
A BILL FOR AN ACT

RELATING TO CIGARETTES.

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

1 SECTION 1. (a) The legislature finds that a study
2 published by Theodore Slotkin, a neuroscientist at Duke
3 University, demonstrates that nicotine has a similarly harmful
4 effect on developing brains as chlorpyrifos, a chemical agent
5 used in pesticides that was banned in the State by Act 45,
6 Session Laws of Hawaii 2018. The legislature further finds that
7 exposure to nicotine in utero can cause serious harm to
8 children, ranging from death due to Sudden Infant Death Syndrome
9 to learning and behavioral problems later in life. In
10 recognition of the damage that nicotine can inflict on
11 developing brains, Hawaii was the first state to raise the legal
12 smoking age to twenty-one in 2016.

13 In 2013, the Food and Drug Administration contracted with
14 the Institute of Medicine to convene a committee to study the
15 impact of raising the minimum age for purchase of tobacco
16 products to either twenty-one or twenty-five years. In their
17 study, the Institute of Medicine found that raising the minimum



1 age to twenty-five would lead to a significant decrease in
2 smoking prevalence as well as substantial reductions in smoking-
3 related mortality.

4 (b) The legislature finds that the cigarette is considered
5 the deadliest artifact in human history. The cigarette is an
6 unreasonably dangerous and defective product, killing half of
7 its long-term users. Further, although the cigarette is
8 addictive by design due to the presence of nicotine, the tobacco
9 industry has further manipulated the design of cigarettes in
10 order to increase cigarette addiction and habituation.

11 The legislature also finds that smoking has killed one
12 hundred million people in the twentieth century and is likely to
13 kill one billion people in the twenty-first century. As of
14 2013, smoking has killed about six million people worldwide per
15 year, with hundreds of thousands of these deaths occurring in
16 the United States alone. In Hawaii, cigarettes have caused more
17 preventable disease, death, and disability than any other health
18 issue, each year claiming the lives of more than one thousand
19 four hundred adults and contributing to more than twenty
20 thousand premature deaths of minors.



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1 The legislature recognizes that the United States Food and
2 Drug Administration has been given expanded powers to deal with
3 cigarettes and tobacco products, but has also been specifically
4 prohibited from increasing the minimum age for tobacco
5 purchases. Further, the legislature acknowledged that because
6 young smokers are more easily addicted and habituated to
7 cigarettes, in 2018, the State banned the sales of cigarettes to
8 those under twenty-one years of age.

9 The legislature finds that there are currently an estimated
10 one hundred fifty thousand adult smokers in the State. Studies
11 have shown that cigarette smokers who quit smoking cigarettes by
12 the time they reach thirty or even forty years of age have a
13 greatly increased chance at having a normal lifespan. The
14 legislature notes that quitting at fifty or sixty years of age
15 has a smaller effect, but ultimately does help to lengthen an
16 individual's lifespan by six and four years, respectively.

17 The legislature also finds that it is difficult for many
18 smokers to quit smoking, despite a willingness to quit and that
19 most smokers regret ever starting to smoke. This inability of a
20 smoker to quit smoking should be viewed as the result of the
21 carefully crafted power of the cigarette to create an addiction



1 in its users rather than as a weakness or failing on the part of
2 the smoker.

3 The legislature further finds that electronic cigarettes
4 are also an increasing public health concern. The American Lung
5 Association recently stated that "we are at risk of losing
6 another generation to tobacco-caused diseases as the result of
7 the e-cigarettes". A recent study from the University of North
8 Carolina showed that vaping electronic cigarettes, even in small
9 doses, is likely to expose users to high level of toxins.
10 Inhaling these toxins can cause "irreversible lung damage and
11 lung diseases".

12 The legislature additionally finds that the State is
13 authorized to increase the minimum age to purchase cigarettes
14 and electronic cigarettes, and that increasing the minimum age
15 could be effective in eventually eradicating the sale of
16 cigarettes and electronic cigarettes. The legislature believes
17 that banning the sales of both cigarettes and electronic
18 cigarettes should be viewed as a good faith effort to free
19 smokers and vapers from the enslavement of this powerful
20 addiction and not an infringement on individual liberties.



1 The legislature also finds that the State is suffering from
2 its own addiction to cigarettes and electronic cigarettes in the
3 form of the large sums of tax revenues that the State receives
4 from cigarette and electronic cigarette sales, with the tax
5 revenues recently reaching more than \$100,000,000 per year.
6 Therefore, while it would be ideal and would save more lives to
7 ban the sale of cigarettes and electronic cigarettes to all ages
8 immediately, the legislature believes that a more gradual ban,
9 focused initially on younger age groups that are most likely to
10 benefit from a ban on cigarette and electronic cigarette sales
11 from a health perspective, will allow the State to be weaned
12 from that source of tax revenues and determine a way to replace
13 the lost revenues.

14 The legislature further finds that as the disproportionate
15 use of cigarettes and electronic cigarettes by marginalized
16 populations increases, the individuals and organizations
17 responsible for establishing health policies, research
18 priorities, and statutory initiatives may begin to neglect the
19 issue.

20 The legislature agrees with the Australian Minister for
21 health that "[w]e are killing people by not acting". Although



1 the deaths caused by cigarettes and electronic cigarettes may
2 not legally constitute murders, the legislature believes that
3 the State's lack of action to prevent these deaths by banning
4 the sale of cigarettes and electronic cigarettes could, and
5 perhaps should, be considered the moral equivalent to murder, or
6 at the very least, of being an accessory to murder.

7 The legislature believes that the best way to ban
8 cigarettes and electronic cigarettes is to gradually increase
9 the minimum age of persons to whom cigarettes and electronic
10 cigarettes may be legally sold over the course of five years.
11 Previous efforts to eliminate cigarette smoking has led the
12 State to increase taxes, the revenues of which currently support
13 important functions. Because these revenues will need time to
14 be replaced, the legislature believes that a gradual ban is the
15 best method to allow for the necessary adjustment of revenue
16 sources.

17 The legislature further finds that while other combustible
18 tobacco products such as cigars are also harmful, smoke from
19 these products are usually not inhaled and they are therefore
20 less harmful than cigarettes. Whether these products should
21 eventually be banned is outside the scope of this Act.



1 Accordingly, the purpose of this Act is to ban the sale of
2 cigarettes and electronic cigarettes in the State by gradually
3 increasing the minimum age to purchase cigarettes and electronic
4 cigarettes, but not other tobacco products, over a period of
5 five years.

6 SECTION 2. Chapter 712, Hawaii Revised Statutes, is
7 amended by adding a new section to part IV to be appropriately
8 designated and to read as follows:

9 "§712- Cigarettes; electronic cigarettes; persons under
10 age. (1) Effective January 1, 2021, it shall be unlawful to
11 sell or furnish cigarettes or electronic cigarettes to a person
12 under thirty years of age; provided that:

13 (a) Effective July 1, 2022, it shall be unlawful to sell
14 or furnish cigarettes or electronic cigarettes to a
15 person under forty years of age;

16 (b) Effective July 1, 2023, it shall be unlawful to sell
17 or furnish cigarettes or electronic cigarettes to a
18 person under fifty years of age;

19 (c) Effective July 1, 2024, it shall be unlawful to sell
20 or furnish cigarettes or electronic cigarettes to a
21 person under sixty years of age; and



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1 (d) Effective July 1, 2025, it shall be unlawful to sell
2 or furnish cigarettes or electronic cigarettes to a
3 person under one hundred years of age;
4 provided further that the purchase or possession of cigarettes
5 or electronic cigarettes shall be unlawful for persons under
6 twenty-one years of age, but shall not be unlawful for persons
7 twenty-one years of age or older.

8 (2) All persons engaged in the retail sale of cigarettes
9 or electronic cigarettes shall check the identification of
10 cigarette or electronic cigarette purchasers to establish the
11 age of the purchaser if the purchaser reasonably appears to be
12 under the minimum age.

13 (3) It shall be an affirmative defense that the seller of
14 cigarettes or electronic cigarettes to a person under the
15 minimum age in violation of this section had requested,
16 examined, and reasonably relied upon a photographic
17 identification from the person establishing that person's age as
18 at the minimum age before selling the person cigarettes or
19 electronic cigarettes. The failure of a seller to request and
20 examine photographic identification from a person under the
21 minimum age before the sale of cigarettes or electronic



1 cigarettes to the person shall be construed against the seller
2 and form a conclusive basis for the seller's violation of this
3 section.

4 (4) Effective January 1, 2021, signs using the statement,
5 "The sale of cigarettes or electronic cigarettes to persons
6 under the age of thirty is prohibited", shall be posted on or
7 near any vending machine that dispenses cigarettes or electronic
8 cigarettes in letters at least one-half inch high and at or near
9 the point of sale of any other location where cigarettes or
10 electronic cigarettes are sold in letters at least one-half inch
11 high; provided that:

12 (a) Effective July 1, 2022, the signs shall instead read
13 "The sale of cigarettes or electronic cigarettes to
14 persons under the age of forty is prohibited";

15 (b) Effective July 1, 2023, the signs shall instead read
16 "The sale of cigarettes or electronic cigarettes to
17 persons under the age of fifty is prohibited";

18 (c) Effective July 1, 2024, the signs shall instead read
19 "The sale of cigarettes or electronic cigarettes to
20 persons under the age of sixty is prohibited"; and



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1 (d) Effective July 1, 2025, the signs shall instead read
2 "The sale of cigarettes or electronic cigarettes to
3 persons under the age of one hundred is prohibited".

4 (5) Any person who violates subsection (1) or (4), shall
5 be fined \$500 for the first offense. Any subsequent offenses
6 shall subject the person to a fine not less than \$500 nor more
7 than \$2,000. The procedures set forth in chapter 712A shall not
8 apply to this subsection.

9 (6) For the purposes of this section:

10 "Cigarette":

11 (a) Means either:

12 (i) Any roll of tobacco wrapped in paper or in any
13 substance not containing tobacco; or

14 (ii) Any roll of tobacco wrapped in any substance
15 containing tobacco which, because of its
16 appearance, the type of tobacco used in the
17 filler, or its packaging and labeling, is likely
18 to be offered to, or purchased by, consumers as a
19 cigarette described in this paragraph; and

20 (b) Does not include:



1 (i) Other products containing tobacco, including but
2 not limited to cigars, pipe tobacco, chewing
3 tobacco, snuff, snus, or an electronic smoking
4 device with the exception of an electronic
5 cigarette; or

6 (ii) Drugs, devices, or combination products approved
7 for sale by the United States Food and Drug
8 Administration, as those terms are defined in the
9 federal Food, Drug, and Cosmetic Act.

10 "Electronic cigarette" means any electronic product that
11 can be used to aerosolize and deliver nicotine or other
12 substances to the person inhaling from the device and any
13 cartridge or other component of the device or related product.

14 "Minimum age" means the minimum age for a person to
15 lawfully purchase or possess cigarettes as set forth in
16 subsection (1)."

17 SECTION 3. Section 712-1258, Hawaii Revised Statutes, is
18 amended by amending subsection (7) to read as follows:

19 "(7) For the purposes of this section:

20 "Electronic smoking device" means any electronic product
21 that can be used to aerosolize and deliver nicotine or other



1 substances to the person inhaling from the device, including but
2 not limited to an [~~electronic cigarette,~~] electronic cigar,
3 electronic cigarillo, or electronic pipe, and any cartridge or
4 other component of the device or related product.

5 "Tobacco product" [~~means~~]:

6 (a) Means any product made or derived from tobacco that
7 contains nicotine or other substances and is intended
8 for human consumption or is likely to be consumed,
9 whether smoked, heated, chewed, absorbed, dissolved,
10 inhaled, or ingested by other means. [~~"Tobacco
11 product" includes but is not limited to~~];

12 (b) Includes a [~~cigarette,~~] cigar, pipe tobacco, chewing
13 tobacco, snuff, snus, or an electronic smoking
14 device [~~— "Tobacco product" does~~]; and

15 (c) Does not include drugs, devices, or combination
16 products approved for sale by the United States Food
17 and Drug Administration, as those terms are defined in
18 the Federal Food, Drug, and Cosmetic Act [~~—~~];
19 cigarettes; or electronic cigarettes."



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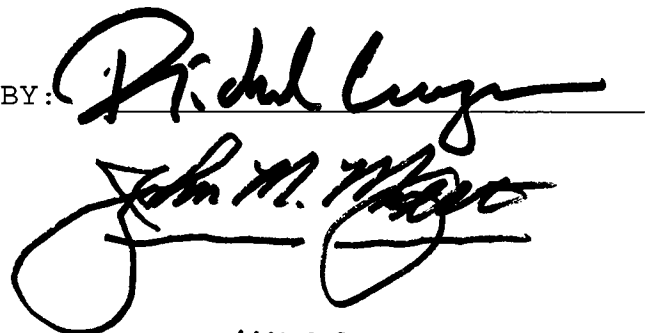
1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

6 SECTION 6. This Act shall take effect on January 1, 2021.

7

INTRODUCED BY:

The image shows two handwritten signatures in black ink. The top signature is "Richard Lujan" and the bottom signature is "John M. Maza". Both signatures are written over a horizontal line.

JAN 23 2020



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Report Title:

Cigarettes; Electronic Cigarettes; Displays; Sales; Minimum Age

Description:

Bans the sale of cigarettes and electronic cigarettes progressively by raising the minimum age of persons to whom cigarettes and electronic cigarettes may be legally sold to 30 years of age in 2021, 40 years of age in 2022, 50 years of age in 2023, 60 years of age in 2024, and then 100 years of age in 2025. Effective January 1, 2021.

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

