
A BILL FOR AN ACT

RELATING TO COUNTY AUTHORITY ON THE SALE AND USE 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 1,400 deaths per year among adults and costs
4 approximately \$526,000,000 in direct health care expenditures
5 and \$387,300,000 in lost productivity in the State. In
6 response to the heavy burden of tobacco, Hawaii has enacted
7 many tobacco control policies including clean indoor air
8 ordinances and raising the age of sale of tobacco products from
9 18 to 21.

10 Many of these initiatives were led by the counties and
11 were later adopted at the state level, extending these
12 protections statewide and ultimately saving the state \$1
13 billion in healthcare costs over 10 years.

14 The legislature further finds that different communities

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1 need different solutions, which are most effectively addressed
2 at the local level, as local governments are best able to
3 respond to the needs of the people who live and work there.

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

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

17 The legislature finds that an enabling clause to
18 explicitly allow local jurisdictions to pass smoking ordinances
19 that are more stringent than state law was enacted by the
20 legislature in 2006 under section 328J-15, Hawaii Revised
21 Statutes, "County ordinances." The legislature additionally

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1 finds that over the years, communities have adopted and put
2 into action some of the strongest, most innovative, and
3 effective tobacco control policies that have served as
4 catalysts for changing social norms about tobacco use. These
5 policies discourage young people from initiating use and
6 encourage adult tobacco users to quit. A national Healthy
7 People 2020 objective calls to eliminate state laws that
8 preempt stronger local tobacco control laws.

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

13 SECTION 2. Section 328J-11.5, Hawaii Revised Statutes, is
14 amended by amending subsections (a) and (b) to read as follows:

15 "§328J-11.5 ~~[Statewide concern.]~~ Protection of public
16 health. (a) Sales and use of cigarettes, tobacco products,
17 and electronic smoking devices are a ~~[statewide concern.]~~
18 matter of concern to public health. It is the intent of the
19 legislature to regulate the sale and use of cigarettes, tobacco
20 products, and electronic smoking devices ~~[in a uniform and~~
21 ~~exclusive manner.]~~ as a means to protect public health.

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1 (b) All local ordinances or regulations that regulate the
2 sale and use of cigarettes, tobacco products, and electronic
3 smoking devices [~~are preempted, and existing local laws and~~
4 ~~regulations conflicting~~] that conflict with this chapter are
5 [~~null and~~] void."

6 SECTION 3. This act does not affect rights and duties
7 that matured, penalties that were incurred, and proceedings
8 that were begun before its effective date.

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: 

14

BY REQUEST

JAN 22 2019

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Report Title:

County Authority on the Sale and Use of Tobacco Products

Description:

Amends provisions relating to the preemption of local laws or ordinances that regulate the sale and use of cigarettes, tobacco products, and electronic smoking devices.

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 COUNTY AUTHORITY ON THE SALE AND USE OF TOBACCO PRODUCTS.

PURPOSE: To assure counties have regulatory authority over the sale and use of tobacco products that may be more stringent than State laws.

MEANS: Amend section 328J-11.5, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Counties have responded more quickly and stringently than the State with regard to tobacco control policy. More stringent regulations are generally better for public health. Section 328J-11.5, HRS, preempted local authority and rendered void local laws and regulations more stringent than State standards.

Impact on the public: This measure protects public health by assuring that counties may regulate smoking, sales, and use of tobacco products consistent with community standards, especially if more stringent than State laws.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HTH 590.

OTHER AFFECTED AGENCIES: Counties.

EFFECTIVE DATE: Upon approval.