
A BILL FOR AN ACT

RELATING TO TOBACCO.

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

1 SECTION 1. The legislature finds that tobacco products have
2 a negative effect on the human health. Tobacco use remains a
3 leading cause of preventable disease and death in both the
4 United States and in Hawaii. The annual health care costs
5 directly related to tobacco use in this State is estimated to be
6 \$526,000,000.

7 The legislature also finds that the tobacco industry spends
8 an estimated \$26,000,000 on marketing in Hawaii. This represents
9 a major obstacle, as the State does not spend nearly the same
10 amount in addressing tobacco prevention and control program.

11 The legislature further finds that human brains continue
12 development far after reaching twenty-one years of age. Many
13 brains do not fully develop until twenty-five years of age.
14 Tobacco has a long and proven track record of affecting human
15 development; this is an undisputed fact. In order to protect
16 public health, it is necessary to increase the minimum age for
17 possession and use of tobacco products.



1 The purpose of this Act is to raise the minimum legal age
2 to purchase or use tobacco products from twenty-one to twenty-
3 five.

4 SECTION 2. Section 321-212, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**[§321-212] Tobacco products; possession or consumption**
7 **prohibited.** Possession or consumption of a tobacco product by a
8 person under [~~twenty-one~~] twenty-five years of age in a public
9 place shall be prohibited."

10 SECTION 3. Section 321-213, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**[§321-213] Exemptions.** This part shall not apply to:

13 (1) Any person under [~~twenty-one~~] twenty-five years of
14 age, with parental authorization, who is participating
15 in a controlled purchase as part of a law enforcement
16 activity or a study authorized by the department of
17 health under the supervision of law enforcement to
18 determine the level of incidence of tobacco sales to
19 persons under [~~twenty-one~~] years of age; or

20 (2) Possession of tobacco products by a person under
21 [~~twenty-one~~] twenty-five years of age in the course of



1 delivery, pursuant to the direction of the person's
2 employer lawfully engaged in business necessitating
3 the delivery."

4 SECTION 4. Section 712-1258, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§712-1258 Tobacco products and electronic smoking**
7 **devices; persons under [~~twenty-one~~] twenty-five years of age.**

8 (1) It shall be unlawful to sell or furnish a tobacco product
9 in any shape or form or an electronic smoking device to a person
10 under [~~twenty-one~~] twenty-five years of age.

11 (2) All persons engaged in the retail sale of tobacco
12 products or electronic smoking devices shall check the
13 identification of tobacco product or electronic smoking device
14 purchasers to establish the age of the purchaser if the
15 purchaser reasonably appears to be under twenty-seven years of
16 age.

17 (3) It shall be an affirmative defense that the seller of
18 a tobacco product or an electronic smoking device to a person
19 under [~~twenty-one~~] twenty-five years of age in violation of this
20 section had requested, examined, and reasonably relied upon a
21 photographic identification from the person establishing that



1 person's age as at least [~~twenty-one~~] twenty-five years of age
2 prior to selling the person a tobacco product or an electronic
3 smoking device. The failure of a seller to request and examine
4 photographic identification from a person under [~~twenty-one~~]
5 twenty-five years of age prior to the sale of a tobacco product
6 or an electronic smoking device to the person shall be construed
7 against the seller and form a conclusive basis for the seller's
8 violation of this section.

9 (4) Signs using the statement, "The sale of tobacco
10 products or electronic smoking devices to persons under [~~twenty-~~
11 ~~one~~] twenty-five is prohibited", shall be posted on or near any
12 vending machine in letters at least one-half inch high and at or
13 near the point of sale of any other location where tobacco
14 products or electronic smoking devices are sold in letters at
15 least one-half inch high.

16 (5) It shall be unlawful for a person under [~~twenty-one~~
17 ~~years~~] twenty-five of age to purchase or possess any tobacco
18 product or electronic smoking device, as those terms are defined
19 in subsection (7). This provision does not apply if a person
20 under the age of [~~twenty-one~~] twenty-five, with parental
21 authorization, is participating in a controlled purchase as part



1 of a law enforcement activity or a study authorized by the
2 department of health under the supervision of law enforcement to
3 determine the level of incidence of tobacco or electronic
4 smoking devices sales to persons under [~~twenty-one~~] twenty-five
5 years of age.

6 (6) Any person who violates subsection (1) or (4), or
7 both, shall be fined \$500 for the first offense. Any subsequent
8 offenses shall subject the person to a fine not less than \$500
9 nor more than \$2,000. Any person under [~~twenty-one~~] twenty-five
10 years of age who violates subsection (5) shall be fined \$10 for
11 the first offense. Any subsequent offense shall subject the
12 violator to a fine of \$50, no part of which shall be suspended,
13 or the person shall be required to perform not less than forty-
14 eight hours nor more than seventy-two hours of community service
15 during hours when the person is not employed and is not
16 attending school. Any tobacco product or electronic smoking
17 device, as those terms are defined in subsection (7), in the
18 person's possession at the time of violation of subsection (5)
19 shall be seized, summarily forfeited to the State, and destroyed
20 by law enforcement following the conclusion of an administrative
21 or judicial proceeding finding that a violation of subsection



1 (5) has been committed. The procedures set forth in chapter
2 712A shall not apply to this subsection.

3 (7) For the purposes of this section:

4 "Electronic smoking device" means any electronic product
5 that can be used to aerosolize and deliver nicotine or other
6 substances to the person inhaling from the device, including but
7 not limited to an electronic cigarette, electronic cigar,
8 electronic cigarillo, or electronic pipe, and any cartridge or
9 other component of the device or related product.

10 "Tobacco product" means any product made or derived from
11 tobacco that contains nicotine or other substances and is
12 intended for human consumption or is likely to be consumed,
13 whether smoked, heated, chewed, absorbed, dissolved, inhaled, or
14 ingested by other means. "Tobacco product" includes but is not
15 limited to a cigarette, cigar, pipe tobacco, chewing tobacco,
16 snuff, snus, or an electronic smoking device. "Tobacco product"
17 does not include drugs, devices, or combination products
18 approved for sale by the United States Food and Drug
19 Administration, as those terms are defined in the Federal Food,
20 Drug, and Cosmetic Act."

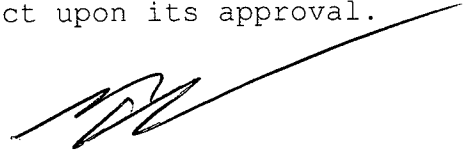


1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

4

INTRODUCED BY: _____



JAN 23 2023



H.B. NO. 860

Report Title:

Legal age for tobacco use and possession; Raise legal age.

Description:

Raises legal age for tobacco use and possession from twenty-one to twenty-five.

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HB HMIA 2023-39-10

