
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. The legislature finds that according to the
2 Centers for Disease Control and Prevention, calls to poison
3 control centers across the country related to exposure to
4 nicotine in cigarettes have grown considerably since 2010.
5 Poison experts warn that concentrated nicotine in liquid form is
6 significantly toxic, even in small doses, as poisonings related
7 to e-liquid containers can occur when nicotine is inhaled or
8 absorbed through the skin or eyes.

9 The legislature further finds that the packaging and use of
10 electronic smoking devices are potentially hazardous to the
11 health of Hawaii residents, including Hawaii's children, yet
12 many liquids for electronic smoking devices are offered in
13 flavors and scents that are appealing to children. There are
14 currently no packaging requirements for the sale of e-liquid
15 containers. Stringent packaging and labeling requirements for
16 e-liquid containers will protect young children from inadvertent
17 exposure to the contents of electronic smoking device cartridges



1 and also inform consumers whether an e-liquid product contains
2 nicotine, a highly addictive substance.

3 The purpose of this Act is to establish safe and
4 responsible packaging requirements for e-liquid containers to
5 protect Hawaii's children and ensure consumers are better
6 informed regarding the contents of electronic smoking device
7 products.

8 SECTION 2. Chapter 328J, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§328J- Sale of certain e-liquid containers prohibited.

12 (a) It shall be unlawful for any person or business to sell,
13 offer for sale, or introduce into commerce in the State an
14 e-liquid container unless the e-liquid container constitutes
15 child-resistant packaging.

16 (b) It shall be unlawful for any person or business to
17 sell, offer for sale, or introduce into commerce in the State an
18 e-liquid container that includes e-liquid containing nicotine
19 unless the packaging for the e-liquid clearly and legibly
20 states:



- 1 (1) "Warning - contains nicotine: (mg/mL). Not for
- 2 sale to persons under 21 years of age.";
- 3 (2) "Do not swallow or get on skin or eyes. Keep out of
- 4 reach of children and pets. For help call Hawaii
- 5 Poison Control Center - 800-222-1222."; and
- 6 (3) "This product is not FDA approved."
- 7 (c) Any person convicted of violating this section shall
- 8 be guilty of a penalty."

9 SECTION 3. Chapter 330C, Hawaii Revised Statutes, is
 10 amended by adding a new section to be appropriately designated
 11 and to read as follows:

12 "§330C- E-liquid packaging standards. It shall be
 13 unlawful for any person or business to sell, offer for sale, or
 14 introduce into commerce in the State an e-liquid container
 15 unless the e-liquid container is packaged pursuant to section
 16 328J- ."

17 SECTION 4. Section 328J-1, Hawaii Revised Statutes, is
 18 amended by adding three new definitions to be appropriately
 19 inserted and to read as follows:

20 "Child-resistant packaging" means packaging that is
 21 designed or constructed to be significantly difficult for



1 children under five years of age to open or obtain a toxic or
 2 harmful amount of the substance contained therein within a
 3 reasonable time and not difficult for adults to use properly.
 4 This term does not pertain to other packaging or trade dress of
 5 an e-liquid container that all such children can open within a
 6 reasonable amount of time or from which all such children can
 7 obtain a toxic or harmful amount of the substance contained
 8 therein within a reasonable amount of time.

9 "E-liquid" means a liquid product, whether or not it
 10 contains nicotine, that is intended to be vaporized and inhaled
 11 using an electronic smoking device.

12 "E-liquid container" means a bottle or other container of
 13 e-liquid. This term does not include a container holding liquid
 14 that is intended for use in an electronic smoking device if the
 15 container is pre-filled and sealed by the manufacturer and is
 16 not intended to be opened by the consumer."

17 SECTION 5. Section 330C-3, Hawaii Revised Statutes, is
 18 amended by amending the definition of "hazardous substance" to
 19 read as follows:

20 "(3) "Hazardous substance" means:



- 1 (A) Any substance or mixture of substances which (i)
2 is toxic, (ii) is corrosive, (iii) is an
3 irritant, (iv) is a strong sensitizer, (v) is
4 flammable or combustible, or (vi) generates
5 pressure through decomposition, heat, or other
6 means, if such substance or mixture of substances
7 may cause substantial personal injury or
8 substantial illness during or as a proximate
9 result of any customary or reasonably foreseeable
10 handling or use, including reasonably foreseeable
11 ingestion by children.
- 12 (B) Any substances which the director by rule finds
13 pursuant to section 330C-4(1), meet the
14 requirements of subparagraph (A) of this
15 paragraph.
- 16 (C) Any radioactive substances, if, with respect to
17 such substances as used in a particular class of
18 article or as packaged, the director determines
19 by regulation that the substance is sufficiently
20 hazardous to require labeling in accordance with



1 this chapter in order to protect the public
2 health.

3 (D) The term "hazardous substance" shall not apply to
4 pesticides subject to the Federal Insecticide,
5 Fungicide, and Rodenticide Act, nor to foods,
6 drugs, and cosmetics subject to the Federal Food,
7 Drug, and Cosmetic Act, nor to substances
8 intended for use as fuels when stored in
9 containers and used in the heating, cooking, or
10 refrigeration system of a house, but such term
11 shall apply to any article which is not itself an
12 economic poison within the meaning of the Federal
13 Insecticide, Fungicide, and Rodenticide Act but
14 which is a hazardous substance within the meaning
15 of subparagraph (A) of this paragraph by reason
16 of bearing or containing such a pesticide.

17 (E) The term "hazardous substance" shall not include
18 any source material, special nuclear material, or
19 byproduct material as defined in the Atomic
20 Energy Act of 1954, as amended, and regulations



1 issued pursuant thereto by the Atomic Energy
2 Commission.

3 (F) E-liquid as defined in section 328J-1; provided
4 that e-liquid containers shall be packaged
5 pursuant to section 328J- ."

6 SECTION 6. New statutory material is underscored.

7 SECTION 7. This Act shall take effect on January 1, 2017.



Report Title:

E-liquid; Electronic Smoking Devices; Packaging Requirements;
Prohibitions; Penalties

Description:

Beginning January 1, 2017, prohibits the sale of an e-liquid container for an electronic smoking device unless the container is child-resistant and prohibits the sale of an e-liquid container that includes e-liquid containing nicotine unless the e-liquid packaging is labeled with warning language. Establishes a violation as a penalty. Includes e-liquid under the definition of "hazardous substance" as used in the Hawaii Poison Prevention Packaging Act. (Proposed SD1)

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