
A BILL FOR AN ACT

RELATING TO HEALTH.

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

- 1 SECTION 1. The purpose of this Act is to:
- 2 (1) Make unlawful the shipment of tobacco products to
- 3 anyone other than a licensee;
- 4 (2) Make unlawful the transport of tobacco products
- 5 ordered through remote sale to anyone other than a
- 6 licensee;
- 7 (3) Include e-liquid within the definition of "tobacco
- 8 products", as used in the cigarette tax and tobacco
- 9 tax law;
- 10 (4) Increase the license fee for persons engaged as a
- 11 wholesaler or dealer of cigarettes and tobacco
- 12 products; and
- 13 (5) Increase the retail tobacco permit fee for retailers
- 14 engaged in the retail sale of cigarettes and tobacco
- 15 products.



1 SECTION 2. Chapter 245, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§245- Unlawful shipment of tobacco products; penalty;
5 reports; liability for unpaid taxes. (a) A person or entity
6 commits the offense of unlawful shipment of tobacco products if
7 the person or entity is engaged in the business of selling
8 tobacco products and ships, or causes to be shipped, any tobacco
9 products ordered or purchased through a remote sale, to a person
10 or entity in the State that is not:

11 (1) A licensee under this chapter; or
12 (2) A person or entity transporting tobacco products, as
13 defined in section 245-1, under federal internal
14 revenue bond or customs control that are non-tax-paid
15 under title 26 of the United States Code, or an
16 operator of a customs bonded warehouse pursuant to
17 title 19 United States Code section 1311 or 1555.

18 (b) This section shall not apply to the shipment of
19 tobacco products if any of the following conditions are met:

20 (1) The tobacco products are exempt from taxes as provided
21 by section 245-3(b);



- 1 (2) The person or entity engaged in the business of
2 selling, advertising, or offering tobacco products for
3 sale and transfer or shipment includes on the outside
4 of the shipping container an externally visible and
5 easily legible notice located on the same side of the
6 shipping container as the address to which the
7 shipping container is delivered stating as follows:
8 "HAWAII LAW PROHIBITS THE SALE OF CIGARETTES OR
9 TOBACCO PRODUCTS TO INDIVIDUALS UNDER TWENTY-ONE YEARS
10 OF AGE AND REQUIRES THE PAYMENT OF ALL APPLICABLE
11 TAXES. YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE
12 UNPAID TAXES ON THESE CIGARETTES AND TOBACCO
13 PRODUCTS."; or
14 (3) All applicable Hawaii taxes on the tobacco products
15 are paid in accordance with the requirements of this
16 section.
17 (c) Any person or entity that knowingly violates this
18 section shall be guilty of a misdemeanor. Each shipment that
19 violates or fails to comply with this section shall be a
20 separate and distinct violation.



1 (d) Notwithstanding the existence of other remedies at
2 law, any person or entity that purchases, uses, controls, or
3 possesses any tobacco products for which the applicable taxes
4 imposed under title 14 have not been paid shall be liable for
5 the applicable taxes, plus any penalty and interest as provided
6 for by law.

7 (e) In addition to, or in lieu of, any other civil or
8 criminal remedy provided by law, a person or entity that has
9 violated this section is subject to a civil penalty of up to
10 \$5,000 for each violation. The attorney general may initiate a
11 civil action seeking recovery of the penalties.

12 (f) For the purposes of this section:

13 "Internet sale" means any internet website or
14 electronically networked means that solicits or sells cigarettes
15 or tobacco products, including electronic smoking devices,
16 regardless of whether cash is actually paid for the product.

17 "Licensee" means a person or entity that is on a list of
18 authorized licensees published by the department.

19 "Mail order" means any means of soliciting cigarettes or
20 tobacco products, including electronic smoking devices, that are



1 set forth in a catalog or other printed solicitation of a
2 business that is generally available to the public.

3 "Remote sale" means a sale that is conducted by mail order,
4 telephone, computer, internet sale, or any means other than
5 using a physical storefront."

6 SECTION 3. Section 245-1, Hawaii Revised Statutes, is
7 amended to read as follows:

8 1. By adding a new definition to be appropriately inserted
9 and to read:

10 "E-liquid" means any liquid or like substance that may or
11 may not contain nicotine and that is designed or intended to be
12 used in an electronic smoking device, as defined in section
13 328J-1, whether or not packaged in a cartridge or other
14 container. E-liquid shall not include prescription drugs;
15 medical cannabis or manufactured cannabis products; or medical
16 devices used to inhale or ingest prescription drugs, including
17 devices sold at a licensed medical cannabis dispensary."

18 2. By amending the definition of "tobacco products" to
19 read:

20 "Tobacco products" means tobacco in any form, other than
21 cigarettes or little cigars, that is prepared or intended for



1 consumption or for personal use by humans, including large
2 cigars and any substitutes thereof other than cigarettes that
3 bear the semblance thereof, snuff, chewing or smokeless tobacco,
4 [~~and~~] smoking or pipe tobacco~~[-]~~, and e-liquid."

5 SECTION 4. Section 245-2, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) The license shall be issued by the department upon
8 application therefor, in [~~such~~] a form and manner as shall be
9 required by rule of the department, and the payment of a fee of
10 [~~\$2.50,~~] \$250, and shall be renewable annually on July 1 for the
11 twelve months ending the succeeding June 30."

12 SECTION 5. Section 245-2.5, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) The retail tobacco permit shall be issued by the
15 department upon application by the retailer in the form and
16 manner prescribed by the department, and the payment of a fee of
17 [~~\$20.~~] \$50. Permits shall be valid for one year, from
18 December 1 to November 30, and renewable annually. Whenever a
19 retail tobacco permit is defaced, destroyed, or lost, or the
20 permittee relocates the permittee's business, the department may



1 issue a duplicate retail tobacco permit to the permittee for a
2 fee of \$5 per copy."

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

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

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

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

18 (3) An excise tax equal to 6.50 cents for each cigarette
19 sold, used, or possessed by a wholesaler or dealer
20 after June 30, 2003, whether or not sold at wholesale,



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

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

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

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

18 (7) An excise tax equal to 10.00 cents for each cigarette
19 sold, used, or possessed by a wholesaler or dealer on
20 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,



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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 cents for each cigarette or
5 little cigar sold, used, or possessed by a wholesaler
6 or dealer on or after November 1, 2019, whether or not
7 sold at wholesale, or if not sold then at the same
8 rate upon the use by the wholesaler or dealer;

9 ~~[(12)]~~ (13) An excise tax equal to seventy per cent of the
10 wholesale price of each article or item of tobacco
11 products, other than large cigars, sold by the
12 wholesaler or dealer on and after September 30, 2009,
13 whether or not sold at wholesale, or if not sold then
14 at the same rate upon the use by the wholesaler or
15 dealer; [and

16 ~~+(13)]~~ (14) An excise tax equal to per cent of the
17 wholesale price of each article or item of tobacco
18 products, other than large cigars, sold by the
19 wholesaler or dealer on and after July 1, 2019,
20 whether or not sold at wholesale, or if not sold then



1 at the same rate upon the use by the wholesaler or
2 dealer; and

3 (15) An excise tax equal to fifty per cent of the wholesale
4 price of each large cigar of any length, sold, used,
5 or possessed by a wholesaler or dealer on and after
6 September 30, 2009, 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 Where the tax imposed has been paid on cigarettes, little
10 cigars, or tobacco products that thereafter become the subject
11 of a casualty loss deduction allowable under chapter 235, the
12 tax paid shall be refunded or credited to the account of the
13 wholesaler or dealer. The tax shall be applied to cigarettes
14 through the use of stamps."

15 SECTION 7. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 8. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:

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Report Title:

Unlawful Shipment and Transport of Tobacco Products; Electronic Smoking Devices; E-liquid; Tax; Permit; License; Excise Tax; Department of the Attorney General

Description:

Prohibits the shipment of tobacco products, and the transport of tobacco products ordered or purchased through a remote sale, to anyone other than a licensee. Makes all provisions of the cigarette tax and tobacco tax law that relate to tobacco products applicable to e-liquid. Increases the license fee for wholesalers or dealers and the retail tobacco permit fee. Amends the taxes on cigarettes and tobacco products. Increases the excise tax for each cigarette or little cigar sold, used, or possessed by a wholesaler or dealer. Increases the excise tax on the wholesale price of each article or item of tobacco products, other than large cigars, sold by the wholesaler or dealer.

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