

JAN 28 2015

A BILL FOR AN ACT

RELATING TO THE REGULATION OF TOBACCO PRODUCTS.

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 An electronic smoking device is not designed to combust. Using
5 an electronic smoking device closely resembles and purposefully
6 mimics the act of smoking by having a user inhale vaporized
7 liquid nicotine created by heat through an electronic ignition
8 system.

9 The 2014 United States Surgeon General's Report on the
10 Health Consequences of Smoking states that studies and
11 assessments by the Food and Drug Administration (FDA) and
12 independent scientists have demonstrated enormous variability in
13 design, operation, contents, and emissions of carcinogens, other
14 toxicants, and nicotine from electronic smoking devices. The
15 FDA's testing also suggests that "quality control processes used
16 to manufacture these products are inconsistent or non-existent."
17 See, Summary of Results: Laboratory Analysis of Electronic

1 Cigarettes Conducted by FDA

2 (<http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>).

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

13 Prohibiting the use of electronic smoking devices in
14 enclosed or partially enclosed places where smoking is
15 prohibited will reduce the likelihood that employees and the
16 public will associate the use of electronic smoking devices in
17 enclosed or partially enclosed areas with healthful behavior,
18 reduce the likelihood of nonuser exposure to exhaled toxicants
19 and carcinogens, reduce the likelihood of workplace
20 disturbances, enhance employee productivity, and help ensure
21 compliance with existing smoking regulations. Accordingly, the
22 purpose of this Act is to prohibit the use of electronic smoking

S.B. NO. 1109

1 devices in places where smoking is currently prohibited and to
2 update signage requirements to reflect the new prohibition.

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

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

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

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

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

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

13 "[~~+~~§328J-9[~~+~~] Signs. (a) Clearly legible signs that
14 include the words [~~"Smoking Prohibited by Law" with letters of~~
15 ~~not less than one inch in height~~] "Smoking Prohibited by Law
16 Including E-cigarettes And All Other Electronic Smoking Devices"
17 or the international "No Smoking" symbol, consisting of a
18 pictorial representation of a burning cigarette and a symbol of
19 an electronic smoking device enclosed in a red circle with a red
20 bar across it, or both, shall be clearly and conspicuously
21 posted in and at the entrance to every place open to the public
22 and place of employment where smoking is prohibited by this

S.B. NO. 1109

1 chapter by the owner, operator, manager, or other person in
2 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, 2015.

11

12

INTRODUCED BY:



13

BY REQUEST

14

Report Title:

Regulation of Tobacco Products

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.

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO THE REGULATION OF TOBACCO PRODUCTS.

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

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

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

The 2014 United States Surgeon General's Report on the Health Consequences of Smoking states that studies and assessments by the Food and Drug Administration (FDA) and independent scientists have demonstrated enormous variability in design, operation, contents, and emissions of carcinogens, other toxicants, and nicotine from electronic smoking devices. The FDA's testing also suggests that "quality control processes used to manufacture these products are inconsistent or non-existent" which would violate FDA regulations on similar food, drug, and cosmetic products. See, Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA

(<http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>).

Electronic smoking devices produce an aerosol 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 existing smoking regulations, creates a disturbance between nonsmokers and smokers 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 illegal 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 involuntary exposure to exhaled toxicants and carcinogens, reduce the likelihood of workplace disturbances, enhance employee productivity, and help ensure compliance with current smoking regulations.

The delayed September 1, 2015, 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 government agencies.

EFFECTIVE DATE: September 1, 2015.