

JAN 18 2019

A BILL FOR AN ACT

RELATING TO COUNTY AUTHORITY ON THE SALE OF TOBACCO PRODUCTS.

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

1 SECTION 1. The legislature finds that tobacco use
2 continues to be a public health problem in Hawaii, causing
3 approximately one thousand four hundred deaths per year among
4 adults, costing approximately \$526,000,000 in direct health care
5 expenditures, and resulting in \$387,300,000 of lost productivity
6 in the State. In response to the heavy burden of tobacco, the
7 State has enacted many tobacco control policies including
8 adoption of sweeping prohibitions on indoor tobacco use and
9 raising the minimum age for the purchase of tobacco products
10 from eighteen to twenty-one. Many of these initiatives were led
11 by the counties and later adopted at the state level. The
12 legislature finds that extending these regulations statewide
13 ultimately saved the State \$1,000,000,000 in health care costs
14 over ten years.

15 The legislature further finds that different communities
16 need different solutions. Many issues are most effectively
17 addressed at the local level, as local governments are best



1 equipped to respond to the needs of the people who live and work
2 locally.

3 The legislature also finds that while it is important to
4 establish minimum regulations statewide, local policies are
5 integral to tobacco control because they enable a targeted
6 approach to reduce public health disparities. The federal
7 Centers for Disease Control 2017 youth risk behavior survey
8 found that while 25.3 per cent of high school students in Hawaii
9 currently vape, both Maui and Hawaii counties exceed this
10 percentage with high school students vaping at rates of 31.8 per
11 cent and 32.4 per cent, respectively. Local tobacco control
12 measures are so significant that one of the objectives of the
13 federal Office of Disease Prevention and Health Promotion's
14 healthy people 2020 campaign is to eliminate state laws that
15 preempt stronger local tobacco control laws.

16 The legislature understands that for public health,
17 communities should not be prevented from working with their
18 local elected officials to pass laws tailored to unique local
19 needs. Reversing existing laws or preventing future enactment
20 of applicable laws negates the value of home rule.



1 In 2006, the legislature enacted an enabling clause to
2 explicitly allow local jurisdictions to pass smoking ordinances
3 that are more stringent than state law. The legislature finds
4 that over the years, counties have adopted and put into action
5 some of the strongest, most innovative, and effective tobacco
6 control policies. These policies have served as catalysts for
7 changing social norms regarding tobacco use by discouraging
8 young people from initiating use and encouraging adult tobacco
9 users to quit.

10 The purpose of this Act is to amend and repeal certain
11 provisions relating to the preemption of local laws or
12 ordinances that regulate the sale of cigarettes, tobacco
13 products, and electronic smoking devices.

14 SECTION 2. Section 328J-15, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Nothing in this chapter shall be construed to
17 supersede or in any manner affect a county smoking ordinance[
18 ~~provided that the ordinance is at least as protective of the~~
19 ~~rights of nonsmokers as this chapter.] or the ability of any
20 county to adopt and enforce ordinances that regulate the sale or
21 use of cigarettes, tobacco products, or electronic smoking~~



1 devices; provided that the ordinance is no less protective of
2 public health as this chapter."

3 SECTION 3. Section 328J-11.5, Hawaii Revised Statutes, is
4 repealed.

5 ~~["~~§328J-11.5~~ **Statewide concern.** (a) Sales of~~
6 ~~cigarettes, tobacco products, and electronic smoking devices are~~
7 ~~a statewide concern. It is the intent of the legislature to~~
8 ~~regulate the sale of cigarettes, tobacco products, and~~
9 ~~electronic smoking devices in a uniform and exclusive manner.~~

10 ~~(b) All local ordinances or regulations that regulate the~~
11 ~~sale of cigarettes, tobacco products, and electronic smoking~~
12 ~~devices are preempted, and existing local laws and regulations~~
13 ~~conflicting with this chapter are null and void.~~

14 ~~(c) Nothing in this chapter shall be construed to limit a~~
15 ~~county's authority under section 328J-15."]~~

16 SECTION 4. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

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



1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY: *M.M.M.*
By Request



S.B. NO. 182

Report Title:

Maui County Package; Counties; Home Rule; Tobacco Use; Cigarettes; Electronic Smoking Devices; Smoking; Public Health

Description:

Allows counties to adopt and enforce additional ordinances that regulate the sale or use of cigarettes, tobacco products, and electronic smoking devices. Requires county ordinances to be no less protective of public health than state law. Repeals statute that preempts local smoking ordinances and regulations and voids any local law or regulation that conflicts with state smoking laws.

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

