
A BILL FOR AN ACT

RELATING TO ELECTRONIC SMOKING DEVICES.

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

1 SECTION 1. The legislature finds that electronic smoking
2 devices, also known as electronic cigarettes or e-cigarettes,
3 are battery-powered devices, often resembling cigarettes,
4 cigars, or pipes, designed to deliver nicotine or other
5 substances to users in the form of a vapor smoke that is
6 breathed in then exhaled. Sales of electronic smoking devices
7 in the United States have doubled each year since 2008, with
8 sales in 2013 projected to reach \$1,700,000,000. Findings from
9 the National Youth Tobacco Survey also indicate the growing
10 popularity of electronic smoking devices among youth, with
11 1,800,000 middle and high school students stating they had tried
12 these products in 2012.

13 The legislature further finds that, due to the relative
14 lack of research data on electronic smoking devices, many public
15 health organizations and policymakers are concerned about the
16 safety and impact of these products on public health.

17 Furthermore, because the federal government has not yet
18 exercised its regulatory authority over electronic smoking



1 devices, the products are manufactured without regulatory
2 oversight or quality control, and promoted, advertised, and sold
3 without appropriate health warnings or legal age restrictions.

4 In response, a growing number of state and local
5 governments have taken steps to regulate the sale, marketing,
6 and use of electronic smoking devices. The legislature
7 concludes that Hawaii should also take additional steps to
8 regulate these products.

9 Accordingly, the purpose of this Act is to:

- 10 (1) Include electronic smoking devices within the
11 definition of "tobacco products" under chapter 245,
12 Hawaii Revised Statutes, thereby:
- 13 (A) Subjecting wholesalers and dealers of electronic
14 smoking devices to the same licensing
15 requirements as wholesalers and dealers of
16 cigarettes and other tobacco products; and
- 17 (B) Subjecting retailers of electronic smoking
18 devices to the same permitting requirements as
19 retailers of cigarettes and other tobacco
20 products;
- 21 (2) Establish an excise tax on electronic smoking devices
22 of an unspecified per cent of the wholesale price of



1 each electronic smoking device kit, electronic smoking
2 device nicotine cartridge, or electronic smoking
3 device nicotine refill sold, used, or possessed by a
4 wholesaler or dealer on or after October 1, 2014; and

5 (3) Amend Hawaii's anti-smoking statute to prohibit the
6 use of electronic smoking devices in places open to
7 the public and places of employment.

8 SECTION 2. Section 245-1, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By adding a new definition to be appropriately inserted
11 and to read:

12 "Electronic smoking device" means any electronic product
13 that can be used to vaporize and deliver nicotine or other
14 substances to the person inhaling from the device, including but
15 not limited to an electronic cigarette, electronic cigar,
16 electronic cigarillo, or electronic pipe, and any cartridge or
17 other component of the device or related product."

18 2. By amending the definition of "tobacco products" to
19 read:

20 ~~"Tobacco products" means [tobacco in any form, other than~~
21 ~~cigarettes or little cigars, that is prepared or intended for~~
22 ~~consumption or for personal use by humans, including large~~



1 ~~cigars and any substitutes thereof other than cigarettes that~~
2 ~~bear the semblance thereof, snuff, chewing or smokeless tobacco,~~
3 ~~and smoking or pipe tobacco.] any product, other than cigarettes~~
4 or little cigars, made or derived from tobacco, that contains
5 nicotine or other substances, and is intended for human
6 consumption or is likely to be consumed, whether smoked, heated,
7 chewed, absorbed, dissolved, inhaled, or ingested by any other
8 means, including but not limited to a large cigar, pipe tobacco,
9 chewing tobacco, snuff, snus, or an electronic smoking device.
10 "Tobacco products" does not include any product specifically
11 approved by the United States Food and Drug Administration for
12 legal sale as a tobacco cessation product that is being marketed
13 and sold solely for that approved purpose."

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

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

- 19 (1) An excise tax equal to 5.00 cents for each cigarette
- 20 sold, used, or possessed by a wholesaler or dealer
- 21 after June 30, 1998, 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 (2) An excise tax equal to 6.00 cents for each cigarette
4 sold, used, or possessed by a wholesaler or dealer
5 after September 30, 2002, 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 (3) An excise tax equal to 6.50 cents for each cigarette
9 sold, used, or possessed by a wholesaler or dealer
10 after June 30, 2003, whether or not sold at wholesale,
11 or if not sold then at the same rate upon the use by
12 the wholesaler or dealer;

13 (4) An excise tax equal to 7.00 cents for each cigarette
14 sold, used, or possessed by a wholesaler or dealer
15 after June 30, 2004, whether or not sold at wholesale,
16 or if not sold then at the same rate upon the use by
17 the wholesaler or dealer;

18 (5) An excise tax equal to 8.00 cents for each cigarette
19 sold, used, or possessed by a wholesaler or dealer on
20 and after September 30, 2006, 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 (6) An excise tax equal to 9.00 cents for each cigarette
2 sold, used, or possessed by a wholesaler or dealer on
3 and after September 30, 2007, whether or not sold at
4 wholesale, or if not sold then at the same rate upon
5 the use by the wholesaler or dealer;
- 6 (7) An excise tax equal to 10.00 cents for each cigarette
7 sold, used, or possessed by a wholesaler or dealer on
8 and after September 30, 2008, whether or not sold at
9 wholesale, or if not sold then at the same rate upon
10 the use by the wholesaler or dealer;
- 11 (8) An excise tax equal to 13.00 cents for each cigarette
12 sold, used, or possessed by a wholesaler or dealer on
13 and after July 1, 2009, whether or not sold at
14 wholesale, or if not sold then at the same rate upon
15 the use by the wholesaler or dealer;
- 16 (9) An excise tax equal to 11.00 cents for each little
17 cigar sold, used, or possessed by a wholesaler or
18 dealer on and after October 1, 2009, whether or not
19 sold at wholesale, or if not sold then at the same
20 rate upon the use by the wholesaler or dealer;
- 21 (10) An excise tax equal to 15.00 cents for each cigarette
22 or little cigar sold, used, or possessed by a



1 wholesaler or dealer on and after July 1, 2010,
2 whether or not sold at wholesale, or if not sold then
3 at the same rate upon the use by the wholesaler or
4 dealer;

5 (11) An excise tax equal to 16.00 cents for each cigarette
6 or little cigar sold, used, or possessed by a
7 wholesaler or dealer on and after July 1, 2011,
8 whether or not sold at wholesale, or if not sold then
9 at the same rate upon the use by the wholesaler or
10 dealer;

11 (12) An excise tax equal to seventy per cent of the
12 wholesale price of each article or item of tobacco
13 products, other than large cigars, electronic smoking
14 device kits, electronic smoking device nicotine
15 cartridges, or electronic smoking device nicotine
16 refills, sold by the wholesaler or dealer on and after
17 September 30, 2009, whether or not sold at wholesale,
18 or if not sold then at the same rate upon the use by
19 the wholesaler or dealer; [and]

20 (13) An excise tax equal to fifty per cent of the wholesale
21 price of each large cigar of any length, sold, used,
22 or possessed by a wholesaler or dealer on and after



1 September 30, 2009, whether or not sold at wholesale,
2 or if not sold then at the same rate upon the use by
3 the wholesaler or dealer[-]; and

4 (14) An excise tax equal to per cent of the wholesale
5 price of each electronic smoking device kit,
6 electronic smoking device nicotine cartridge, or
7 electronic smoking device nicotine refill sold, used,
8 or possessed by a wholesaler or dealer on or after
9 October 1, 2014, whether or not sold at wholesale, or
10 if not sold then at the same rate upon the use by the
11 wholesaler or dealer.

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

18 SECTION 4. Section 328J-1, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By adding two new definitions to be appropriately
21 inserted and to read:



1 "Electronic smoking device" means any electronic product
2 that can be used to vaporize and deliver nicotine or other
3 substances to the person inhaling from the device, including but
4 not limited to an electronic cigarette, electronic cigar,
5 electronic cigarillo, or electronic pipe, and any cartridge or
6 other component of the device or related product.

7 "Tobacco product" means any product made or derived from
8 tobacco, that contains nicotine or other substances, and is
9 intended for human consumption or is likely to be consumed,
10 whether smoked, heated, chewed, absorbed, dissolved, inhaled, or
11 ingested by any other means, including but not limited to a
12 cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus, or
13 an electronic smoking device. "Tobacco product" does not
14 include any product specifically approved by the United States
15 Food and Drug Administration for legal sale as a tobacco
16 cessation product that is being marketed and sold solely for
17 that approved purpose."

18 2. By amending the definition of "smoke" or "smoking" to
19 read:

20 ~~"Smoke" or "smoking" means [inhaling or exhaling the fumes~~
21 ~~of tobacco or any other plant material, or burning or carrying~~
22 ~~any lighted smoking equipment for tobacco or any other plant~~



1 ~~material.]~~ inhaling, exhaling, burning, or carrying any lighted
2 or heated tobacco product or plant product intended for
3 inhalation in any manner or in any form. "Smoking" includes the
4 use of an electronic smoking device."

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

7 SECTION 6. This Act shall take effect on July 1, 2050;
8 provided that sections 2 and 3 of this Act shall take effect on
9 January 1, 2015.



Report Title:

Electronic Smoking Device; Tobacco Products; Excise Tax; Smoking

Description:

Includes electronic smoking devices within the definition of "tobacco products" under chapter 245, Hawaii Revised Statutes, thereby subjecting wholesalers, dealers, and retailers of electronic smoking devices to the same licensing and permitting requirements as wholesalers, dealers, and retailers of cigarettes and other tobacco products. Establishes an excise tax on electronic smoking devices equal to an unspecified per cent of the wholesale price of each electronic smoking device kit, electronic smoking device nicotine cartridge, or electronic smoking device nicotine refill sold, used, or possessed by a wholesaler or dealer on or after October 1, 2014. Amends Hawaii's anti-smoking statute to prohibit the use of electronic smoking devices in places open to the public and places of employment. License and permit requirements for wholesalers, dealers, and retailers of electronic smoking devices and excise tax effective 1/1/2015. Effective 7/1/2050. (SD3)

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