
A BILL FOR AN ACT

RELATING TO PROHIBITIONS ON UNIVERSITY OF HAWAII PREMISES.

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

1 SECTION 1. The legislature finds that tobacco use is the
2 single most preventable cause of death in the United States,
3 with tobacco-related disease resulting in \$96,000,000,000 in
4 health care costs annually. The 2012 United States Surgeon
5 General Report states that tobacco use and exposure to second-
6 hand smoke are serious public health concerns and that there is
7 no safe level of exposure to environmental tobacco smoke.

8 Additional concerns have been raised about the growing
9 popularity of electronic smoking devices. Sales of electronic
10 smoking devices in the United States have doubled each year
11 since 2008, with sales in 2013 estimated to have reached
12 \$1,700,000,000. Due to the relative lack of research data on
13 electronic smoking devices, many public health organizations and
14 policymakers are concerned about the safety and impact of these
15 products on public health.

16 Smoking and all tobacco use is already prohibited on over
17 seven hundred sixty college and university campuses in the
18 United States. Many colleges and universities are including



1 electronic smoking devices in these campus-wide bans. Allowing
2 smoking and tobacco use on the University of Hawaii premises
3 both presents substantial fiscal burdens for employee health
4 care costs, absenteeism, and turnover; the maintenance and
5 upkeep of physical facilities; fire risks and losses; and litter
6 control as well as imposes an adverse impact on the surrounding
7 land and water environments.

8 The University of Hawaii's executive policy E10.102
9 prohibits smoking under certain circumstances, but it does not
10 make all of the campuses smoke- and tobacco-free.

11 The purpose of this Act, therefore, is to promote positive
12 health practices and protect University of Hawaii students,
13 employees, and visitors from exposure to second-hand smoke and
14 other potentially harmful substances by prohibiting smoking,
15 including the use of electronic smoking devices, and tobacco use
16 on University of Hawaii premises.

17 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§304A- Smoking and tobacco use prohibitions on
21 University of Hawaii premises. (a) The University of Hawaii
22 shall prohibit smoking and tobacco use by any person on



1 University of Hawaii premises, to the extent not prohibited by
2 federal law and regulation. Mere possession or storage of
3 cigarettes, tobacco products, or electronic smoking devices for
4 use outside the University of Hawaii premises shall not
5 constitute a violation of this subsection.

6 (b) This section shall not be subject to chapter 328J.
7 Pursuant to section 89-9(d), the smoking and tobacco use
8 prohibitions under this section shall not be subject to
9 collective bargaining.

10 (c) The University of Hawaii shall be responsible for
11 educating students, employees, and all visitors about the
12 smoking and tobacco use prohibitions under this section.
13 Clearly legible signs shall be prominently displayed stating
14 that "smoking, including smoking of electronic smoking devices,
15 and tobacco use are prohibited by law" at all entrances to the
16 premises and at other conspicuous outdoor locations throughout
17 the premises.

18 (d) As used in this section:
19 "Cigarette" has the same meaning as in section 486P-1.
20 "Electronic smoking device" means any electronic product
21 that can be used to vaporize and deliver nicotine or other
22 substances to the person inhaling from the device, including but



1 not limited to an electronic cigarette, electronic cigar,
2 electronic cigarillo, or electronic pipe, and any cartridge or
3 other component of the device or related product.

4 "Premises" means all indoor and outdoor areas within
5 University of Hawaii property boundary lines.

6 "Smoke" or "smoking" means inhaling or exhaling the fumes
7 of tobacco or any other plant material, burning or carrying any
8 lighted smoking equipment for tobacco or any other plant
9 material, or inhaling or exhaling smoke or vapor from an
10 electronic smoking device.

11 "Tobacco products" has the same meaning as in section
12 245-1.

13 "Tobacco use" means the personal use of any tobacco
14 product, including the use of smokeless tobacco."

15 SECTION 3. Section 89-9, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) Excluded from the subjects of negotiations are
18 matters of classification, reclassification, benefits of but not
19 contributions to the Hawaii employer-union health benefits trust
20 fund, recruitment, examination, initial pricing, and retirement
21 benefits except as provided in section 88-8(h). The employer
22 and the exclusive representative shall not agree to any proposal



1 which would be inconsistent with the merit principle or the
2 principle of equal pay for equal work pursuant to section 76-1
3 or which would interfere with the rights and obligations of a
4 public employer to:

- 5 (1) Direct employees;
- 6 (2) Determine qualifications, standards for work, and the
7 nature and contents of examinations;
- 8 (3) Hire, promote, transfer, assign, and retain employees
9 in positions;
- 10 (4) Suspend, demote, discharge, or take other disciplinary
11 action against employees for proper cause;
- 12 (5) Relieve an employee from duties because of lack of
13 work or other legitimate reason;
- 14 (6) Maintain efficiency and productivity, including
15 maximizing the use of advanced technology, in
16 government operations;
- 17 (7) Determine methods, means, and personnel by which the
18 employer's operations are to be conducted; [~~and~~]
- 19 (8) Take such actions as may be necessary to carry out the
20 missions of the employer in cases of emergencies[~~-~~];
21 and



1 (9) Prohibit smoking, including the use of electronic
2 smoking devices, and tobacco use on the premises of
3 all facilities owned or operated by the University of
4 Hawaii within the State.

5 This subsection shall not be used to invalidate provisions
6 of collective bargaining agreements in effect on and after
7 June 30, 2007, and shall not preclude negotiations over the
8 procedures and criteria on promotions, transfers, assignments,
9 demotions, layoffs, suspensions, terminations, discharges, or
10 other disciplinary actions as a permissive subject of bargaining
11 during collective bargaining negotiations or negotiations over a
12 memorandum of agreement, memorandum of understanding, or other
13 supplemental agreement.

14 Violations of the procedures and criteria so negotiated may
15 be subject to the grievance procedure in the collective
16 bargaining agreement."

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.



Report Title:

University of Hawaii; Smoking; Tobacco; Electronic Smoking
Devices; Prohibitions

Description:

Prohibits smoking, including the use of electronic smoking
devices, and tobacco use on University of Hawaii premises.
(HB2077 HD1)

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not legislation or evidence of legislative intent.*

