
A BILL FOR AN ACT

RELATING TO PUBLIC HEALTH.

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 costing approximately \$526,000,000 in direct health
5 care expenditures and \$387,300,000 in lost productivity in the
6 State. In response to the heavy burden of tobacco use, Hawaii
7 enacted many tobacco control policies including prohibiting
8 smoking in places open to the public and places of employment
9 and raising the minimum age for the sale of tobacco products
10 from eighteen to twenty-one.

11 Many of these tobacco control initiatives were initially
12 led by the counties and later adopted by the State, which
13 extended the protections statewide and ultimately saved the
14 State \$1,000,000,000 in health care costs over ten years.

15 The legislature further finds that different communities
16 need different solutions, which may be more effectively
17 addressed at the local level since local governments can respond



1 more directly to the needs of the people who live and work in
2 the community.

3 The legislature additionally finds that although it is
4 important to establish minimum protections statewide, local-
5 level policies are integral to tobacco control because they
6 enable a targeted approach to reduce health disparities. The
7 2017 Youth Risk Behavior Survey found that while 25.5 per cent
8 of high school students in the State currently vape, usage rates
9 in both Hawaii county and Maui county exceed the statewide rate,
10 at 31.8 per cent and 32.4 per cent, respectively.

11 The legislature understands that for public health,
12 communities must not be prevented from working with their local
13 elected officials to pass laws tailored to their unique needs.
14 Repealing existing laws or preventing future enactment of laws
15 that are more stringent or protective of public health than
16 state laws will diminish fundamental county governance
17 principles.

18 In 2006, the legislature expressly allowed local
19 jurisdictions to pass smoking ordinances more stringent than
20 state law. The legislature recognizes that over the years,
21 communities adopted and put into action some of the strongest



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

7 The purpose of this Act is to limit the State's preemption
8 of local ordinances that regulate the sale of cigarettes,
9 tobacco products, and electronic smoking devices to allow the
10 counties to enact ordinances more protective of public health
11 than state law.

12 SECTION 2. Section 328J-11.5, Hawaii Revised Statutes, is
13 amended to read as follows:

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



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[-]; provided that this subsection shall not
6 prohibit a county from enacting ordinances more protective of
7 public health than this chapter.

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

10 SECTION 3. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

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

15 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Smoking; Public Health; Preemption; Local Regulation

Description:

Limits the State's preemption of local ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices to allow the counties to enact ordinances more protective of public health than state law. (HB1284 HD1)

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