

JAN 22 2021

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 secondhand smoke is
2 a dangerous class A carcinogen, in the same class as asbestos
3 and benzene. Secondhand smoke typically contains at least seven
4 thousand identifiable chemicals, around seventy of which are
5 known or probable carcinogens. According to the federal Centers
6 for Disease Control and Prevention (CDC), smoking is the leading
7 cause of preventable death worldwide, and secondhand smoke can
8 cause heart disease, lung cancer, and stroke. Further, the
9 fiftieth anniversary United States Surgeon General Report,
10 released on January 17, 2014, states that any level of exposure
11 to secondhand smoke is dangerous and that over two and a half
12 million nonsmokers have died from health problems caused by
13 secondhand smoke since 1964.

14 The legislature further finds that experts have determined
15 secondhand smoke from cigarettes, as well as vapors from
16 electronic cigarettes, can transmit the novel coronavirus
17 disease 2019 (COVID-19) particles farther than usual, in



1 addition to the concern that people are not wearing masks while
2 they are smoking or vaping. For residents who live in multiple-
3 unit dwellings, the COVID-19 pandemic has further required
4 people to stay in their homes, making it a challenge to escape a
5 neighbor that may be continuously smoking inside their unit,
6 which can cause secondhand smoke to drift into other units.
7 Additionally, according to an independent poll conducted by Ward
8 Research, Inc. for the Coalition in November 2018, eighty-seven
9 per cent of registered voters in Hawaii would choose to buy or
10 rent a smoke-free house or apartment.

11 Accordingly, due to the well-known health risks associated
12 with smoking and secondhand smoke, the dangers and high-
13 transmissibility of COVID-19, and public opinion, the purpose of
14 this Act is to:

- 15 (1) Prohibit smoking in all enclosed and partially
16 enclosed areas of individual units of multiple-unit
17 residences or multifamily dwellings, if such units
18 share at least one common floor, wall, or ceiling with
19 another such unit;
- 20 (2) Specify that "smoking" includes non-tobacco products
21 intended for inhalation in any manner or in any form,



1 that is noxious, offensive, unsafe, illegal,
2 unhealthy, or irritating to other persons; and
3 (3) Specify that smoking shall be prohibited in the
4 lobbies, hallways, and common areas, including general
5 and limited common elements, in apartment buildings,
6 condominiums, and other multiple-unit residential
7 facilities.

8 SECTION 2. Chapter 328J, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§328J-A Prohibition in individual units of multiple-unit
12 residences. Smoking shall be prohibited in all enclosed and
13 partially enclosed areas of individual units of multiple-unit
14 residences or multifamily dwellings, if such units share at
15 least one common floor, wall, or ceiling with another such
16 unit."

17 SECTION 3. Section 328J-1, Hawaii Revised Statutes, is
18 amended by amending the definition of "smoke" or "smoking" to
19 read as follows:

20 "Smoke" or "smoking" means inhaling, exhaling, burning, or
21 carrying or otherwise handling or controlling any lighted,



1 smoldering, ignited, or heated tobacco product or ~~[plant]~~ non-
2 tobacco product intended for inhalation in any manner or in any
3 form[-] that is noxious, offensive, unsafe, illegal, unhealthy,
4 or irritating to other persons. "Smoking" includes the use of
5 an electronic smoking device."

6 SECTION 4. Section 328J-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[-]§328J-3[+] Prohibition in enclosed or partially
9 enclosed places open to the public. Smoking shall be prohibited
10 in all enclosed or partially enclosed areas open to the public,
11 including but not limited to the following places:

12 (1) Airports and public transportation facilities and
13 vehicles, including buses and taxicabs, under the
14 authority of the State or county, and ticket,
15 boarding, and waiting areas of public transit depots,
16 including airports from curb to cabin and including
17 all areas within and immediately in front of and
18 adjacent to passenger terminals and pick-up areas,
19 throughout the airport facility, and up to the
20 passenger loading gates of all state airports;

21 (2) Aquariums, galleries, libraries, and museums;



- 1 (3) Areas available to and customarily used by the general
2 public, including but not limited to restrooms,
3 lobbies, reception areas, hallways, and other common
4 areas, in businesses and nonprofit entities patronized
5 by the public, including but not limited to
6 professional offices, banks, laundromats, hotels, and
7 motels;
- 8 (4) Bars;
- 9 (5) Bowling alleys;
- 10 (6) Convention facilities;
- 11 (7) Educational facilities, both public and private;
- 12 (8) Elevators;
- 13 (9) Facilities primarily used for exhibiting a motion
14 picture, stage, drama, lecture, musical recital, or
15 other similar performance, except when part of the
16 performance;
- 17 (10) Health care facilities;
- 18 (11) Hotel and motel lobbies, meeting rooms, and banquet
19 facilities;
- 20 (12) Licensed child care and adult day care facilities;



(13) Lobbies, hallways, and other common areas, including general and limited common elements, in apartment buildings, condominiums, retirement facilities, nursing homes, multifamily dwellings, and other multiple-unit residential facilities;

(14) Nightclubs;

(15) Polling places;

(16) Restaurants;

(17) Retail stores;

(18) Rooms, chambers, places of meeting or public assembly under the control of an agency, board, commission, committee or council of the State or county, to the extent the place is subject to the jurisdiction of the State or county;

(19) Service lines; and

(20) Shopping malls."

SECTION 5. Section 328J-7, Hawaii Revised Statutes, is amended to read as follows:

"§328J-7 Exceptions. Notwithstanding any other provision of this chapter to the contrary, the following areas shall be



1 exempt from the provisions of sections 328J-3, 328J-4, [and]
2 328J-5 [+], and 328J-A:

3 (1) [~~Private residences,~~] Detached single-family homes and
4 the lots they are sited on, except when used as a
5 licensed child care, adult day care, or health care
6 facility;

7 (2) Hotel and motel rooms that are rented to guests and
8 are designated as smoking rooms; provided that not
9 more than twenty per cent of rooms rented to guests in
10 a hotel or motel may be so designated. All smoking
11 rooms on the same floor shall be contiguous and smoke
12 from these rooms shall not infiltrate into areas where
13 smoking is prohibited under this chapter. The status
14 of rooms as smoking or nonsmoking may not be changed,
15 except to add additional nonsmoking rooms;

16 (3) Retail tobacco stores; provided that smoke from these
17 places shall not infiltrate into areas where smoking
18 is prohibited under this chapter;

19 (4) Private and semiprivate rooms in nursing homes and
20 long-term care facilities that are occupied by one or
21 more persons, all of whom are smokers and have



1 requested in writing to be placed in a room where
2 smoking is permitted; provided that smoke from these
3 places shall not infiltrate into areas where smoking
4 is prohibited under this chapter;

5 (5) Outdoor areas of places of employment except those
6 covered by the provisions of sections 328J-3 and
7 328J-5;

8 (6) All areas covered by this chapter when smoking is part
9 of a production being filmed; and

10 (7) State correctional facilities; provided that smoking
11 shall only be authorized for employees and volunteers
12 of a correctional facility in an area outside the
13 secure confines of a correctional facility restricted
14 from access by inmates or detainees that has been
15 designated by the warden of a correctional facility."

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on July 1, 2021.
19

INTRODUCED BY: 



S.B. NO. 729

Report Title:

Smoking; Prohibitions; Multifamily Dwellings; Multiple-unit Residences

Description:

Prohibits smoking in all enclosed and partially enclosed areas of individual units of multiple-unit residences or multifamily dwellings, if such units share at least one common floor, wall, or ceiling with another such unit.

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

