in any form that is functional in the product
4 which, because of its appearance, the type of tobacco
5 used in the filler or its packaging and labeling is
6 likely to be offered to or purchased by consumers as a
7 cigarette; or
- 8 (3) Any roll of tobacco wrapped in any substance
9 containing tobacco which, because of its appearance,
10 the type of tobacco used in the filler, or its
11 packaging and labeling is likely to be offered to or
12 purchased by consumers as a cigarette described in
13 paragraph (1) of this definition. The term
14 "cigarette" includes "roll-your-own" which enables a
15 consumer to make their own product.

16 "Component parts" includes but is not limited to the
17 tobacco, filter, and paper in a cigarette.

18 "Constituent" includes a smoke constituent.

19 "Smokeless tobacco" means chewing tobacco or tobacco snuff.

20 "Tobacco snuff" means a small amount of shredded, powdered,
21 or pulverized tobacco that may be inhaled through the nostrils,
22 chewed, or held in the mouth of an individual user.

1 **§ -2 Prohibition.** No person shall sell, offer for sale,
2 or distribute in this state or to any person in this state any
3 cigarette, smokeless tobacco product, or any component part
4 thereof containing a natural or artificial constituent or
5 additive that causes the cigarette or smokeless tobacco product
6 to have a characterizing flavor.

7 **§ -3 Remedies.** The attorney general may institute a
8 civil action in the name of the State in the circuit court for
9 an injunction prohibiting a violation of this chapter. If the
10 court grants an injunction in accordance with this section, the
11 State shall not be required to furnish a bond. The court, upon
12 notice to the defendant in compliance with the Hawaii rules of
13 civil procedure and upon proof that the defendant has violated
14 this chapter, may enjoin further sale, offering for sale, or
15 distribution by the defendant. The court may impose a civil
16 penalty in an amount not to exceed \$5,000 for each violation.
17 The attorney general may recover costs and disbursements,
18 including costs of investigation and reasonable attorney's fees.
19 Nothing in this section shall preclude the State or any other
20 person from pursuing any other claims, remedies, or actions
21 available by law.

1 **§ -4 Presumption.** The fact that the cigarette or a
2 component part of a cigarette is labeled, advertised, promoted,
3 or marketed as having and producing any characterizing flavor
4 shall be prima facia evidence that the entity engaged in the
5 conduct prohibited by this chapter with knowledge of the
6 character and nature of the cigarettes that are being sold,
7 offered for sale, or distributed."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun, before its effective date.

11 SECTION 4. This Act shall take effect on January 1, 2007.

SB 2503 SD1 HD1

Report Title:

Flavored Tobacco

Description:

Prohibits the sale and distribution of flavored tobacco products. (SB2503 HD1)

SB2503 HD1 HMS 2006-2888

