

JAN 18 2008

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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4                           **"PART       .   TOBACCO PRODUCTS; MINORS**

5           **§321-A Definitions.** As used in this part:

6           "Minor" means any person under the age of eighteen years.

7           "Possession" means knowingly having direct physical control  
8 at a given time or knowingly having the power and the intention,  
9 at a given time, to exercise dominion or control, including the  
10 actual use of the tobacco product.

11           "Tobacco product" means tobacco in any form, including  
12 cigarettes, cigars, snuff, and chewing tobacco, that is prepared  
13 or intended for consumption by, or the personal use of, humans.

14           **§321-B Tobacco products; minors; possession.** Possession  
15 of a tobacco product by a minor shall be prohibited.

16           **§321-C Exemptions.** This part shall not apply to:



1           (1) Any minor, with parental authorization, who is  
2           participating in a controlled purchase as part of a  
3           law enforcement activity or a study authorized by the  
4           department of health under the supervision of law  
5           enforcement to determine the level of incidence of  
6           tobacco sales to minors; or

7           (2) Possession of tobacco products by a minor in the  
8           course of delivery, pursuant to the direction of the  
9           minor's employer lawfully engaged in business  
10          necessitating the delivery.

11          **§321-D Enforcement; rules.** (a) An agent or employee of  
12          the department of health or a law enforcement officer who  
13          witnesses a minor in the act of violating section 321-B shall  
14          issue a citation to the minor; provided that the family court  
15          shall be informed as provided in section 571-21(a) for  
16          appropriate proceedings under chapter 571.

17          (b) The department shall adopt rules under chapter 91 for  
18          the violation of this part, including the establishment of the  
19          amount of any administrative fine, community service  
20          requirements, and attendance at youth smoking education  
21          programs; provided that the parents or legal guardians of a

1 minor child shall be jointly and severally liable for any  
2 administrative fine imposed under this part."

3 SECTION 2. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2008-2009 for  
6 development and implementation of a youth smoking education  
7 program.

8 The sum appropriated shall be expended by the department of  
9 health for the purposes of this Act.

10 SECTION 3. In codifying the new sections added by section  
11 1 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 4. This Act shall take effect upon its approval;  
15 provided that section 2 shall take effect on July 1, 2008.

16 INTRODUCED BY: Mike Hubbard (BR)



**Report Title:**

Tobacco Products; Possession by Minors Prohibited

**Description:**

Prohibits possession of tobacco products by any person under age 18. Requires department of health to adopt penalties. Makes appropriation to DOH for youth smoking educational program.

