

1 four hundred adults and contributing to more than twenty
2 thousand premature deaths of minors.

3 The legislature recognizes that the United States Food and
4 Drug Administration has been given expanded powers to deal with
5 cigarettes and tobacco products, but has also been specifically
6 prohibited from increasing the minimum age for tobacco
7 purchases. Further, the legislature acknowledged that because
8 young smokers are more easily addicted and habituated to
9 cigarettes, in 2018, the State banned the sales of cigarettes to
10 those under twenty-one years of age.

11 The legislature finds that there are currently an estimated
12 one hundred fifty thousand adult smokers in the State. Studies
13 have shown that cigarette smokers who quit smoking cigarettes by
14 the time they reach thirty or even forty years of age have a
15 greatly increased chance at having a normal lifespan. The
16 legislature notes that quitting at fifty or sixty years of age
17 has a smaller effect, but ultimately does help to lengthen an
18 individual's lifespan by six or four years, respectively. The
19 legislature also finds that it is difficult for many smokers to
20 quit smoking, despite a willingness to quit and that most
21 smokers regret ever starting to smoke. This inability of a



1 smoker to quit smoking should be viewed as the result of the
2 carefully crafted power of the cigarette to create an addiction
3 in its users rather than as a weakness or failing on the part of
4 the smoker.

5 The legislature finds that the State is authorized to
6 increase the minimum age to purchase cigarettes, and that
7 increasing the minimum age could be effective in eventually
8 eradicating the sale of cigarettes. The legislature believes
9 that banning the sales of cigarettes should be viewed as a good
10 faith effort to free smokers from the enslavement of this
11 powerful addiction and not an infringement on individual
12 liberties.

13 The legislature also finds that the State is suffering from
14 its own addiction to cigarettes in the form of the large sums of
15 money that the State receives from state cigarette sales taxes,
16 with the tax revenues recently reaching more than \$100,000,000
17 per year. Therefore, while it would be ideal and would save
18 more lives to ban the sale of cigarettes to all ages
19 immediately, the legislature believes that a more gradual ban,
20 focused initially on younger age groups most likely to benefit



1 from a ban on cigarette sales, will allow the State to be weaned
2 from this addiction and find sources to replace these funds.

3 The legislature further finds that as the disproportionate
4 use of cigarettes by marginalized populations increases, the
5 individuals and organizations responsible for establishing
6 health policies, research priorities, and statutory initiatives
7 may begin to neglect the issue.

8 The legislature agrees with the Australian Minister for
9 health that "[w]e are killing people by not acting". Although
10 the deaths caused by cigarettes may not legally constitute
11 murders, the legislature believes that the State's lack of
12 action to prevent these deaths by banning the sale of cigarettes
13 could, and perhaps should, be considered the moral equivalent to
14 murder, or at the very least, of being an accessory to murder.

15 The legislature believes that the best way to ban
16 cigarettes is to gradually increase the minimum age of persons
17 to whom cigarettes may be legally sold over the course of five
18 years. Previous efforts to eliminate cigarette smoking has led
19 the State to increase taxes, the revenues of which currently
20 support important functions. Because these revenues will need
21 time to be replaced, the legislature believes that a gradual ban



1 is the best method to allow for the necessary adjustment of
2 revenue sources.

3 The legislature further finds that while other combustible
4 tobacco products such as cigars are also harmful, smoke from
5 these products are usually not inhaled and they are therefore
6 less harmful than cigarettes. The legislature also finds that
7 non-combustible tobacco products are generally less harmful than
8 cigarettes. Further, e-cigarettes differ from regular
9 cigarettes in that they have a much lower carcinogenic potential
10 than cigarettes and are therefore also excluded from this Act.
11 Whether these products should eventually be banned is outside
12 the scope of this Act.

13 Accordingly, the purpose of this Act is to ban the sale of
14 cigarettes in the State by gradually increasing the minimum age
15 to purchase cigarettes, but not other tobacco products or
16 electronic smoking devices, over a period of five years.

17 PART II

18 SECTION 2. Section 712-1258, Hawaii Revised Statutes, is
19 amended by amending subsection (7) to read as follows:

20 "(7) For the purposes of this section:



1 "Electronic smoking device" means any electronic product
2 that can be used to aerosolize and deliver nicotine or other
3 substances to the person inhaling from the device, including but
4 not limited to an electronic cigarette, electronic cigar,
5 electronic cigarillo, or electronic pipe, and any cartridge or
6 other component of the device or related product.

7 "Tobacco product" ~~[means]:~~

8 (a) Means any product made or derived from tobacco that
9 contains nicotine or other substances and is intended
10 for human consumption or is likely to be consumed,
11 whether smoked, heated, chewed, absorbed, dissolved,
12 inhaled, or ingested by other means [~~—"Tobacco~~
13 ~~product" includes but is not limited to~~];

14 (b) Includes a [~~cigarette,~~] cigar, pipe tobacco, chewing
15 tobacco, snuff, snus, or an electronic smoking
16 device [~~—"Tobacco product" does~~]; and

17 (c) Does not include drugs, devices, or combination
18 products approved for sale by the United States Food
19 and Drug Administration, as those terms are defined in
20 the Federal Food, Drug, and Cosmetic Act [~~+~~]; or
21 cigarettes."



1 SECTION 3. Chapter 712, Hawaii Revised Statutes, is
2 amended by adding a new section to part IV to be appropriately
3 designated and to read as follows:

4 "§712- Cigarettes; persons under age. (1) Effective
5 January 1, 2020, it shall be unlawful to sell or furnish
6 cigarettes to a person under thirty years of age; provided that:

7 (a) Effective July 1, 2021, it shall be unlawful to sell
8 or furnish cigarettes to a person under forty years of
9 age;

10 (b) Effective July 1, 2022, it shall be unlawful to sell
11 or furnish cigarettes to a person under fifty years of
12 age;

13 (c) Effective July 1, 2023, it shall be unlawful to sell
14 or furnish cigarettes to a person under sixty years of
15 age; and

16 (d) Effective July 1, 2024, it shall be unlawful to sell
17 or furnish cigarettes to a person under one hundred
18 years of age;

19 provided further that the purchase or possession of cigarettes
20 shall be unlawful for persons under twenty-one years of age, but



1 shall not be unlawful for persons twenty-one years of age or
2 older.

3 (2) All persons engaged in the retail sale of cigarettes
4 shall check the identification of cigarette purchasers to
5 establish the age of the purchaser if the purchaser reasonably
6 appears to be under the minimum age.

7 (3) It shall be an affirmative defense that the seller of
8 cigarettes to a person under the minimum age in violation of
9 this section had requested, examined, and reasonably relied upon
10 a photographic identification from the person establishing that
11 person's age as at the minimum age prior to selling the person
12 cigarettes. The failure of a seller to request and examine
13 photographic identification from a person under the minimum age
14 prior to the sale of cigarettes to the person shall be construed
15 against the seller and form a conclusive basis for the seller's
16 violation of this section.

17 (4) Effective January 1, 2020, signs using the statement,
18 "The sale of cigarettes to persons under the age of thirty is
19 prohibited", shall be posted on or near any vending machine that
20 dispenses cigarettes in letters at least one-half inch high and
21 at or near the point of sale of any other location where



1 cigarettes are sold in letters at least one-half inch high;
2 provided that:

3 (a) Effective July 1, 2021, the signs shall instead read
4 "The sale of cigarettes to persons under the age of
5 forty is prohibited";

6 (b) Effective July 1, 2022, the signs shall instead read
7 "The sale of cigarettes to persons under the age of
8 fifty is prohibited";

9 (c) Effective July 1, 2023, the signs shall instead read
10 "The sale of cigarettes to persons under the age of
11 sixty is prohibited"; and

12 (d) Effective July 1, 2024, the signs shall instead read
13 "The sale of cigarettes to persons under the age of
14 one hundred is prohibited".

15 (5) Any person who violates subsection (1) or (4), shall
16 be fined \$500 for the first offense. Any subsequent offenses
17 shall subject the person to a fine not less than \$500 nor more
18 than \$2,000. The procedures set forth in chapter 712A shall not
19 apply to this subsection.

20 (6) For the purposes of this section:

21 "Cigarette":



1 (a) Means either:

2 (i) Any roll of tobacco wrapped in paper or in any
3 substance not containing tobacco; or

4 (ii) Any roll of tobacco wrapped in any substance
5 containing tobacco which, because of its
6 appearance, the type of tobacco used in the
7 filler, or its packaging and labeling, is likely
8 to be offered to, or purchased by, consumers as a
9 cigarette described in subparagraph (a); and

10 (b) Does not include:

11 (i) Other products containing tobacco, including but not
12 limited to cigars, pipe tobacco, chewing tobacco,
13 snuff, snus, or an electronic smoking device; or

14 (ii) Drugs, devices, or combination products approved for
15 sale by the United States Food and Drug
16 Administration, as those terms are defined in the
17 federal Food, Drug, and Cosmetic Act.

18 "Minimum age" means the minimum age for a person to
19 lawfully purchase or possess cigarettes as set forth in
20 subsection (1)."



1 SECTION 4. This part does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.


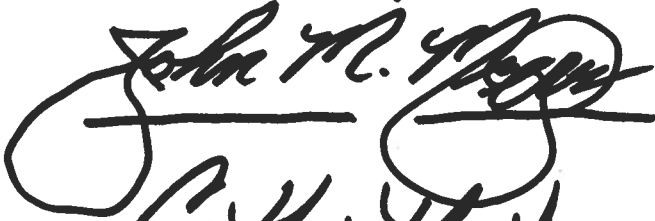

4 PART III

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

7 SECTION 6. This Act shall take effect on January 1, 2020.

8

INTRODUCED BY:

JAN 24 2019



H.B. NO.

Report Title:

Cigarettes; Displays; Sales; Minimum Age

Description:

Progressively bans the sale of cigarettes by raising the minimum age of persons to whom cigarettes may be legally sold to 30 years of age in 2020, 40 years of age in 2021, 50 years of age in 2022, 60 years of age in 2023, and then 100 years of age in 2024.

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