

S . B. NO. 2863

JAN 23 2014

A BILL FOR AN ACT

RELATING TO THE USE OF TOBACCO AND E-CIGARETTES 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 on the campuses of its health facilities, as allowing
8 such use would not only expose vulnerable patients, employees,
9 and visitors to the perils of harmful substances, but would also
10 demonstrate a shortcoming in the corporation's goal of reducing
11 the occurrence of preventable disease.

12 The purpose of this Act is to protect patients, employees,
13 and all other visitors to the health facilities within the
14 Hawaii health systems corporation from exposure to second-hand
15 smoke and other potentially harmful substances as well as to
16 promote positive health practices by prohibiting any person from
17 using tobacco products or e-cigarettes on the premises of any

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1 Hawaii health systems corporation health facility and making
2 tobacco-cessation programs available to public health facility
3 employees.

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

7 "§323F- Tobacco and e-cigarette use prohibited. (a)

8 Notwithstanding any provision to the contrary in chapter 328J,
9 the use of any tobacco product or e-cigarette by any person on
10 the premises of all health facilities operated by the
11 corporation within the State is prohibited, to the extent not
12 preempted by federal law or regulation.

13 For the purposes of this section, "tobacco product" means
14 any substance containing tobacco leaf, including but not limited
15 to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff,
16 chewing tobacco, dipping tobacco, bidis, blunts, clove
17 cigarettes, or any other preparations of tobacco; and any
18 product or formulation of matter containing biologically active
19 amounts of nicotine that is manufactured, sold, offered for
20 sale, or otherwise distributed with the expectation that the
21 product or matter will be introduced into the human body; but
22 does not include any cessation product specifically approved by

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1 the United States Food and Drug Administration for the sole use
2 of treating nicotine or tobacco dependence.

3 "E-cigarette" means any electronic oral device, such as one
4 composed of a heating element, battery, or electronic circuit,
5 or more than one of these, which provides a vapor of nicotine or
6 any other substances for inhalation. The term shall include any
7 such device, whether manufactured, distributed, marketed, or
8 sold as an e-cigarette, e-cigar, e-pipe, or under any other
9 product name or descriptor, but does not include any product
10 specifically approved by the United States Food and Drug
11 Administration for use in medical treatment, such as an asthma
12 inhaler.

13 "Tobacco or e-cigarette use" does not include mere
14 possession or storage of the same for use in locations outside
15 the premises of the corporation's health facilities.

16 "Premises" means all indoor and outdoor areas within the
17 State-designated property boundary lines of each of the
18 corporation's health facilities and shall include all employee
19 and visitor parking lots.

20 (b) The corporation shall provide tobacco cessation
21 programs for public employees who are interested in
22 participating at the corporation's health facilities; provided

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1 that issues relating to the costs of the program shall be
2 subject to collective bargaining.

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

6 (d) The corporation shall be responsible for educating all
7 health facility personnel, contractors, patients, and all other
8 visitors to the corporation's health facilities regarding the
9 prohibitions under this section. The corporation shall
10 prominently display signs stating that "tobacco and e-cigarette
11 use is prohibited" at all entrances to the corporation's health
12 facilities and at other conspicuous locations throughout the
13 outdoor premises of each health facility."

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

16 "(d) Excluded from the subjects of negotiations are
17 matters of classification, reclassification, benefits of but not
18 contributions to the Hawaii employer-union health benefits trust
19 fund, recruitment, examination, initial pricing, and retirement
20 benefits except as provided in section 88-8(h). The employer
21 and the exclusive representative shall not agree to any proposal
22 which would be inconsistent with the merit principle or the
23 principle of equal pay for equal work pursuant to section 76-1

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1 or which would interfere with the rights and obligations of a
2 public employer to:

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

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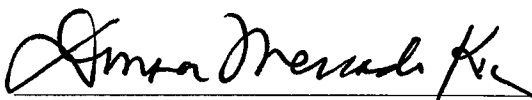
1 This subsection shall not be used to invalidate provisions
2 of collective bargaining agreements in effect on and after June
3 30, 2007, and shall not preclude negotiations over the
4 procedures and criteria on promotions, transfers, assignments,
5 demotions, layoffs, suspensions, terminations, discharges, or
6 other disciplinary actions as a permissive subject of bargaining
7 during collective bargaining negotiations or negotiations over a
8 memorandum of agreement, memorandum of understanding, or other
9 supplemental agreement.

10 Violations of the procedures and criteria so negotiated may
11 be subject to the grievance procedure in the collective
12 bargaining agreement."

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: 

BY REQUEST

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Report Title:

Use of Tobacco and E-cigarettes on Hawaii Health Systems
Corporation Premises

Description:

Amends chapter 323F, Hawaii Revised Statutes, to prohibit the
use of tobacco products and e-cigarettes at Hawaii Health
Systems Corporation health facilities.

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: HEALTH.

TITLE: A BILL FOR AN ACT RELATING TO THE USE OF TOBACCO AND E-CIGARETTES ON HAWAII HEALTH SYSTEMS CORPORATION PREMISES.

PURPOSE: To prohibit tobacco or e-cigarette use on Hawaii health systems corporation premises.

MEANS: Add a new section to chapter 323F and amend 89-9(d), Hawaii Revised Statutes.

JUSTIFICATION: Hawaii health systems corporation facilities are institutions where people receive treatment, heal, and recover from health conditions, and where residents receive long term care. This law will protect patients, employees, medical staff, and visitors from exposure to second-hand smoke and other potentially harmful substances and promote positive health practices by prohibiting any person from using tobacco products or electronic cigarettes on HHSC premises.

Impact on the public: The measure will protect patients, employees and all other visitors to the health facilities within the Hawaii health systems corporation from exposure to second-hand smoke and other potentially harmful substances as well as promote positive health practices by prohibiting any person from using tobacco products or e-cigarettes on the premises of any Hawaii health systems corporation facility and making tobacco-cessation programs available to public health facility employees.

Impact on the department and other agencies:
None

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HTH-210 LA, HTH-212 LS

OTHER AFFECTED
AGENCIES: Department of Health.

EFFECTIVE DATE: Upon approval.