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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. The legislature finds that the tobacco industry  
2 spends more than \$12,000,000,000 annually on advertising and  
3 marketing its products in the United States. Each year, tobacco  
4 companies spend over \$42,000,000 promoting their brands in  
5 stores throughout Hawaii. The National Cancer Institute has  
6 reported that the total weight of evidence from multiple studies  
7 demonstrates a causal relationship between tobacco advertising  
8 and promotion and increased tobacco use.

9           The legislature also finds that restrictions on mass media  
10 advertising of tobacco have forced tobacco companies to use  
11 retail venues as the primary medium for marketing. Storefronts  
12 in Hawaii can act as billboards for tobacco companies,  
13 effectively capturing the attention of the State's youth.  
14 According to the 2007 Hawaii Youth Tobacco Survey, over seventy-  
15 six per cent of high school students and over seventy-one per  
16 cent of middle school students reported seeing tobacco product  
17 advertisements at local stores and gas stations.



1           The legislature further finds that the 2008 Tobacco and  
2 Alcohol Advertising Survey indicated that on average, a store  
3 displayed at least two outdoor advertisements and seventeen  
4 indoor advertisements for tobacco. Small stores with only one  
5 cash register had an average of twenty-four advertisements for  
6 tobacco and were more likely to have tobacco advertisements and  
7 products at the eye level of children or near youth-targeted in  
8 products, such as toys, ice cream, and chips.

9           The legislature additionally finds that retail stores are  
10 given incentives to place tobacco advertisements and products in  
11 strategic locations near the cash register, known as a point-of-  
12 sale, or in self-service displays. Research indicates the  
13 presence of these products and advertisements may stimulate  
14 impulse purchases. Furthermore, a 2009 study found that  
15 frequent visits to stores selling tobacco and a greater  
16 awareness of cigarettes sold in stores increased the likelihood  
17 of teenagers being susceptible to initiating smoking,  
18 experimenting with smoking, or becoming smokers.

19           The legislature has a compelling interest in reducing the  
20 number of children and youth in Hawaii who smoke. The  
21 legislature finds that because of the documented connection  
22 between children and youth exposure to tobacco advertisements



1 and youth tobacco initiation, a task force should be convened to  
2 explore potential regulations on the place and manner of  
3 cigarette and tobacco products and advertisements.

4 The purpose of this Act is to reduce the number of children  
5 and youth who smoke or begin smoking by:

6 (1) Prohibiting the sale of electronic cigarettes to  
7 minors; and

8 (2) Convening the smoking prevention among children and  
9 youth task force to develop potential legislation that  
10 addresses concerns related to advertising and product  
11 placement promoting or encouraging the purchase or use  
12 of cigarettes or other tobacco products by children  
13 and youth.

14 SECTION 2. Section 709-908, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§709-908 Tobacco; minors.** (1) It shall be unlawful to  
17 sell or furnish tobacco in any shape or form, including chewing  
18 tobacco [~~and~~], snuff, and electronic cigarettes to a minor under  
19 eighteen years of age.

20 (2) Signs using the statement, "The sale of tobacco  
21 products to persons under eighteen is prohibited", shall be  
22 posted on or near any vending machine in letters at least one-



1 half inch high and at or near the point of sale of any other  
2 location where tobacco products are sold in letters at least  
3 one-half inch high.

4 (3) It shall be unlawful for a minor under eighteen years  
5 of age to purchase any tobacco product, as described under  
6 subsection (1). This provision does not apply if a person under  
7 the age of eighteen, with parental authorization, is  
8 participating in a controlled purchase as part of a law  
9 enforcement activity or a study authorized by the department of  
10 health under the supervision of law enforcement to determine the  
11 level of incidence of tobacco sales to minors.

12 (4) Any person who violates subsection (1) or (2), or  
13 both, shall be fined \$500 for the first offense. Any subsequent  
14 offenses shall subject the person to a fine not less than \$500  
15 nor more than \$2,000. Any minor under eighteen years of age who  
16 violates subsection (3) shall be fined \$10 for the first  
17 offense. Any subsequent offense shall subject the violator to a  
18 fine of \$50, no part of which shall be suspended, or the person  
19 shall be required to perform not less than forty-eight hours nor  
20 more than seventy-two hours of community service during hours  
21 when the person is not employed and is not attending school.

22 (5) For the purposes of this section:



1       "Electronic cigarette" or "e-cigarette" means any  
2 mechanical heating element, battery, or electronic circuit that  
3 can be used to deliver a vapor of nicotine or any other  
4 substances, the use or inhalation of which simulates smoking.  
5 The term shall include any such device, whether manufactured,  
6 distributed, marketed, or sold as an e-cigarette; e-cigar;  
7 e-pipe; any cartridge or component of the device or related  
8 product; or any other related product name or descriptor.

9       "Tobacco" or "tobacco product" includes electronic  
10 cigarettes."

11       SECTION 3. (a) There is established the smoking  
12 prevention among children and youth task force within the  
13 department of health for administrative purposes. The purpose  
14 of the smoking prevention among children and youth task force  
15 shall be to develop potential legislation that addresses  
16 concerns related to advertising and product placement promoting  
17 or encouraging the purchase or use of cigarettes or other  
18 tobacco products by children and youth. The task force shall  
19 also consider:

20       (1) Constitutional concerns associated with the placement  
21       of tobacco sales and advertising; and



1           (2) Potential methods or strategies to remove tobacco  
2           products and advertisements from the direct eyesight  
3           of children and youth.

4           (b) The smoking prevention among children and youth task  
5 force shall consist of the following members:

6           (1) The director of health, or the director's designee,  
7           who shall chair the smoking prevention among children  
8           and youth task force;

9           (2) The attorney general, or the attorney general's  
10          designee;

11          (3) The chair of the senate committee on health;

12          (4) The chair of the house committee on health;

13          (5) A representative from the Coalition for a Tobacco-Free  
14          Hawaii;

15          (6) A representative from the University of Hawaii at  
16          Manoa William S. Richardson School of Law; and

17          (7) Other interested stakeholders who shall be invited to  
18          inform the task force about relevant concerns and  
19          considerations before the task force.

20          (c) The smoking prevention among children and youth task  
21 force shall serve without compensation. Members of the smoking  
22 prevention among children and youth task force representing the



1 Coalition for a Tobacco-Free Hawaii and other stakeholders shall  
2 not be considered employees of the State based solely upon their  
3 participation on the task force.

4 (d) The smoking prevention among children and youth task  
5 force shall submit a report on its findings and recommendations,  
6 including proposed legislation, to the legislature no later than  
7 twenty days prior to the convening of the regular session of  
8 2014.

9 (e) The smoking prevention among children and youth task  
10 force shall cease to exist on June 30, 2014.

11 SECTION 4. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 5. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect on January 1, 2050.

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**Report Title:**

Tobacco; Tobacco Products; Electronic Cigarettes; Smoking Prevention Among Children and Youth Task Force

**Description:**

Prohibits the sale of tobacco in any shape or form, including chewing tobacco, snuff, and electronic cigarettes, to a minor under eighteen years of age. Includes electronic cigarettes, or e-cigarettes, under the definition of tobacco or tobacco products. Requires the department of health to convene the smoking prevention among children and youth task force to develop potential legislation that addresses concerns related to advertising and product placement promoting or encouraging the purchase or use of cigarettes or other tobacco products by children and youth. Report to the legislature. Task force ceases to exist 06/30/2014. Takes effect 1/1/2050. (SD2)

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