
A BILL FOR AN ACT

RELATING TO SMOKING.

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

1 SECTION 1. The legislature finds that tobacco use is the
2 single most preventable cause of disease, disability, and death
3 in the United States. Tobacco use continues to be a problem in
4 Hawaii, causing approximately one thousand four hundred deaths
5 per year among adults. An estimated twenty-one thousand
6 children in Hawaii currently under the age of eighteen will
7 ultimately die prematurely from smoking. Tobacco use poses a
8 heavy burden on Hawaii's health care system and economy. Each
9 year, smoking costs approximately \$526,000,000 in direct health
10 care expenditures and \$387,300,000 in lost productivity in the
11 State. Raising the cost of tobacco wholesaler or dealer
12 licenses and retail tobacco permits will help to offset the
13 costs to the State that result from smoking and tobacco use.

14 The legislature further finds that tobacco products are
15 addictive and inherently dangerous, causing many different types
16 of cancer, heart disease, and other serious illnesses. Hawaii
17 has a substantial interest in reducing the number of individuals



1 of all ages who use tobacco products, and a particular interest
2 in protecting adolescents from nicotine dependence and the
3 illnesses and premature death associated with tobacco use.

4 The legislature additionally finds that electronic smoking
5 devices, also known as e-cigarettes, are battery-operated
6 products designed to deliver nicotine, flavor, and other
7 chemicals to the user by turning chemicals, including highly
8 addictive nicotine, into an aerosol that is inhaled by the user.
9 Consumers may choose varying nicotine strengths of e-liquid as
10 well as various liquids consisting of different flavors.

11 The electronic smoking device industry, including the
12 production of e-liquids, is growing rapidly. On December 18,
13 2018, the United States Surgeon General made the unprecedented
14 move of classifying the danger of youth usage of electronic
15 smoking devices as an epidemic. Since the Surgeon General first
16 issued a warning in 2016 about the dangers of these products,
17 data has shown a historic rise in use by youth and young adults.
18 According to the 2016 report from the Surgeon General, e-
19 cigarette use among the nation's youth and young adults has
20 become a major public health concern. The Surgeon General's
21 report noted that e-cigarette use has increased considerably in



1 recent years, growing an astounding nine hundred per cent among
2 high school students from 2011 to 2015. In a 2018 study
3 conducted by the National Institute on Drug Abuse, the use of
4 electronic smoking devices by teens increased nationally from
5 27.8 per cent to 37.3 per cent in a twelve month period. The
6 increase translates to 1,300,000 more teens using electronic
7 smoking devices in a single year. E-cigarette use among youth
8 and young adults is also strongly associated with the use of
9 other tobacco products, including combustible tobacco products.
10 Toxicologists have also warned that e-liquids pose significant
11 risks to public health, particularly to children. According to
12 the Surgeon General's report, if the contents of refill
13 cartridges or bottles are consumed, ingestion of e-liquids
14 containing nicotine can cause acute toxicity and possibly death.
15 The Surgeon General's report also found that there are numerous
16 policies and practices that can be implemented at the state and
17 local levels to address electronic smoking device use among
18 youth and young adults, including preventing access to
19 e-cigarettes by youth, significant increases in tax and price of
20 e-cigarettes, retail licensure, and regulation of e-cigarette
21 marketing.



1 In response to the growing use of electronic smoking
2 devices, the legislature established a system of registration
3 and regulation for sellers of electronic smoking devices and e-
4 liquid through Act 206, Session Laws of Hawaii 2018. The
5 legislature finds that the rapid growth of the electronic
6 smoking device industry, including retail businesses selling
7 electronic smoking devices or e-liquids, necessitates further
8 regulations to protect consumers.

9 The legislature notes that the federal Food and Drug
10 Administration recently finalized a rule that expands its
11 regulatory authority to all tobacco products, including
12 electronic smoking devices, cigars, and hookah and pipe tobacco.
13 However, the legislature also notes that there is currently no
14 state tobacco tax attached to e-liquid, even though electronic
15 smoking devices are now regulated in a manner similar to tobacco
16 products. Research has shown that increasing cigarette prices,
17 such as through cigarette taxes, tends to reduce the rate of
18 cigarette smoking by adult and youth smokers. However, the
19 legislature is concerned that as the price of cigarettes
20 increases, smokers may purchase less expensive smoking products,



1 such as electronic smoking devices or e-liquids, if these
2 products are not taxed at a similar rate.

3 Finally, the legislature concludes that there must be a tax
4 on e-liquids. Taxing these products in a manner similar to
5 other non-cigarette or cigar tobacco products is the most
6 equitable way to calculate that tax amount. Imposing a tax on
7 e-liquids will also encourage users of e-liquids to quit and to
8 sustain cessation, prevent youth initiation, and reduce
9 consumption among those who continue to use them.

10 The purpose of this Act is to:

- 11 (1) Transfer from the department of the attorney general
12 to the department of taxation the authority to tax,
13 license, and regulate retailers of electronic smoking
14 devices in a manner consistent with the taxation,
15 regulation, and permitting of tobacco products;
- 16 (2) Impose a new excise tax on e-liquids and electronic
17 smoking devices in a manner consistent with existing
18 excise taxes on tobacco products;
- 19 (3) Increase the fee for tobacco wholesaler and dealer
20 licenses;
- 21 (4) Increase the retail tobacco permit fee;



- 1 (5) Fund health education and prevention programs to
- 2 reduce the use of electronic smoking devices; and
- 3 (6) Repeal the electronic smoking device retailer
- 4 registration unit established in the attorney
- 5 general's office by Act 206, Session Laws of Hawaii
- 6 2018.

7 SECTION 2. Chapter 245, Hawaii Revised Statutes, is
8 amended by adding a new part to be appropriately designated and
9 to read as follows:

10 "PART . ELECTRONIC SMOKING DEVICES

11 §245-A Policy. The licensing and permitting of electronic
12 smoking device retailers is reasonably necessary to protect the
13 health, safety, or welfare of consumers of electronic smoking
14 devices and for the enforcement of the laws that regulate the
15 sale of electronic smoking devices.

16 §245-B Definitions. As used in this part:

17 "Business location" or "place of business" means the entire
18 premises occupied by a retailer of electronic smoking devices
19 and shall include but is not limited to any store, stand,
20 outlet, vehicle, cart, location, or structure from which



1 electronic smoking devices are sold or distributed to a
2 consumer.

3 "Dealer" means any person coming into the possession of
4 electronic smoking devices or e-liquid products which have not
5 been acquired by an authorized permit holder or licensee under
6 this chapter, or any person rendering a distribution service who
7 buys and maintains, at the person's place of business, a stock
8 of electronic smoking devices or e-liquid products that have not
9 been acquired from a licensee and who distributes or uses such
10 electronic smoking devices or e-liquid products.

11 "Electronic smoking device" means any electronic product
12 that can be used to aerosolize and deliver nicotine or other
13 substances to the person inhaling from the device, including but
14 not limited to an electronic cigarette, electronic cigar,
15 electronic cigarillo, or electronic pipe, and any cartridge or
16 other component of the device or related product.

17 "E-liquid" means any liquid or liquid-like substance that
18 is designed or intended to be used in an electronic smoking
19 device, whether or not it is packaged in a cartridge or other
20 container. E-liquid shall not include prescription drugs;
21 medical cannabis or manufactured cannabis products; or medical



1 devices used to inhale or ingest prescription drugs, including
2 devices sold or licensed at a medical cannabis dispensary.

3 "Entity" means one or more individuals, a company,
4 corporation, a partnership, an association, or any other type of
5 legal entity.

6 "License" means a license as a wholesaler, dealer, or
7 retailer as granted under this part.

8 "Licensee" means the holder of a license as a wholesaler,
9 dealer, or retailer granted under this part.

10 "Retailer" means an entity that engages in the practice of
11 selling electronic smoking devices or e-liquids to consumers.

12 "Retail sale" or "electronic smoking device retailing"
13 means the practice of selling electronic smoking devices to
14 consumers.

15 "Wholesaler" means a person rendering a distribution
16 service who buys and maintains, at the person's place of
17 business, a stock of electronic smoking devices or e-liquid
18 products that the person uses, possesses, or distributes only to
19 retailers, or other wholesalers, or both.

20 **§245-C Licenses and permits.** (a) Any retailer of
21 electronic smoking devices or e-liquids shall obtain a retail



1 license for the sale of electronic smoking devices according to
2 the process set forth in section 245-2, as applicable; provided
3 that any licensee who is already licensed to sell cigarettes and
4 other tobacco products need only have one license for the sale
5 of electronic smoking devices, e-liquids, cigarettes and other
6 tobacco products.

7 (b) A retailer of electronic smoking devices or e-liquids
8 shall obtain a retail tobacco and electronic smoking devices
9 permit according to the process set forth in section 245-2.5, as
10 applicable; provided that the retailer who is also permitted to
11 sell cigarettes and other tobacco products need only have one
12 such permit for each location or place of business.

13 **§245-D Unlawful electronic smoking device or e-liquid**
14 **retailing in the first degree.** (a) Beginning January 1, 2020,
15 a person or entity required to obtain a retail permit under
16 section 245-C for the sale of electronic smoking devices or e-
17 liquids commits the offense of unlawful electronic smoking
18 device or e-liquid retailing in the first degree if the person
19 or entity knowingly fails to obtain a valid permit required
20 under section 245-2.5 and, for the purposes of retail sale,
21 recklessly sells, possesses, stores, acquires, distributes, or



1 transports five thousand or more electronic smoking devices,
2 units of e-liquid products, or a combination of both.

3 (b) Unlawful electronic smoking device or e-liquid
4 retailing in the first degree is a misdemeanor, except that any
5 offense under subsection (a) that occurs within five years of a
6 prior conviction for unlawful electronic smoking device or e-
7 liquid retailing in the first degree is a class C felony.

8 §245-E Unlawful electronic smoking device or e-liquid
9 retailing in the second degree. (a) Beginning January 1, 2020,
10 a person or entity required to obtain a retail permit for the
11 sale of electronic smoking devices or e-liquids under section
12 245-C commits the offense of unlawful electronic smoking device
13 or e-liquid retailing in the second degree if the person or
14 entity recklessly fails to obtain a valid permit required under
15 section 245-2.5 and, for the purposes of retail sale, recklessly
16 sells, possesses, stores, acquires, distributes, or transports
17 fewer than five thousand electronic smoking devices, units of e-
18 liquid products, or a combination of both.

19 (b) Unlawful electronic smoking device or e-liquid
20 retailing in the second degree is a petty misdemeanor, except
21 that any offense under subsection (a) that occurs within five



1 years of a prior conviction for unlawful electronic smoking
2 device or e-liquid retailing in the first or second degree is a
3 misdemeanor.

4 **§245-F Taxes.** Every wholesaler or dealer, in addition to
5 any other taxes provided by law, shall pay for the privilege of
6 conducting business and other activities in the State, an excise
7 tax equal to seventy per cent of the wholesale price of each
8 article or item of e-liquid products sold by the wholesaler or
9 dealer on or after September 30, 2019, whether or not sold at
10 wholesale, or if not sold then at the same rate upon the use by
11 the wholesaler or dealer.

12 Of the revenue generated by this tax, \$200,000 shall be
13 deposited to the credit of the Hawaii tobacco prevention and
14 control trust fund established pursuant to section 328L-5; the
15 remainder of the tax revenue shall be deposited to the general
16 fund.

17 **§245-G Returns.** Every wholesaler or dealer, on or before
18 the twentieth day of each month, shall file with the department
19 a return showing the electronic smoking devices or e-liquid
20 products sold, possessed, or used by the wholesaler or dealer
21 during the preceding calendar month and of the taxes chargeable



1 against the taxpayer in accordance with this part. The form of
2 the return shall be prescribed by the department and shall
3 include:

- 4 (1) A separate statement of the number and wholesale price
5 of electronic smoking devices;
- 6 (2) The wholesale price of units of e-liquid products
7 sold, possessed, or used; and
- 8 (3) Any other information that the department may deem
9 necessary, for the proper administration of this part.

10 **§245-H Determination of taxes; additional assessments,**
11 **credits, and refunds.** (a) As soon as practicable after each
12 return shall have been filed, the department of taxation shall
13 examine and compute and determine the amount of taxes payable
14 thereon in accordance with section 245-F and section 245-7.

15 (b) All provisions of section 245-7(b) and (c) related to
16 assessments, credits, and refunds shall apply to the
17 department's determination pursuant to this part.

18 **§245-I Records to be kept.** (a) Each wholesaler or dealer
19 shall keep a record of:

- 20 (1) Every sale or use of electronic smoking devices and e-
21 liquids by the wholesaler or dealer;



1 (2) The number and wholesale price of electronic smoking
2 devices sold, possessed, or used;

3 (3) The number and wholesale price of e-liquids sold,
4 possessed, or used; and

5 (4) The taxes payable on electronic smoking devices and e-
6 liquids sold, possessed, or used, if any;

7 in a form as the department may prescribe. The records shall be
8 offered for inspection and examination at any time upon demand
9 by the department or the attorney general, and shall be
10 preserved for a period of five years, except that the department
11 and the attorney general, in writing, shall both consent to
12 their destruction within the five-year period or either the
13 department or the attorney general may require that they be kept
14 longer. The department, by rule, may require the wholesaler or
15 dealer to keep other records as it may deem necessary for the
16 proper enforcement of this chapter.

17 (b) If any wholesaler or dealer fails to keep records from
18 which a proper determination of the taxes due under this chapter
19 may be made, the department may fix the amount of the taxes for
20 any period from the best information obtainable by it and assess
21 the taxes as provided in this chapter."



1 SECTION 3. Section 245-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§245-2 License. (a) It shall be unlawful for any person
4 to engage in the business of a wholesaler or dealer, including
5 the business of a wholesaler or dealer of electronic smoking
6 devices pursuant to part _____, in the State without having
7 received first a license therefor issued by the department of
8 taxation under this chapter; provided that this section shall
9 not be construed to supersede any other law relating to
10 licensing of persons in the same business.

11 (b) The license shall be issued by the department upon
12 application therefor, in such form and manner as shall be
13 required by rule of the department, and the payment of a fee of
14 [~~\$2.50,~~ \$250, and shall be renewable annually on July 1 for the
15 twelve months ending the succeeding June 30.

16 (c) The department may suspend or, after hearing, revoke
17 or decline to renew any license issued under this chapter
18 whenever the department finds that the applicant or licensee has
19 failed to comply with this chapter or any rule adopted under
20 this chapter, or for any other good cause. Good cause includes



1 but is not limited to instances where an applicant or licensee
2 has:

- 3 (1) Submitted a false or fraudulent application or
4 provided a false statement in an application; or
5 (2) Possessed or displayed a false or fraudulent license.

6 Upon suspending or revoking any license, the department shall
7 request that the licensee immediately surrender the license or
8 any duplicate issued to the licensee and the licensee shall
9 surrender the license or duplicate promptly to the department as
10 requested.

11 (d) Whenever the department suspends, revokes, or declines
12 to renew a license, the department shall notify the applicant or
13 licensee immediately and afford the applicant or licensee a
14 hearing, if requested and if a hearing has not already been
15 afforded. After the hearing, the department shall:

- 16 (1) Rescind its order of suspension;
17 (2) Continue the suspension;
18 (3) Revoke the license;
19 (4) Rescind its order of revocation;
20 (5) Decline to renew the license; or
21 (6) Renew the license."



1 SECTION 4. Section 245-2.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§245-2.5[+] Retail tobacco and electronic smoking
4 device permit. (a) Beginning December 1, 2006, every retailer
5 engaged in the retail sale of electronic smoking devices, e-
6 liquids, cigarettes, and other tobacco products upon which a tax
7 is required to be paid under this chapter shall obtain a retail
8 tobacco and electronic smoking device permit.

9 (b) Beginning March 1, 2007, it shall be unlawful for any
10 retailer engaged in the retail sale of electronic smoking
11 devices, e-liquids, cigarettes, and other tobacco products upon
12 which a tax is required to be paid under this chapter to sell,
13 possess, keep, acquire, distribute, or transport electronic
14 smoking devices, e-liquids, cigarettes, or other tobacco
15 products for retail sale unless a retail tobacco and electronic
16 smoking device permit has been issued to the retailer under this
17 section and the retail tobacco and electronic smoking device
18 permit is in full force and effect.

19 (c) The retail tobacco and electronic smoking device
20 permit shall be issued by the department upon application by the
21 retailer in the form and manner prescribed by the department,



1 and the payment of a fee of [~~\$20.~~] \$50. Permits shall be valid
2 for one year, from December 1 to November 30, and renewable
3 annually. Whenever a retail tobacco and electronic smoking
4 device permit is defaced, destroyed, or lost, or the permittee
5 relocates the permittee's business, the department may issue a
6 duplicate retail tobacco and electronic smoking device permit to
7 the permittee for a fee of \$5 per copy.

8 (d) A separate retail tobacco and electronic smoking
9 device permit shall be obtained for each place of business
10 owned, controlled, or operated by a retailer. A retailer that
11 owns or controls more than one place of business may submit a
12 single application for more than one retail tobacco and
13 electronic smoking device permit. Each retail tobacco and
14 electronic smoking device permit issued shall clearly describe
15 the place of business where the operation of the business is
16 conducted.

17 (e) Any entity that operates as a dealer or wholesaler and
18 also sells electronic smoking devices, e-liquids, cigarettes, or
19 other tobacco products to consumers at retail shall acquire a
20 separate retail tobacco and electronic smoking device permit.



1 (f) A retail tobacco and electronic smoking device permit
2 shall be nonassignable and nontransferable from one entity to
3 another entity. A retail tobacco and electronic smoking device
4 permit may be transferred from one business location to another
5 business location after an application has been filed with the
6 department requesting that transfer and approval has been
7 obtained from the department.

8 (g) A retail tobacco and electronic smoking device permit
9 issued under this section shall be displayed at all times in a
10 conspicuous place at the place of business requiring the retail
11 tobacco and electronic smoking device permit.

12 (h) Any sales of cigarettes or tobacco products made
13 through [a] cigarette or tobacco product vending machine are
14 subject to the terms, conditions, and penalties of this chapter.
15 A retail tobacco permit need not be displayed on cigarette or
16 tobacco product vending machines if the retail tobacco permit
17 holder is the owner of the cigarette or tobacco product vending
18 machines and the cigarette or tobacco product vending machines
19 are operated at the location described in the retail tobacco
20 permit. No sales of electronic smoking devices or e-liquids
21 shall be made through a vending machine.



1 (i) No retailer shall purchase any pack of cigarettes
2 without the appropriate tax stamp being affixed to the bottom of
3 the pack as required by this chapter.

4 (j) A vehicle from which electronic smoking devices, e-
5 liquids, cigarettes, or tobacco products are sold is considered
6 a place of business and requires a retail tobacco and electronic
7 smoking device permit. Retail tobacco and electronic smoking
8 device permits for a vehicle shall be issued bearing a specific
9 motor vehicle identification number and are valid only when
10 physically carried in the vehicle having the corresponding motor
11 vehicle identification number. Retail tobacco and electronic
12 smoking device permits for vehicles shall not be moved from one
13 vehicle to another.

14 (k) A permittee shall be subject to the inspection and
15 investigation requirements of this chapter and shall provide the
16 department or the attorney general with any information deemed
17 necessary to verify compliance with the requirements of this
18 chapter.

19 (l) A permittee shall keep a complete and accurate record
20 of the permittee's electronic smoking device, e-liquid,
21 cigarette, or tobacco product inventory. The records shall:



- 1 (1) Include:
- 2 (A) A written statement containing the name and
- 3 address of the permittee's source of its
- 4 electronic smoking devices, e-liquids,
- 5 cigarettes, and tobacco products;
- 6 (B) The date of delivery, quantity, trade name or
- 7 brand, and price of the electronic smoking
- 8 devices, e-liquids, cigarettes, and tobacco
- 9 products; and
- 10 (C) Documentation in the form of any purchase orders,
- 11 invoices, bills of lading, other written
- 12 statements, books, papers, or records in whatever
- 13 format, including electronic format, which
- 14 substantiate the purchase or acquisition of the
- 15 electronic smoking devices, e-liquids,
- 16 cigarettes, and tobacco products stored or
- 17 offered for sale; and
- 18 (2) Be offered for inspection and examination within
- 19 twenty-four hours of demand by the department or the
- 20 attorney general, and shall be preserved for a period
- 21 of three years; provided that:



1 (A) Specified records may be destroyed if the
2 department and the attorney general both consent
3 to their destruction within the three-year
4 period; and

5 (B) Either the department or the attorney general may
6 adopt rules pursuant to chapter 91 that require
7 specified records to be kept longer than a period
8 of three years.

9 (m) The department may suspend or, after hearing, revoke
10 or decline to renew any retail tobacco or electronic smoking
11 device permit issued under this chapter whenever the department
12 finds that the applicant or permittee has failed to comply with
13 this chapter or any rule adopted under this chapter, or for any
14 other good cause. Good cause includes but is not limited to
15 instances where an applicant or permittee has:

16 (1) Submitted a false or fraudulent application or
17 provided a false statement in an application; or

18 (2) Possessed or displayed a false or fraudulent retail
19 tobacco or electronic smoking device permit.

20 Upon suspending or revoking any retail tobacco or electronic
21 smoking device permit, the department shall request that the



1 permittee immediately surrender any retail tobacco or electronic
2 smoking device permit or duplicate issued to the permittee, and
3 the permittee shall surrender the permit or duplicate promptly
4 to the department as requested.

5 (n) Whenever the department suspends, revokes, or declines
6 to renew a retail tobacco or electronic smoking device permit,
7 the department shall notify the applicant or permittee
8 immediately and afford the applicant or permittee a hearing, if
9 requested and if a hearing has not already been afforded. After
10 the hearing, the department shall:

- 11 (1) Rescind its order of suspension;
12 (2) Continue the suspension;
13 (3) Revoke the retail tobacco or electronic smoking device
14 permit;
15 (4) Rescind its order of revocation;
16 (5) Decline to renew the retail tobacco and electronic
17 smoking device permit; or
18 (6) Renew the retail tobacco and electronic smoking device
19 permit.
20 (o) Any cigarette, package of cigarettes, carton of
21 cigarettes, container of cigarettes, tobacco product, package of



1 tobacco products, [~~or any container~~] of tobacco products,
2 electronic smoking device, container of electronic smoking
3 devices, e-liquid product, or container of e-liquid products
4 unlawfully sold, possessed, kept, stored, acquired, distributed,
5 or transported in violation of this section may be seized and
6 ordered forfeited pursuant to chapter 712A."

7 SECTION 5. Section 245-9, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§245-9 **Inspection.** (a) The department and the attorney
10 general may examine all records, including tax returns and
11 reports under section 245-31[7] or 245-G, required to be kept or
12 filed under this chapter, and books, papers, and records of any
13 person engaged in the business of wholesaling or dealing
14 electronic smoking devices, e-liquids, cigarettes [and], or
15 tobacco products, to verify the accuracy of the payment of the
16 taxes imposed by this chapter. Every person in possession of
17 any books, papers, and records, and the person's agents and
18 employees, are directed and required to give the department and
19 the attorney general the means, facilities, and opportunities
20 for the examinations.



1 (b) The department and the attorney general may inspect
2 the operations, premises, and storage areas of any entity
3 engaged in the sale of electronic smoking devices, e-liquids, or
4 cigarettes, or the contents of a specific vending machine,
5 during regular business hours. This inspection shall include
6 inspection of all statements, books, papers, and records in
7 whatever format, including electronic format, pertaining to the
8 acquisition, possession, transportation, sale, or use of
9 packages of electronic smoking devices, e-liquids, cigarettes
10 and tobacco products other than cigarettes, to verify the
11 accuracy of the payment of taxes imposed by this chapter, and of
12 the contents of cartons and shipping or storage containers to
13 ascertain that all individual packages of cigarettes have an
14 affixed stamp of proper denomination as required by this
15 chapter. This inspection may also verify that all stamps were
16 produced under the authority of the department. Every entity in
17 possession of any books, papers, and records, and the entity's
18 agents and employees, are directed and required to give the
19 department and the attorney general the means, facilities, and
20 opportunities for the examinations. For purposes of this
21 chapter "entity" means one or more individuals, a company,



1 corporation, a partnership, an association, or any other type of
2 legal entity.

3 (c) If the department or the attorney general has
4 reasonable cause to believe and does believe that electronic
5 smoking devices, e-liquids, cigarettes, stamps, or counterfeit
6 stamps are being acquired, possessed, transported, kept, sold,
7 or offered for sale in violation of this chapter, the department
8 or the attorney general may investigate or search the vehicle or
9 premises in which the electronic smoking devices, e-liquids,
10 cigarettes, stamps, or counterfeit stamps are believed to be
11 located. If electronic smoking devices, e-liquids, cigarettes,
12 stamps, or counterfeit stamps are found in a vehicle, premises,
13 or vending machine in violation of this chapter the electronic
14 smoking devices, e-liquids, cigarettes, vending machine,
15 vehicle, stamps, counterfeit stamps, or other tangible personal
16 property containing those electronic smoking devices, e-liquids,
17 cigarettes, stamps, or counterfeit stamps and any books and
18 records in possession of the entity in control or possession of
19 the electronic smoking devices, e-liquids, cigarettes, stamps,
20 or counterfeit stamps may be seized by the department or the



1 attorney general and are subject to forfeiture as provided in
2 this chapter and chapter 712A.

3 (d) For purposes of this chapter:

4 "Counterfeit stamp" means any stamp that is not printed,
5 manufactured, distributed, or made by authority of the
6 department.

7 "Vehicle" means an automobile, airplane, motorcycle,
8 motorboat, or other motor-propelled vehicle."

9 SECTION 6. Section 328L-5, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (c) to read:

12 "(c) The entity selected under subsection (a), for each
13 fiscal year, may expend up to fifty per cent of the total market
14 value of the Hawaii tobacco prevention and control trust fund on
15 the preceding June 30, for tobacco prevention and control,
16 including but not limited to, reducing cigarette smoking [and],
17 tobacco use, and use of electronic smoking devices and e-liquids
18 among youth and adults through education and enforcement
19 activities, and controlling and preventing chronic diseases
20 where tobacco or electronic smoking device use is a risk
21 factor."



H.B. NO. 825

1 2. By amending subsection (e) to read:

2 "(e) The assets of the Hawaii tobacco prevention and

3 control trust fund shall consist of:

4 (1) Moneys appropriated under section 328L-2(b)(2);

5 (2) Moneys appropriated to the Hawaii tobacco prevention

6 and control trust fund by the state, county, or

7 federal government;

8 (3) Private contributions of cash or property; [~~and~~]

9 (4) Income and capital gains earned by the trust fund[~~-~~];

10 and

11 (5) Moneys allocated to the Hawaii tobacco prevention and

12 control trust fund by section 245-F."

13 SECTION 7. Chapter 28, part XII, Hawaii Revised Statutes,

14 is repealed.

15 SECTION 8. In codifying the new sections added by section

16 2 of this Act, the revisor of statutes shall substitute

17 appropriate section numbers for the letters used in designating

18 the new sections in this Act.

19 SECTION 9. Statutory material to be repealed is bracketed

20 and stricken. New statutory material is underscored.




H.B. NO. 825

1 SECTION 10. This Act shall take effect on July 1, 2019.

2

INTRODUCED BY:

B. L. Kobayashi


David Kitagawa

JAN 22 2019



H.B. NO. 825

Report Title:

Electronic Smoking Devices; Smoking; Tax

Description:

Transfers regulation of electronic smoking devices from AG's office to DOTAX. Establishes procedures for licensing and permitting of electronic smoking device retailers. Increases tobacco licensing and permitting fees. Allocates \$200,000 of new e-liquid excise tax to the Hawaii tobacco prevention and control trust fund.

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

