

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 and costs approximately \$526,000,000 in direct health
5 care expenditures and \$387,30,000 in lost productivity in the
6 State. In response to the heavy burden of tobacco, Hawaii has
7 enacted many tobacco control policies including clean indoor air
8 ordinances and raising the age of sale of tobacco products from
9 eighteen to twenty-one. Many of these initiatives were led by
10 the counties and were later adopted at the state level,
11 extending these protections statewide and ultimately saving the
12 State \$1,000,000,000 in healthcare costs over ten years.

13 The legislature further finds that different communities
14 need different solutions which are most effectively addressed at
15 the local level, as local governments are best able to respond
16 to the needs of the people who live and work there.



S.B. NO. 524

1 The legislature additionally finds that while it is
2 important to establish minimum protections statewide, local
3 level policies are integral to tobacco control because they
4 enable a targeted approach to reduce health disparities. The
5 2017 Youth Risk Behavior Survey found that while 25.3 per cent
6 of high school students in Hawaii currently vape, both Maui and
7 Hawaii counties exceed this, with rates of 31.8 per cent and
8 32.4 per cent respectively.

9 The legislature understands that for public health,
10 communities should not be prevented from working with their
11 local elected officials to pass laws tailored to their unique
12 needs. Reversing existing laws or preventing future enactment
13 of such laws negates the value of home rule.

14 The legislature also finds that an enabling clause to
15 explicitly allow local jurisdictions to pass ordinances that are
16 more stringent than state law was enacted by the legislature in
17 Act 295, Session Laws of Hawaii 2006, and codified as section
18 328J-15, Hawaii Revised Statutes. The legislature further finds
19 that over the years, communities have adopted and put into
20 action some of the strongest, most innovative, and most
21 effective tobacco control policies, and that these policies have



S.B. NO. 524

1 served as catalysts for changing social norms about tobacco use.
2 These policies discourage young people from initiating use and
3 encourage adult tobacco users to quit. A national Healthy
4 People 2020 objective calls to eliminate state laws that preempt
5 stronger local tobacco control laws.

6 The purpose of this Act is to enable counties and local
7 communities to more effectively regulate the sale of cigarettes,
8 tobacco products, and electronic smoking devices.

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

11 "(a) Nothing in this chapter shall be construed to
12 supersede or in any manner affect a county smoking ordinance[+]
13 or the ability of any county to adopt and enforce additional
14 local laws or ordinances that regulate the sale or use of
15 cigarettes, tobacco products, and electronic smoking devices;
16 provided that the local law or ordinance is at least as
17 protective of [~~the rights of nonsmokers~~] public health as this
18 chapter."

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



S.B. NO. 524

1 ~~["§328J-11.5] Statewide concern. (a) Sales of~~
2 ~~cigarettes, tobacco products, and electronic smoking devices are~~
3 ~~a statewide concern. It is the intent of the legislature to~~
4 ~~regulate the sale of cigarettes, tobacco products, and~~
5 ~~electronic smoking devices in a uniform and exclusive manner.~~
6 ~~(b) All local ordinances or regulations that regulate the~~
7 ~~sale of cigarettes, tobacco products, and electronic smoking~~
8 ~~devices are preempted, and existing local laws and regulations~~
9 ~~conflicting with this chapter are null and void.~~
10 ~~(c) Nothing in this chapter shall be construed to limit a~~
11 ~~county's authority under section 328J-15."]~~

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

15

INTRODUCED BY: *Cassidy H. Bell*
By Request



S.B. NO. 524

Report Title:

Tobacco Products; Cigarettes; Electronic Smoking Devices; Sale; Restriction; Counties; Local Communities; Ordinances; State Law Preemption

Description:

Removes provisions of law preempting counties and communities from regulating the sale of tobacco products through local laws and ordinances.

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

