

A BILL FOR AN ACT

VETO OVERRIDE

RELATING TO TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES.

Act No. 58
Approved: [Signature]
Dated: May 8, 2009

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

1 SECTION 1. The legislature finds that, according to the
2 University of Minnesota, of the estimated ten million users of
3 smokeless tobacco, three million are under the age of twenty-
4 one. Almost twenty-five per cent of young users start by the
5 sixth grade, and almost seventy-five per cent start by the ninth
6 grade. In 1970, young males ages seventeen to nineteen used
7 smokeless tobacco the least of any age group. Today, usage by
8 males of these ages is the highest of any age group. In
9 America, more than three per cent of adult males, and less than
10 one per cent of females, use smokeless tobacco. Among youth in
11 grades nine to twelve, eight per cent use smokeless tobacco at
12 least once a month and two to three per cent use it daily.

13 Chewing, or smokeless, tobacco contains over two thousand
14 chemicals, many of which have been directly related to causing
15 cancer, especially in the oral cavity. Studies have revealed
16 potent carcinogens in chewing tobacco and snuff. The major
17 carcinogens in smokeless tobacco are nitrosamines, polynuclear



1 aromatic hydrocarbons, and radioactive and metallic compounds.
2 The nitrosamine content of smokeless tobacco exceeds more than
3 one thousand times the nitrosamine content allowed by the United
4 States Food and Drug Administration in products such as beer and
5 bacon.

6 Oral cancer has been shown to occur several times more
7 frequently among individuals who use smokeless tobacco than
8 nontobacco users, and the excess risk of cancers of the cheek
9 and gum reaches nearly fifty-fold among long-term snuff users.
10 Smokeless tobacco is also associated with cancers of the
11 esophagus, larynx, and stomach and an increased risk of heart
12 attacks and other cardiovascular diseases. About forty to sixty
13 per cent of smokeless tobacco users exhibit leukoplakia, which
14 is regarded as precancerous with a malignant transformation rate
15 of two to six per cent, in the area where the quid is held,
16 usually within a few months of beginning regular use.

17 Smokeless tobacco is also addictive. The nicotine in
18 smokeless tobacco and snuff is absorbed directly into the
19 bloodstream. An individual who uses smokeless tobacco has a
20 similar, or even higher, level of nicotine than a smoker who
21 smokes a pack or more a day.



1 The purpose of this Act is to increase deterrents against
2 the use of tobacco products other than cigarettes, including
3 smokeless tobacco, snuff, cigars, little cigars, and pipe
4 tobacco.

5 SECTION 2. Section 245-1, Hawaii Revised Statutes, is
6 amended by:

7 1. Adding a new definition to read as follows:

8 "Little cigar" means any roll for smoking made wholly or
9 in part of tobacco if such product is wrapped in any substance
10 containing tobacco, with a ring gauge of less than thirty (less
11 than .467 inches in diameter), of any length."

12 2. Amending the definition of "tobacco products" to read
13 as follows:

14 "Tobacco products" means tobacco in any form other than
15 cigarettes or little cigars, that is prepared or intended for
16 consumption [~~by~~] or [~~the~~] for personal use [~~of~~] by humans,
17 including cigars and any substitutes thereof other than
18 cigarettes [~~which~~] that bear the semblance thereof, snuff,
19 chewing or smokeless tobacco, and smoking or pipe tobacco."

20 SECTION 3. Section 245-3, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) Every wholesaler or dealer, in addition to any other
2 taxes provided by law, shall pay for the privilege of conducting
3 business and other activities in the State:

4 (1) An excise tax equal to 5.00 cents for each cigarette
5 sold, used, or, possessed by a wholesaler or dealer
6 after June 30, 1998, whether or not sold at wholesale,
7 or if not sold then at the same rate upon the use by
8 the wholesaler or dealer;

9 (2) An excise tax equal to 6.00 cents for each cigarette
10 sold, used, or possessed by a wholesaler or dealer
11 after September 30, 2002, whether or not sold at
12 wholesale, or if not sold then at the same rate upon
13 the use by the wholesaler or dealer;

14 (3) An excise tax equal to 6.50 cents for each cigarette
15 sold, used, or possessed by a wholesaler or dealer
16 after June 30, 2003, whether or not sold at wholesale,
17 or if not sold then at the same rate upon the use by
18 the wholesaler or dealer;

19 (4) An excise tax equal to 7.00 cents for each cigarette
20 sold, used, or possessed by a wholesaler or dealer
21 after June 30, 2004, whether or not sold at wholesale,



1 or if not sold then at the same rate upon the use by
2 the wholesaler or dealer;

3 (5) An excise tax equal to 8.00 cents for each cigarette
4 sold, used, or possessed by a wholesaler or dealer on
5 and after September 30, 2006, whether or not sold at
6 wholesale, or if not sold then at the same rate upon
7 the use by the wholesaler or dealer;

8 (6) An excise tax equal to 9.00 cents for each cigarette
9 sold, used, or possessed by a wholesaler or dealer on
10 and after September 30, 2007, whether or not sold at
11 wholesale, or if not sold then at the same rate upon
12 the use by the wholesaler or dealer;

13 (7) An excise tax equal to 10.00 cents for each cigarette
14 sold, used, or possessed by a wholesaler or dealer on
15 and after September 30, 2008, whether or not sold at
16 wholesale, or if not sold then at the same rate upon
17 the use by the wholesaler or dealer;

18 (8) An excise tax equal to 11.00 cents for each cigarette
19 sold, used, or possessed by a wholesaler or dealer on
20 and after September 30, 2009, whether or not sold at
21 wholesale, or if not sold then at the same rate upon
22 the use by the wholesaler or dealer;



- 1 (9) An excise tax equal to 11.00 cents for each little
2 cigar sold, used, or possessed by a wholesaler or
3 dealer on and after October 1, 2009, whether or not
4 sold at wholesale, or if not sold then at the same
5 rate upon the use by the wholesaler or dealer;
- 6 [~~9~~] (10) An excise tax equal to 12.00 cents for each
7 cigarette or little cigar sold, used, or possessed by
8 a wholesaler or dealer on and after September 30,
9 2010, whether or not sold at wholesale, or if not sold
10 then at the same rate upon the use by the wholesaler
11 or dealer;
- 12 [~~10~~] (11) An excise tax equal to 13.00 cents for each
13 cigarette or little cigar sold, used, or possessed by
14 a wholesaler or dealer on and after September 30,
15 2011, whether or not sold at wholesale, or if not sold
16 then at the same rate upon the use by the wholesaler
17 or dealer; [and]
- 18 [~~11~~] (12) Except as provided in paragraph (13), [An] an
19 excise tax equal to [forty] seventy per cent of the
20 wholesale price of each article or item of tobacco
21 products sold by the wholesaler or dealer[~~7~~] on and
22 after September 30, 2009, whether or not sold at



1 wholesale, or if not sold then at the same rate upon
2 the use by the wholesaler or dealer[-]; and
3 (13) An excise tax equal to fifty per cent of the wholesale
4 price of each cigar with a ring gauge of thirty or
5 more (.467 inches in diameter or more), of any length,
6 sold, used, or possessed by a wholesaler or dealer on
7 and after September 30, 2009, whether or not sold at
8 wholesale, or if not sold then at the same rate upon
9 the use by the wholesaler or dealer.

10 Where the tax imposed has been paid on cigarettes, little
11 cigars, or tobacco products that thereafter become the subject
12 of a casualty loss deduction allowable under chapter 235, the
13 tax paid shall be refunded or credited to the account of the
14 wholesaler or dealer. The tax shall be applied to cigarettes
15 through the use of stamps."

16 SECTION 4. Section 245-15, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§245-15 **Disposition of revenues.** All moneys collected
19 pursuant to this chapter shall be paid into the state treasury
20 as state realizations to be kept and accounted for as provided
21 by law; provided that, of the moneys collected under the tax
22 imposed pursuant to:



1 (1) Section 245-3(a)(5), after September 30, 2006, and
2 prior to October 1, 2007, 1.0 cent per cigarette shall
3 be deposited to the credit of the Hawaii cancer
4 research special fund, established pursuant to section
5 304A-2168, for research and operating expenses and for
6 capital expenditures;

7 (2) Section 245-3(a)(6), after September 30, 2007, and
8 prior to October 1, 2008:

9 (A) 1.5 cents per cigarette shall be deposited to the
10 credit of the Hawaii cancer research special
11 fund, established pursuant to section 304A-2168,
12 for research and operating expenses and for
13 capital expenditures;

14 (B) 0.25 cents per cigarette shall be deposited to
15 the credit of the trauma system special fund
16 established pursuant to section 321-22.5; and

17 (C) 0.25 cents per cigarette shall be deposited to
18 the credit of the emergency medical services
19 special fund established pursuant to section 321-
20 234;

21 (3) Section 245-3(a)(7), after September 30, 2008, and
22 prior to October 1, 2009:



- 1 (A) 2.0 cents per cigarette shall be deposited to the
2 credit of the Hawaii cancer research special
3 fund, established pursuant to section 304A-2168,
4 for research and operating expenses and for
5 capital expenditures;
- 6 (B) 0.5 cents per cigarette shall be deposited to the
7 credit of the trauma system special fund
8 established pursuant to section 321-22.5;
- 9 (C) 0.25 cents per cigarette shall be deposited to
10 the credit of the community health centers
11 special fund[+] established pursuant to section
12 321-1.65; and
- 13 (D) 0.25 cents per cigarette shall be deposited to
14 the credit of the emergency medical services
15 special fund established pursuant to section 321-
16 234;
- 17 (4) Section 245-3(a)(8), after September 30, 2009, and
18 prior to October 1, 2010:
- 19 (A) 2.0 cents per cigarette shall be deposited to the
20 credit of the Hawaii cancer research special
21 fund, established pursuant to section 304A-2168,



1 for research and operating expenses and for
2 capital expenditures;

3 (B) 0.75 cents per cigarette shall be deposited to
4 the credit of the trauma system special fund
5 established pursuant to section 321-22.5;

6 (C) 0.75 cents per cigarette shall be deposited to
7 the credit of the community health centers
8 special fund~~[+]~~ established pursuant to section
9 321-1.65; and

10 (D) 0.5 cents per cigarette shall be deposited to the
11 credit of the emergency medical services special
12 fund established pursuant to section 321-234;

13 (5) Section 245-3(a) ~~[+9]~~ (10); after September 30, 2010,
14 and prior to October 1, 2011:

15 (A) 2.0 cents per cigarette shall be deposited to the
16 credit of the Hawaii cancer research special
17 fund, established pursuant to section 304A-2168,
18 for research and operating expenses and for
19 capital expenditures;

20 (B) 1.0 cent per cigarette shall be deposited to the
21 credit of the trauma system special fund
22 established pursuant to section 321-22.5;



1 (C) 1.0 cent per cigarette shall be deposited to the
2 credit of the community health centers special
3 fund[+] established pursuant to section 321-1.65;
4 and

5 (D) 1.0 cent per cigarette shall be deposited to the
6 credit of the emergency medical services special
7 fund established pursuant to section 321-234; and

8 (6) Section 245-3(a) [~~10~~] (11), after September 30, 2011,
9 and thereafter:

10 (A) 2.0 cents per cigarette shall be deposited to the
11 credit of the Hawaii cancer research special
12 fund, established pursuant to section 304A-2168,
13 for research and operating expenses and for
14 capital expenditures;

15 (B) 1.5 cents per cigarette shall be deposited to the
16 credit of the trauma system special fund
17 established pursuant to section 321-22.5;

18 (C) 1.25 cents per cigarette shall be deposited to
19 the credit of the community health centers
20 special fund[+] established pursuant to section
21 321-1.65; and



1 (D) 1.25 cents per cigarette shall be deposited to
2 the credit of the emergency medical services
3 special fund established pursuant to section 321-
4 234.

5 The department shall provide an annual accounting of these
6 dispositions to the legislature."

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

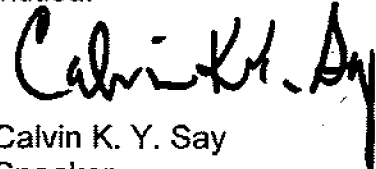
9 SECTION 6. This Act shall take effect upon its approval;
10 provided that the amendments made to section 245-1, Hawaii
11 Revised Statutes, by this Act shall not be repealed when that
12 section is reenacted on July 1, 2009, pursuant to section 9 of
13 Act 131, Session Laws of Hawaii 2005.



THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May, 8, 2009
Honolulu, Hawaii

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the House of Representatives of the State of Hawaii, on this date reconsidered House Bill No. 895, HD 2, SD 2, CD 1, heretofore vetoed as contained in a Governor's Message dated May 7, 2009, and approved said bill by an affirmative vote of two-thirds of all members to which the House of Representatives of the Twenty-fifth Legislature of the State of Hawaii, Regular Session 2009, is entitled.



Calvin K. Y. Say
Speaker
House of Representatives



Patricia Mau-Shimizu
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 8, 2009
Honolulu, Hawaii

We hereby certify that, pursuant to Sections 16 and 17 of Article III of the Hawaii State Constitution, the Senate of the State of Hawaii, on this date reconsidered House Bill No. 895, HD 2, SD 2, CD 1, heretofore vetoed as contained in a Governor's Message dated May 7, 2009, and approved said bill by an affirmative vote of two-thirds of all members to which the Senate of the Twenty-fifth Legislature of the State of Hawaii, Regular Session 2009, is entitled.



Colleen Hanabusa
President of the Senate



Carol Taniguchi
Clerk of the Senate