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## A BILL FOR AN ACT

RELATING TO CHAPTER 245, HAWAII REVISED STATUTES.

**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 use of  
2 electronic smoking devices is on the rise. According to the  
3 Centers for Disease Control and Prevention, more than 1,700,000  
4 middle school and high school students tried electronic  
5 cigarettes in 2012. Electronic cigarettes are battery-operated  
6 products designed to deliver nicotine, flavor, and other  
7 chemicals to the user by turning chemicals including highly  
8 addictive nicotine into an aerosol that is inhaled by the user.  
9 Consumers may choose from varying strengths of e-liquid as well  
10 as liquids consisting of different flavors. The electronic  
11 cigarette industry, along with the production of e-liquid, are  
12 growing rapidly, and toxicologists warn that e-liquids pose  
13 significant risks to public health, particularly to children.

14           The legislature also finds that taxes on e-liquid should be  
15 similar to the tax rates already imposed on cigarettes. E-  
16 liquid and tobacco products other than cigarettes are currently  
17 taxed at a lower rate than cigarettes, even though their use  
18 carries similar health risks. Research has shown that either a  
19 tax on cigarettes or cigarette price increases have the  
20 propensity to reduce the rate of smoking by adult and youth  
21 smokers. However, the legislature is concerned that as the



1 price of cigarettes increases, smokers may be tempted to  
2 purchase less expensive products such as e-liquid.

3 Finally, the legislature concludes that there should not be  
4 a lower-priced tobacco alternative to cigarettes in Hawaii;  
5 therefore a similar tax rate for cigarettes and e-liquids that  
6 acts as a deterrent for all forms of tobacco and nicotine use is  
7 needed. Higher e-liquid prices will encourage users of  
8 electronic smoking devices to quit, sustain cessation, prevent  
9 youth initiation, and reduce consumption among those who  
10 continue to use.

11 The purpose of this Act is to:

12 (1) Impose an excise tax on disposable electronic smoking  
13 devices, reusable electronic smoking devices, and e-  
14 liquid sold by a wholesaler or dealer on and after  
15 January 1, 2017, whether or not sold at wholesale, or  
16 if not sold then at the same rate upon the use by the  
17 wholesaler or dealer; and

18 (2) Require any subsequent increase in the excise tax rate  
19 imposed on cigarettes or little cigars to trigger an  
20 automatic excise tax increase on e-liquid.



1 SECTION 2. Section 245-1, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By adding four new definitions to be appropriately  
4 inserted and to read:

5 "Disposable electronic smoking device" means an electronic  
6 smoking device that is designed or intended not to be reused or  
7 refilled.

8 "Electronic smoking device" means any electronic product  
9 that can be used to aerosolize and deliver nicotine to the  
10 person inhaling from the device, including but not limited to an  
11 electronic cigarette, electronic cigar, electronic cigarillo,  
12 electronic pipe, hookah pipe, or hookah pen, and any component  
13 of the device or related product, whether or not sold  
14 separately, including but not limited to atomizers, coils, drip  
15 tips, and tanks.

16 "E-liquid" means any liquid containing nicotine that is  
17 designed or intended to be used in a reusable electronic smoking  
18 device, whether or not packaged in a cartridge or other  
19 container.



1        "Reusable electronic smoking device" means an electronic  
2 smoking device that is designed or intended to be reused or  
3 refilled."

4        2. By amending the definition of "dealer" to read:

5        "'Dealer" means any person coming into the possession of  
6 cigarettes [~~e~~], tobacco products, electronic smoking devices,  
7 or e-liquid, which have not been acquired from an authorized  
8 permit holder or licensee under this chapter, or any person  
9 rendering a distribution service who buys and maintains, at the  
10 person's place of business, a stock of cigarettes [~~e~~], tobacco  
11 products, electronic smoking devices, or e-liquid that have not  
12 been acquired from a licensee and who distributes or uses such  
13 cigarettes [~~e~~], tobacco products[-], electronic smoking  
14 devices, or e-liquid."

15        3. By amending the definition of "retailer" to read:

16        "'Retailer" means an entity that engages in the practice of  
17 selling cigarettes [~~e~~], tobacco products, electronic smoking  
18 devices, or e-liquid to consumers and includes the owner of a  
19 cigarette [~~e~~], tobacco product, electronic smoking device, or  
20 e-liquid vending machine."

21        4. By amending the definition of "sale" or "sold" to read:



1        ""Sale" or "sold" includes any delivery of cigarettes [~~or~~],  
2 tobacco products, electronic smoking devices, or e-liquid,  
3 whether cash is actually paid therefor or not."

4        5. By amending the definition of "wholesale price" to  
5 read:

6        ""Wholesale price", in addition to any other meaning of the  
7 term, means in the case of a tax upon the use of tobacco  
8 products, electronic smoking devices, or e-liquid, or upon a  
9 sale not made at wholesale:

- 10        (1) If made by a person who during the month preceding the  
11 accrual of the tax made substantial sales to retailers  
12 of like tobacco products, electronic smoking devices,  
13 or e-liquid, the average price of the sales[~~7~~]; and  
14        (2) If made by any other person, the average price of  
15 sales to retailers of like tobacco products,  
16 electronic smoking devices, or e-liquid made by other  
17 taxpayers in the same county during the month  
18 preceding the accrual of the tax."

19        6. By amending the definition of "wholesaler" to read:

20        ""Wholesaler" means a person rendering a distribution  
21 service who buys and maintains, at the person's place of



1 business, a stock of cigarettes [~~ex~~], tobacco products,  
2 electronic smoking devices, or e-liquid that the person uses,  
3 possesses, or distributes only to retailers, or other  
4 wholesalers, or both."

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 fifty per cent of the wholesale  
12          price of each large cigar of any length, sold, used,  
13          or possessed by a wholesaler or dealer on and after  
14          September 30, 2009, whether or not sold at wholesale,  
15          or if not sold then at the same rate upon the use by  
16          the wholesaler or dealer[-];

17          (14) An excise tax equal to \_\_\_\_\_ per cent of the  
18          wholesale price of each disposable electronic smoking  
19          device, sold, used, or possessed by a wholesaler or  
20          dealer on and after January 1, 2017, whether or not



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

3 (15) An excise tax equal to            cents per milliliter of e-  
4 liquid sold, used, or possessed by a wholesaler or  
5 dealer on and after January 1, 2017, whether or not  
6 sold at wholesale, or if not sold then at the same  
7 rate upon the use by the wholesaler or dealer;  
8 provided that:

9 (A) Liquids used with electronic smoking devices that  
10 do not contain nicotine are exempt from the  
11 excise tax established pursuant to this  
12 paragraph; and

13 (B) If the excise tax rate of 16.00 cents for each  
14 cigarette or little cigar increases on or after  
15 January 1, 2017, the excise tax rate equal to  
16 cents per milliliter of e-liquid pursuant to this  
17 paragraph shall automatically increase by the  
18 same percentage as the increase of the excise tax  
19 rate per cigarette or little cigar; and

20 (16) An excise tax equal to            per cent of the  
21 wholesale price of each reusable electronic smoking



1        device, other than e-liquid, sold, used, or possessed  
2        by a wholesaler or dealer on and after January 1,  
3        2017, whether or not sold at wholesale, or if not sold  
4        then at the same rate upon the use by the wholesaler  
5        or dealer.

6        Where the tax imposed has been paid on cigarettes, little  
7        cigars, [~~or~~] tobacco products, electronic smoking devices, or e-  
8        liquid that thereafter become the subject of a casualty loss  
9        deduction allowable under chapter 235, the tax paid shall be  
10       refunded or credited to the account of the wholesaler or dealer.  
11       The tax shall be applied to cigarettes through the use of  
12       stamps."

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 approval.

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INTRODUCED BY:

*Allen A. Belletti*  
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*Kal Akhach*  
*[Signature]*



**Report Title:**

Disposable Electronic Smoking Device; Electronic Smoking Device;  
E-liquid; Reusable Electronic Smoking Device; Excise Tax

**Description:**

Defines disposable electronic smoking device, electronic smoking device, e-liquid, and reusable electronic smoking device in the State's cigarette tax and tobacco tax law. Imposes an excise tax on an e-liquid sold by a wholesaler or dealer on or after 1/1/2017, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer. Requires any increase in the excise tax rate imposed on cigarettes or little cigars on or after 1/1/2017 to trigger an automatic excise tax increase on e-liquid on or after 1/1/2017. Imposes an excise tax on the wholesale price of disposable electronic smoking devices and reusable electronic smoking devices sold by a wholesaler or dealer on or after January 1, 2017, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

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