
A BILL FOR AN ACT

RELATING TO TOBACCO.

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 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 In October 2006, R.J. Reynolds Tobacco Company and the
12 attorneys general of thirty-eight states, including Hawaii,
13 entered into a settlement agreement that ends the sale of candy,
14 fruit, and alcohol flavored cigarettes manufactured and sold by
15 the company. The states had asserted that Reynolds was
16 violating the 1998 tobacco master settlement agreement's
17 prohibition on youth targeting through its advertising,



1 marketing, and promotion of its flavored cigarettes. No
2 agreement has been reached with the other tobacco manufacturers.

3 The legislature further finds that the continued
4 manufacturing of these products by other tobacco companies
5 increases the incidence of tobacco use among children and that
6 the earlier an individual begins using tobacco products, the
7 more likely the individual will become addicted to and use them
8 throughout the person's lifetime. Thus, flavored tobacco
9 products generate greater tobacco use, increase addiction and
10 the incidence of smoking and other tobacco-related illnesses and
11 deaths, and result in higher health care costs.

12 The purpose of this Act is to protect public health by
13 prohibiting the sale and distribution of flavored tobacco
14 products in the State.

15 SECTION 2. The Hawaii Revised Statutes is amended by
16 adding a new chapter to be appropriately designated and to read
17 as follows:

18 **"CHAPTER**

19 **FLAVORED TOBACCO PRODUCTS**

20 **§ -1 Definitions.** As used in this part, unless the
21 context otherwise requires:



1 "Characterizing flavor" means a distinguishable or
2 distinctive natural or artificial taste, flavor, smell, or
3 aroma, other than tobacco, menthol, or clove, which emanates
4 from or is imparted by the smokeless tobacco product, cigarette,
5 or cigarette's smoke, or any of the cigarette's component parts
6 at any time prior to or during consumption.

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

- 10 (1) Any roll of tobacco wrapped in paper or in any
11 substance not containing tobacco;
- 12 (2) Tobacco in any form that is functional in the product
13 that, because of its appearance or the type of tobacco
14 used in the filler or its packaging and labeling, is
15 likely to be offered to or purchased by consumers as a
16 cigarette; or
- 17 (3) Any roll of tobacco wrapped in any substance
18 containing tobacco that, because of its appearance or
19 the type of tobacco used in the filler or its
20 packaging and labeling, is likely to be offered to or
21 purchased by consumers as a cigarette described in
22 paragraph (1). The term "cigarette" includes "roll-



1 your-own" that enables consumers to make their own
2 product.

3 "Component parts" includes but is not limited to the
4 tobacco, filter, paper, or natural or artificial flavoring
5 device or substance in a cigarette.

6 "Constituent" includes a smoke constituent.

7 **§ -2 Prohibition.** No person shall sell, offer for sale,
8 or distribute to any person in this State any cigarette or any
9 component part thereof containing a natural or artificial
10 constituent or additive that causes the cigarette product to
11 have a characterizing flavor.

12 **§ -3 Remedies.** The attorney general may institute a
13 civil action in the name of the State in the circuit court for
14 an injunction prohibiting a violation of this chapter. If the
15 court grants an injunction in accordance with this section, the
16 State shall not be required to furnish a bond. The court, upon
17 notice to the defendant in compliance with the Hawaii rules of
18 civil procedure and upon proof that the defendant has violated
19 this chapter, may enjoin further sale, offering for sale, or
20 distribution by the defendant. The court may impose a civil
21 penalty in an amount not to exceed \$5,000 for each violation.
22 The attorney general may recover costs and disbursements,



1 including costs of investigation and reasonable attorney's fees.
2 Nothing in this section shall preclude the State or any other
3 person from pursuing any other claims, remedies, or actions
4 available by law."

5 SECTION 3. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun, before its effective date.

8 SECTION 4. This Act shall take effect on January 1, 2009.



Report Title:

Flavored Tobacco; Health

Description:

Prohibits the sale and distribution of flavored tobacco products. (SD1)

