

JAN 17 2014

A BILL FOR AN ACT

RELATING TO PROHIBITIONS ON HAWAII HEALTH SYSTEMS CORPORATION
PREMISES.

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

1 SECTION 1. The legislature finds that the health
2 facilities within the Hawaii health systems corporation are
3 committed to providing quality health care for the people of
4 Hawaii and taking steps to reduce the occurrence of preventable
5 disease. Consistent with this commitment, the corporation must
6 not permit the use of tobacco and other potentially dangerous
7 substances, including electronic smoking devices, on the
8 campuses of its health facilities. Allowing such use would not
9 only expose vulnerable patients, employees, and visitors to the
10 perils of harmful substances, it would also demonstrate a
11 shortcoming in the corporation's goal of reducing the occurrence
12 of preventable disease.

13 The purpose of this Act is to protect patients, employees,
14 and visitors to the health facilities within the Hawaii health
15 systems corporation from exposure to second-hand smoke and other
16 potentially harmful substances, as well as to promote positive
17 health practices, by prohibiting smoking, including the use of



1 electronic smoking devices, and tobacco use on the premises of
2 any Hawaii health systems corporation health facility and making
3 tobacco-cessation programs available to public health facility
4 employees.

5 SECTION 2. Chapter 323F, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§323F- Smoking and tobacco use prohibitions on Hawaii
9 health systems corporation premises. (a) The Hawaii health
10 systems corporation shall prohibit smoking and tobacco use by
11 any person on the premises of all health facilities operated by
12 the corporation within the State, to the extent not prohibited
13 by federal law. Mere possession or storage of cigarettes,
14 tobacco products, or an electronic smoking device for use
15 outside the premises of the corporation shall not constitute a
16 violation of this subsection.

17 (b) The corporation shall provide tobacco cessation
18 programs for public employees who are interested in
19 participating at the corporation's health facilities; provided
20 that issues relating to the costs of the program shall be
21 subject to collective bargaining.



1 (c) This section shall not be subject to chapter 328J.

2 Pursuant to section 89-9(d), the smoking and tobacco use
3 prohibitions under this section shall not be subject to
4 collective bargaining.

5 (d) The corporation shall be responsible for educating all
6 health facility personnel, contractors, patients, and all other
7 visitors to the corporation's premises about the smoking and
8 tobacco use prohibitions under this section. The corporation
9 shall prominently display signs stating that "smoking, including
10 smoking of electronic smoking devices, and tobacco use are
11 prohibited by law" at all entrances to the corporation's
12 premises and at other conspicuous locations throughout the
13 premises of each health facility.

14 (e) For the purposes of this section:

15 "Cigarette" has the same meaning as in section 486P-1.

16 "Electronic smoking device" means any electronic product
17 that can be used to simulate smoking in the delivery of nicotine
18 or other substances to the person inhaling from the device,
19 including but not limited to an electronic cigarette, electronic
20 cigar, electronic cigarillo, or electronic pipe, and any
21 cartridge or other component of the device or related product.

22 The term does not include any product approved by the United



1 States Food and Drug Administration for use in medical
2 treatment.

3 "Premises" means all indoor and outdoor areas within the
4 state-designated property boundary lines of each of the
5 corporation's health facilities and shall include all related
6 employee and visitor parking lots.

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

12 "Tobacco products" has the same meaning as in section
13 245-1.

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

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

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



1 and the exclusive representative shall not agree to any proposal
2 which would be inconsistent with the merit principle or the
3 principle of equal pay for equal work pursuant to section 76-1
4 or which would interfere with the rights and obligations of a
5 public employer to:

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



1 (9) In the case of the Hawaii health systems corporation,
2 prohibit smoking, including the use of electronic
3 smoking devices, and tobacco use on the premises of
4 all health facilities operated by the corporation
5 within the State.

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

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

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

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

21
INTRODUCED BY:

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S.B. NO. 2499

Report Title:

Hawaii Health Systems Corporation; Tobacco; Electronic Smoking Devices; Prohibitions

Description:

Prohibits smoking, including the use of electronic smoking devices, and tobacco use at health facilities operated by the Hawaii health systems corporation.

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