

S .B. NO. 2871

JAN 23 2014

A BILL FOR AN ACT

RELATING TO THE REGULATION OF ELECTRONIC SMOKING DEVICES.

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

1 SECTION 1. The legislature finds that the unregulated use
2 of electronic smoking devices is potentially hazardous to health
3 and is disruptive to an orderly and productive work environment.
4 Using an electronic smoking device closely resembles and
5 purposefully mimics the act of smoking by having a user inhale
6 vaporized liquid nicotine created by heat through an electronic
7 ignition system.

8 After testing a number of electronic cigarettes (e-
9 cigarettes) from two leading manufacturers, the Food and Drug
10 Administration (FDA) determined that various samples tested
11 contained not only nicotine but also detectable levels of known
12 carcinogens and toxic chemicals. The FDA's testing also
13 suggested that "quality control processes used to manufacture
14 these products are inconsistent or non-existent." See, Summary
15 of Results: Laboratory Analysis of Electronic Cigarettes
16 Conducted by FDA
17 (<http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>).

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1 Electronic smoking devices produce a vapor of undetermined
2 and potentially harmful substances, which may appear similar to
3 the smoke emitted by traditional tobacco products. The use of
4 electronic smoking devices in locations where smoking is
5 prohibited threatens to undermine compliance with smoking
6 regulations, creates a disturbance which impedes employee
7 performance, confuses the public, and reverses the progress that
8 has been made in establishing a social norm that smoking is not
9 permitted in enclosed or partially enclosed public places and
10 places of employment.

11 Prohibiting the use of electronic smoking devices in
12 enclosed or partially enclosed places where smoking is
13 prohibited will reduce the likelihood that employees and the
14 public will associate the use of electronic smoking devices in
15 enclosed or partially enclosed areas with healthful behavior,
16 reduce the likelihood of nonuser exposure to known carcinogens
17 and toxic chemicals, reduce the likelihood of workplace
18 disturbances, enhance employee productivity, and help ensure
19 compliance with existing smoking regulations. Moreover, at
20 least one major manufacturer of tobacco products and electronic
21 smoking devices supports the regulation of "all tobacco
22 products, including those containing tobacco-derived nicotine
23 such as e-cigarettes (and those types not yet marketed)."

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1 Accordingly, the purpose of this Act is to prohibit the use of
2 electronic smoking devices in places where smoking is currently
3 prohibited and to update signage requirements to reflect the new
4 prohibition.

5 SECTION 2. Section 328J-1, Hawaii Revised Statutes, is
6 amended by adding two new definitions to be appropriately
7 inserted and to read as follows:

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

14 "Tobacco product" means any product made or derived from
15 tobacco, that contains nicotine or other substances, and is
16 intended for human consumption or is likely to be consumed,
17 whether smoked, heated, chewed, absorbed, dissolved, inhaled, or
18 ingested by any other means, including, but not limited to, a
19 cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus, or
20 an electronic smoking device. "Tobacco product" does not
21 include any product specifically approved by the U.S. Food and
22 Drug Administration for legal sale as a tobacco cessation

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1 product that is being marketed and sold solely for that approved
2 purpose."

3 SECTION 3. Section 328J-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "smoke" or "smoking" to
5 read as follows:

6 ""Smoke" or "smoking" means [~~inhaling or exhaling the fumes~~
7 ~~of tobacco or any other plant material, or burning or carrying~~
8 ~~any lighted smoking equipment for tobacco or any other plant~~
9 ~~material.] inhaling, exhaling, burning, or carrying any lighted
10 or heated tobacco product or plant product intended for
11 inhalation in any manner or in any form. "Smoking" includes the
12 use of an electronic smoking device."~~

13 SECTION 4. Section 328J-9, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~+~~§328J-9[~~+~~] **Signs.** (a) Clearly legible signs that
16 include the words "Smoking Prohibited by Law["~~with letters of~~
17 ~~not less than one inch in height]~~ Including E-cigarettes And All
18 Other Electronic Smoking Devices" or the international "No
19 Smoking" symbol, consisting of a pictorial representation of a
20 burning cigarette and a symbol of an electronic smoking device
21 enclosed in a red circle with a red bar across it, or both,
22 shall be clearly and conspicuously posted in and at the entrance
23 to every place open to the public and place of employment where

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1 smoking is prohibited by this chapter by the owner, operator,
2 manager, or other person in control of that place.

3 (b) In signs required by this section, the words "Smoking
4 Prohibited by Law" shall be in letters of not less than three
5 quarters of an inch in height, and the remaining words shall be
6 in letters of not less than one quarter inch in height."

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

9 SECTION 6. This Act, upon its approval, shall take effect
10 on September 1, 2014.

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INTRODUCED BY: 

BY REQUEST

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Report Title:

Regulation of electronic smoking devices.

Description:

Amends chapter 328J, Hawaii Revised Statutes, to prohibit the use of electronic smoking devices in the places where smoking is prohibited and updates signage requirements.

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

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JUSTIFICATION SHEET

DEPARTMENT: Department of Health.

TITLE: A BILL FOR AN ACT RELATING TO REGULATION OF ELECTRONIC SMOKING DEVICES.

PURPOSE: To prohibit the use of electronic smoking devices in the places where smoking is prohibited and update signage requirements.

MEANS: Amend sections 328J-1 and 328J-9, Hawaii Revised Statutes.

JUSTIFICATION: The unregulated use of electronic smoking devices is potentially hazardous to health and is disruptive to an orderly and productive work environment. The unregulated use of electronic smoking devices closely resembles and purposefully mimics the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system.

After testing a number of electronic cigarettes (e-cigarettes) from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals. The FDA's testing also suggested that "quality control processes used to manufacture these products are inconsistent or non-existent." See, Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA (<http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>).

Electronic smoking devices produce a vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. The use of electronic smoking

devices in locations where smoking is prohibited threatens to undermine compliance with smoking regulations, creates a disturbance which impedes employee performance, confuses the public, and reverses the progress that has been made in establishing a social norm that smoking is not permitted in enclosed or partially enclosed public places and places of employment.

Prohibiting the use of electronic smoking devices in enclosed or partially enclosed places where smoking is prohibited will reduce the likelihood that employees and the public will associate the use of electronic smoking devices in enclosed or partially enclosed areas with healthful behavior, reduce the likelihood of non-user exposure to known carcinogens and toxic chemicals, reduce the likelihood of workplace disturbances, enhance employee productivity, and help ensure compliance with existing smoking regulations. Moreover, at least one major manufacturer of tobacco products supports the regulation of "all tobacco products, including those containing tobacco-derived nicotine such as e-cigarettes (and those types not yet marketed)."

The delayed September 1, 2014 effective date will allow time for places open to the public and places of employment to comply with the law and to post updated signs.

Impact on the public: The use of electronic smoking devices will be prohibited where the smoking of tobacco is currently prohibited. Updated "No Smoking" signs will need to be posted at places open to the public and places of employment.

Impact on the department and other agencies: The department of health will need to enforce the proposed prohibition on electronic smoking devices. Other state

governmental agencies will need to comply with the bill.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: All other state governmental agencies.

EFFECTIVE DATE: September 1, 2014.