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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that tobacco use is the  
2 single most preventable cause of disease, disability, and death  
3 in the United States. Tobacco use continues to be a problem in  
4 Hawaii, causing approximately 1,400 deaths per year among  
5 adults. An estimated 21,000 children in Hawaii currently under  
6 the age of eighteen will ultimately die prematurely from  
7 smoking. Tobacco use poses a heavy burden on Hawaii's health  
8 care system and economy. Each year, smoking costs approximately  
9 \$526,000,000 in direct health care expenditures and \$387,300,000  
10 in lost productivity in the State.

11           The legislature further finds that tobacco products are  
12 addictive and inherently dangerous, causing many different types  
13 of cancer, heart disease, and other serious illnesses. Hawaii  
14 has a substantial interest in reducing the number of individuals  
15 of all ages who use tobacco products, and a particular interest  
16 in protecting adolescents from tobacco dependence and the  
17 illnesses and premature death associated with tobacco use.



1           The legislature additionally finds that the United States  
2 Food and Drug Administration recently issued a proposed deeming  
3 regulation that will eventually bring all tobacco products,  
4 including nicotine derived from tobacco and any product  
5 containing tobacco, under its authority. An amendment to the  
6 definition of "tobacco products" in chapter 245, Hawaii Revised  
7 Statutes, is therefore needed to include nicotine derived from  
8 tobacco within the definition of tobacco products.

9           The legislature also finds that taxes on tobacco products  
10 should be similar to the tax rates already imposed on  
11 cigarettes. Tobacco products other than cigarettes are  
12 currently taxed at a lower rate than cigarettes, even though  
13 their use carries similar health risks. Research has shown that  
14 either a tax on cigarettes or cigarette price increases have the  
15 propensity to reduce the rate of smoking by adult and youth  
16 smokers. However, the legislature is concerned that as the  
17 price of cigarettes increases, smokers may be tempted to  
18 purchase less expensive tobacco products, including loose or  
19 roll-your-own tobacco.

20           Finally, the legislature concludes that there should not be  
21 a lower-priced tobacco alternative to cigarettes in Hawaii;



1 therefore a similar tax rate for cigarettes and tobacco products  
2 that acts as a deterrent for all forms of tobacco use is needed.  
3 Higher tobacco product prices will encourage tobacco users to  
4 quit, sustain cessation, prevent youth initiation, and reduce  
5 consumption among those who continue to use tobacco.

6 It is the legislature's intent for loose and roll-your-own  
7 tobacco to be considered a tobacco product subject to the excise  
8 tax under this Act.

9 The purpose of this Act is to:

- 10 (1) Amend the definition of "tobacco products", including  
11 by expanding the definition to include any product  
12 containing nicotine, but not containing tobacco;
- 13 (2) Impose an excise tax equal to eighty per cent of the  
14 wholesale price of any tobacco product, other than  
15 large cigars, sold by a wholesaler or dealer on and  
16 after January 1, 2016, whether or not sold at  
17 wholesale, or if not sold then at the same rate upon  
18 the use by the wholesaler or dealer; and
- 19 (3) Require the moneys collected under the increased  
20 excise tax rate to be deposited to the credit of the  
21 Hawaii cancer research special fund.



1 SECTION 2. Section 245-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "tobacco products" to read  
3 as follows:

4 "~~Tobacco products" means [tobacco in any form, other than~~  
5 ~~cigarettes or little cigars, that is prepared or intended for~~  
6 ~~consumption or for personal use by humans, including large~~  
7 ~~cigars and any substitutes thereof other than cigarettes that~~  
8 ~~bear the semblance thereof, snuff, chewing or smokeless tobacco,~~  
9 ~~and smoking or pipe tobacco.]~~ :

10 (1) Any product made or derived from tobacco that contains  
11 nicotine or other harmful substances and is intended  
12 for human consumption or is likely to be consumed,  
13 whether smoked, heated, chewed, absorbed, dissolved,  
14 inhaled, or ingested by any other means including but  
15 not limited to a cigarette, cigar, pipe tobacco,  
16 chewing tobacco, snuff, snus, or an electronic smoking  
17 device; or

18 (2) Any product containing nicotine, but not containing  
19 tobacco, that is intended for human consumption,  
20 whether chewed, smoked, absorbed, dissolved, inhaled,  
21 snorted, sniffed, or ingested by any other means.



1       "Tobacco products" does not include drugs, devices, or  
2 combination products approved for sale by the United States Food  
3 and Drug Administration, as those terms are defined in the  
4 Federal Food, Drug, and Cosmetic Act."

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

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

10       (1) An excise tax equal to 5.00 cents for each cigarette  
11 sold, used, or possessed by a wholesaler or dealer  
12 after June 30, 1998, whether or not sold at wholesale,  
13 or if not sold then at the same rate upon the use by  
14 the wholesaler or dealer;

15       (2) An excise tax equal to 6.00 cents for each cigarette  
16 sold, used, or possessed by a wholesaler or dealer  
17 after September 30, 2002, whether or not sold at  
18 wholesale, or if not sold then at the same rate upon  
19 the use by the wholesaler or dealer;

20       (3) An excise tax equal to 6.50 cents for each cigarette  
21 sold, used, or possessed by a wholesaler or dealer



1 after June 30, 2003, 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;

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

9 (5) An excise tax equal to 8.00 cents for each cigarette  
10 sold, used, or possessed by a wholesaler or dealer on  
11 and after September 30, 2006, whether or not sold at  
12 wholesale, or if not sold then at the same rate upon  
13 the use by the wholesaler or dealer;

14 (6) An excise tax equal to 9.00 cents for each cigarette  
15 sold, used, or possessed by a wholesaler or dealer on  
16 and after September 30, 2007, whether or not sold at  
17 wholesale, or if not sold then at the same rate upon  
18 the use by the wholesaler or dealer;

19 (7) An excise tax equal to 10.00 cents for each cigarette  
20 sold, used, or possessed by a wholesaler or dealer on  
21 and after September 30, 2008, whether or not sold at



1           wholesale, or if not sold then at the same rate upon  
2           the use by the wholesaler or dealer;

3           (8) An excise tax equal to 13.00 cents for each cigarette  
4           sold, used, or possessed by a wholesaler or dealer on  
5           and after July 1, 2009, 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           (9) An excise tax equal to 11.00 cents for each little  
9           cigar sold, used, or possessed by a wholesaler or  
10          dealer on and after October 1, 2009, whether or not  
11          sold at wholesale, or if not sold then at the same  
12          rate upon the use by the wholesaler or dealer;

13          (10) An excise tax equal to 15.00 cents for each cigarette  
14          or little cigar sold, used, or possessed by a  
15          wholesaler or dealer on and after July 1, 2010,  
16          whether or not sold at wholesale, or if not sold then  
17          at the same rate upon the use by the wholesaler or  
18          dealer;

19          (11) An excise tax equal to 16.00 cents for each cigarette  
20          or little cigar sold, used, or possessed by a  
21          wholesaler or dealer on and after July 1, 2011,



1           whether or not sold at wholesale, or if not sold then  
2           at the same rate upon the use by the wholesaler or  
3           dealer;

4           (12) An excise tax equal to seventy per cent of the  
5           wholesale price of each article or item of tobacco  
6           products, other than large cigars, sold by the  
7           wholesaler or dealer on and after September 30, 2009,  
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; [~~and~~]

11          (13) An excise tax equal to eighty per cent of the  
12          wholesale price of each article or item of tobacco  
13          products, other than large cigars, sold by a  
14          wholesaler or dealer on and after January 1, 2016,  
15          whether or not sold at wholesale, or if not sold then  
16          at the same rate upon the use by the wholesaler or  
17          dealer; and

18          [~~(13)~~] (14) An excise tax equal to fifty per cent of the  
19          wholesale price of each large cigar of any length,  
20          sold, used, or possessed by a wholesaler or dealer on  
21          and after September 30, 2009, whether or not sold at





1           wholesale, or if not sold then at the same rate upon  
2           the use by the wholesaler or dealer.

3   Where the tax imposed has been paid on cigarettes, little  
4   cigars, or tobacco products that thereafter become the subject  
5   of a casualty loss deduction allowable under chapter 235, the  
6   tax paid shall be refunded or credited to the account of the  
7   wholesaler or dealer. The tax shall be applied to cigarettes  
8   through the use of stamps."

9           SECTION 4. Section 245-15, Hawaii Revised Statutes, is  
10   amended to read as follows:

11           "**§245-15 Disposition of revenues.** All moneys collected  
12   pursuant to this chapter shall be paid into the state treasury  
13   as state realizations to be kept and accounted for as provided  
14   by law; provided that, of the moneys collected under the tax  
15   imposed pursuant to:

16           (1) Section 245-3(a)(5), after September 30, 2006, and  
17           prior to October 1, 2007, 1.0 cent per cigarette shall  
18           be deposited to the credit of the Hawaii cancer  
19           research special fund, established pursuant to section  
20           304A-2168, for research and operating expenses and for  
21           capital expenditures;



- 1           (2) Section 245-3(a)(6), after September 30, 2007, and  
2           prior to October 1, 2008:
- 3           (A) 1.5 cents per cigarette shall be deposited to the  
4           credit of the Hawaii cancer research special  
5           fund, established pursuant to section 304A-2168,  
6           for research and operating expenses and for  
7           capital expenditures;
- 8           (B) 0.25 cents per cigarette shall be deposited to  
9           the credit of the trauma system special fund  
10          established pursuant to section 321-22.5; and
- 11          (C) 0.25 cents per cigarette shall be deposited to  
12          the credit of the emergency medical services  
13          special fund established pursuant to section 321-  
14          234;
- 15          (3) Section 245-3(a)(7), after September 30, 2008, and  
16          prior to July 1, 2009:
- 17          (A) 2.0 cents per cigarette shall be deposited to the  
18          credit of the Hawaii cancer research special  
19          fund, established pursuant to section 304A-2168,  
20          for research and operating expenses and for  
21          capital expenditures;



- 1 (B) 0.5 cents per cigarette shall be deposited to the  
2 credit of the trauma system special fund  
3 established pursuant to section 321-22.5;
- 4 (C) 0.25 cents per cigarette shall be deposited to  
5 the credit of the community health centers  
6 special fund established pursuant to section 321-  
7 1.65; and
- 8 (D) 0.25 cents per cigarette shall be deposited to  
9 the credit of the emergency medical services  
10 special fund established pursuant to section 321-  
11 234;
- 12 (4) Section 245-3(a)(8), after June 30, 2009, and prior to  
13 July 1, 2013:
- 14 (A) 2.0 cents per cigarette shall be deposited to the  
15 credit of the Hawaii cancer research special  
16 fund, established pursuant to section 304A-2168,  
17 for research and operating expenses and for  
18 capital expenditures;
- 19 (B) 0.75 cents per cigarette shall be deposited to  
20 the credit of the trauma system special fund  
21 established pursuant to section 321-22.5;



1 (C) 0.75 cents per cigarette shall be deposited to  
2 the credit of the community health centers  
3 special fund established pursuant to section 321-  
4 1.65; and

5 (D) 0.5 cents per cigarette shall be deposited to the  
6 credit of the emergency medical services special  
7 fund established pursuant to section 321-234;  
8 [and]

9 (5) Section 245-3(a)(11), after June 30, 2013, and  
10 thereafter:

11 (A) 2.0 cents per cigarette shall be deposited to the  
12 credit of the Hawaii cancer research special  
13 fund, established pursuant to section 304A-2168,  
14 for research and operating expenses and for  
15 capital expenditures;

16 (B) 1.5 cents per cigarette shall be deposited to the  
17 credit of the trauma system special fund  
18 established pursuant to section 321-22.5;

19 (C) 1.25 cents per cigarette shall be deposited to  
20 the credit of the community health centers



1 special fund established pursuant to section 321-  
2 1.65; and

3 (D) 1.25 cents per cigarette shall be deposited to  
4 the credit of the emergency medical services  
5 special fund established pursuant to section 321-  
6 234 [-]; and

7 (6) Section 245-3(a)(13), after December 31, 2015, and  
8 thereafter, all amounts shall be deposited to the  
9 credit of the Hawaii cancer research special fund,  
10 established pursuant to section 304A-2168, for  
11 research and operating expenses and for capital  
12 expenditures.

13 The department shall provide an annual accounting of these  
14 dispositions to the legislature."

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

17 SECTION 6. This Act shall take effect on July 1, 2053.

18



**Report Title:**

Tobacco Products; Excise Tax; Hawaii Cancer Research Special Fund

**Description:**

Amends the definition of "tobacco products", including by expanding the definition to include any product containing nicotine, but not containing tobacco. Imposes an excise tax equal to eighty per cent of the wholesale price of any tobacco product, other than large cigars, sold by a wholesaler or dealer on and after January 1, 2016, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer. Requires the moneys collected under the increased excise tax rate to be deposited to the credit of the Hawaii cancer research special fund. Effective 7/1/2053. (SD1)

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

