
A BILL FOR AN ACT

RELATING TO FLAVORED TOBACCO PRODUCTS.

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

1 SECTION 1. The legislature finds that documents obtained
2 during litigation against the tobacco industry reveal that
3 tobacco companies have used fruit, candy, and alcohol flavors as
4 a way to target the tobacco companies' products to youth.

5 The legislature further finds that in October 2006, R.J.
6 Reynolds Tobacco Company and the attorneys general of
7 approximately forty states, including Hawaii, entered into a
8 settlement agreement that ended the sale of fruit, candy, and
9 alcohol flavored cigarettes manufactured and sold by the
10 company. The states had asserted that R.J. Reynolds was in
11 violation of the 1998 tobacco master settlement agreement's
12 prohibition on youth targeting through the company's
13 advertising, marketing, and promotion of its flavored
14 cigarettes.

15 Although no agreement was reached with the other tobacco
16 manufacturers, the federal Family Smoking Prevention and Tobacco
17 Control Act of 2009 prohibited the manufacture and sale of



1 flavored cigarettes. However, there is no comparable federal
2 prohibition for other flavored tobacco products.

3 The legislature additionally finds that marketing and
4 public health research have shown that flavored tobacco products
5 appeal to youth. The younger the individuals are when they
6 begin to use tobacco, the more likely they are to become
7 addicted to tobacco products. Public health concerns have also
8 been raised about the growing popularity and targeted marketing
9 of menthol tobacco products.

10 Given the significant threat to public health posed by
11 flavored tobacco products, including menthol tobacco products,
12 many local and state governments have considered efforts to
13 regulate the sale of flavored tobacco products. The legislature
14 concludes that Hawaii should also take steps to regulate these
15 products.

16 Accordingly, the purpose of this Act is to prohibit the
17 sale, offering for sale, or distribution of any flavored tobacco
18 product, including menthol products, within the State.

19 SECTION 2. The Hawaii Revised Statutes is amended by
20 adding a new chapter to be appropriately designated and to read
21 as follows:

22 "CHAPTER



1 packaging and labeling, is likely to be offered to or
2 purchased by consumers as a cigarette described in
3 paragraph (1).

4 The term "cigarette" includes "roll-your-own" tobacco that
5 enables consumers to make their own product.

6 "Component part" means any element of a tobacco product,
7 including but not limited to the tobacco, filter, paper, or
8 natural or artificial flavoring device or substance.

9 "Constituent" means any ingredient, substance, chemical, or
10 compound, other than tobacco, water, or reconstituted tobacco
11 sheet, that is added by the manufacturer to a tobacco product
12 during the processing, manufacturing, or packaging of the
13 tobacco product. The term "constituent" includes a smoke
14 constituent.

15 "Distribute", "distributes", or "distribution" shall have
16 the same meaning as defined in section 245-1.

17 "Flavored tobacco product" means any tobacco product or any
18 component part of the tobacco product that contains a
19 constituent that imparts a characterizing flavor.

20 "Smoke constituent" means any chemical or chemical compound
21 in mainstream or sidestream tobacco smoke that transfers from
22 any component part of the tobacco product to the smoke or is



1 formed by the combustion or heating of tobacco, additives, or
2 other component part of the tobacco product.

3 "Tobacco product" means tobacco in any form, other than
4 cigarettes as defined in this chapter, that is prepared or
5 intended for consumption or for personal use by humans,
6 including cigars and any substitutes of cigars other than
7 cigarettes that bear the semblance of cigars, snuff, chewing or
8 smokeless tobacco, and smoking or pipe tobacco.

9 § -2 **Prohibition.** Beginning on January 1, 2015, no
10 person shall sell, offer for sale, or otherwise distribute any
11 flavored tobacco product within the State.

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



1 (b) Any person who violates this chapter shall be fined
2 \$500 for the first offense. Any subsequent offense shall
3 subject the person to a fine not less than \$500 nor more than
4 \$2,000.

5 (c) The attorney general may recover costs and
6 disbursements, including costs of investigation and reasonable
7 attorney's fees.

8 (d) Nothing in this section shall preclude the State or
9 any other person from pursuing any other claims, remedies, or
10 actions available by law.

11 § -4 **Presumption.** A public statement or claim made or
12 disseminated by the manufacturer of a tobacco product, or by any
13 person authorized or permitted by the manufacturer to make or
14 disseminate a public statement or claim, that a tobacco product
15 has or produces a characterizing flavor shall be prima facie
16 evidence that the tobacco product is a flavored tobacco
17 product."

18 SECTION 3. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

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

6 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Flavored Tobacco Products; Tobacco Products; Menthol; Penalties

Description:

Prohibits the sale, offering for sale, or distribution of any flavored tobacco product, including menthol products, within the State effective 07/01/2050. (SD2)

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