
A BILL FOR AN ACT

RELATING TO ELECTRONIC SMOKING DEVICES.

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

1 SECTION 1. The legislature finds that the introduction of
2 flavored e-cigarettes, electronic smoking devices, and other
3 electronic nicotine delivery systems into the marketplace has
4 had a negative impact on Hawaii's youth. According to the
5 Hawaii Youth Risk Behavior Survey, Hawaii suffers from the
6 highest rate of usage of e-cigarettes among middle school
7 students and the second highest rate of usage among high school
8 students in the nation. The United States Surgeon General,
9 United States Department of Health and Human Services, and
10 Centers for Disease Control and Prevention caution against the
11 use of electronic nicotine delivery systems due to the highly
12 addictive nature of nicotine and its potential detriment to
13 developing adolescents. Although the State prohibits the sale
14 and distribution of electronic smoking devices to, and the
15 possession or use of electronic smoking devices by, persons
16 under the age of twenty-one, lackluster enforcement of the laws
17 has resulted in a youth vaping public health crisis.



1 The purpose of this Act is to provide additional financial
2 resources to monitor and enforce the prohibition against sales
3 of electronic smoking devices to persons under the age of
4 twenty-one by creating a new excise tax on electronic smoking
5 devices.

6 SECTION 2. Section 28-15, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) There is established in the state treasury the
9 tobacco enforcement special fund, into which shall be deposited
10 the tobacco settlement moneys as provided by section 328L-2(a),
11 the allocated portion of the tax imposed by section 245-3(a)(14)
12 as provided by section 245-15, the allocated portion of the
13 stamp fee designated to pay for the cost of enforcing the
14 cigarette tax stamp as provided by section 245-26, and fines as
15 provided for by section 245-41.

16 (b) The tobacco enforcement special fund shall be
17 administered by the department of the attorney general and shall
18 be used for administering, operating, monitoring, and ensuring
19 compliance with and enforcement of:



- 1 (1) The Master Settlement Agreement as defined in chapter
- 2 675 and any other statutes or programs relating to
- 3 that agreement;
- 4 (2) Chapter 675;
- 5 (3) Tobacco prevention programs;
- 6 (4) The cigarette tax stamp as defined in chapter 245 and
- 7 any other statutes or programs relating to that
- 8 chapter;
- 9 (5) Chapter 245;
- 10 (6) Chapter 486P and any other statutes or programs
- 11 relating to that chapter; [~~and~~]
- 12 (7) Section 712-1258; and
- 13 [~~(7)~~] (8) Any other requirement deemed necessary to carry
- 14 out the purposes of the fund."

15 SECTION 3. Section 245-1, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By adding three new definitions to be appropriately
18 inserted and to read:

19 ""E-liquid" means any liquid or like substance containing
20 nicotine from any source that is designed or intended to be used
21 in an electronic smoking device, whether or not packaged in a



1 cartridge or other container. "E-liquid" does not include
2 prescription drugs; medical cannabis or manufactured cannabis
3 products pursuant to chapter 329D; or medical devices used to
4 aerosolize, inhale, or ingest prescription drugs, including
5 manufactured cannabis products manufactured or distributed in
6 accordance with section 329D-10(a).

7 "Electronic smoking device" means any electronic product,
8 or part thereof, that can be used by a person to simulate
9 smoking in the delivery of nicotine from any source, intended
10 for human consumption, through inhalation of vapor or aerosol
11 from the product. "Electronic smoking device" includes but is
12 not limited to an electronic cigarette, electronic cigar,
13 electronic cigarillo, electronic pipe, electronic hookah, vape
14 pen or related product, any cartridge or other component or part
15 of the device or product, and any cartridge or other container
16 of e-liquid."

17 2. By amending the definition of "tobacco products" to
18 read:

19 "Tobacco products" means [~~tobacco~~]:

20 (1) Tobacco in any form, other than cigarettes or little
21 cigars, that is [~~prepared or~~] intended for human



1 consumption [~~or for personal use by humans, including~~
2 ~~large cigars and any substitutes thereof other than~~
3 ~~cigarettes that bear the semblance thereof, snuff,~~
4 ~~chewing or smokeless tobacco, and smoking or pipe~~
5 ~~tobacco.~~] or is likely to be consumed, whether smoked,
6 heated, chewed, absorbed, dissolved, inhaled, or
7 ingested by other means;

- 8 (2) E-liquid; or
- 9 (3) Electronic smoking device.

10 "Tobacco products" includes but is not limited to large cigars
11 and any substitutes thereof other than cigarettes that bear the
12 semblance thereof, pipe tobacco, chewing or smokeless tobacco,
13 snuff, snus, e-liquid, and electronic smoking devices."

14 SECTION 4. Section 245-3, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Every wholesaler or dealer, in addition to any other
17 taxes provided by law, shall pay for the privilege of conducting
18 business and other activities in the State:

- 19 (1) An excise tax equal to 5.00 cents for each cigarette
20 sold, used, or possessed by a wholesaler or dealer
21 after June 30, 1998, whether or not sold at wholesale,



1 or if not sold then at the same rate upon the use by
2 the wholesaler or dealer;

3 (2) An excise tax equal to 6.00 cents for each cigarette
4 sold, used, or possessed by a wholesaler or dealer
5 after September 30, 2002, whether or not sold at
6 wholesale, or if not sold then at the same rate upon
7 the use by the wholesaler or dealer;

8 (3) An excise tax equal to 6.50 cents for each cigarette
9 sold, used, or possessed by a wholesaler or dealer
10 after June 30, 2003, whether or not sold at wholesale,
11 or if not sold then at the same rate upon the use by
12 the wholesaler or dealer;

13 (4) An excise tax equal to 7.00 cents for each cigarette
14 sold, used, or possessed by a wholesaler or dealer
15 after June 30, 2004, whether or not sold at wholesale,
16 or if not sold then at the same rate upon the use by
17 the wholesaler or dealer;

18 (5) An excise tax equal to 8.00 cents for each cigarette
19 sold, used, or possessed by a wholesaler or dealer on
20 and after September 30, 2006, whether or not sold at



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- 1 wholesale, or if not sold then at the same rate upon
2 the use by the wholesaler or dealer;
- 3 (6) An excise tax equal to 9.00 cents for each cigarette
4 sold, used, or possessed by a wholesaler or dealer on
5 and after September 30, 2007, whether or not sold at
6 wholesale, or if not sold then at the same rate upon
7 the use by the wholesaler or dealer;
- 8 (7) An excise tax equal to 10.00 cents for each cigarette
9 sold, used, or possessed by a wholesaler or dealer on
10 and after September 30, 2008, whether or not sold at
11 wholesale, or if not sold then at the same rate upon
12 the use by the wholesaler or dealer;
- 13 (8) An excise tax equal to 13.00 cents for each cigarette
14 sold, used, or possessed by a wholesaler or dealer on
15 and after July 1, 2009, whether or not sold at
16 wholesale, or if not sold then at the same rate upon
17 the use by the wholesaler or dealer;
- 18 (9) An excise tax equal to 11.00 cents for each little
19 cigar sold, used, or possessed by a wholesaler or
20 dealer on and after October 1, 2009, whether or not



- 1 sold at wholesale, or if not sold then at the same
2 rate upon the use by the wholesaler or dealer;
- 3 (10) An excise tax equal to 15.00 cents for each cigarette
4 or little cigar sold, used, or possessed by a
5 wholesaler or dealer on and after July 1, 2010,
6 whether or not sold at wholesale, or if not sold then
7 at the same rate upon the use by the wholesaler or
8 dealer;
- 9 (11) An excise tax equal to 16.00 cents for each cigarette
10 or little cigar sold, used, or possessed by a
11 wholesaler or dealer on and after July 1, 2011,
12 whether or not sold at wholesale, or if not sold then
13 at the same rate upon the use by the wholesaler or
14 dealer;
- 15 (12) An excise tax equal to seventy per cent of the
16 wholesale price of each article or item of tobacco
17 products, other than large cigars, and electronic
18 smoking devices, sold by the wholesaler or dealer on
19 and after September 30, 2009, whether or not sold at
20 wholesale, or if not sold then at the same rate upon
21 the use by the wholesaler or dealer; [~~and~~]



1 (13) An excise tax equal to fifty per cent of the wholesale
2 price of each large cigar of any length, sold, used,
3 or possessed by a wholesaler or dealer on and after
4 September 30, 2009, whether or not sold at wholesale,
5 or if not sold then at the same rate upon the use by
6 the wholesaler or dealer[-]; and

7 (14) An excise tax equal to ten per cent of the wholesale
8 price of each electronic smoking device sold by the
9 wholesaler or dealer on and after January 1, 2024,
10 whether or not sold at wholesale, or if not sold then
11 at the same rate upon the use by the wholesaler or
12 dealer.

13 Where the tax imposed has been paid on cigarettes, little
14 cigars, or tobacco products that thereafter become the subject
15 of a casualty loss deduction allowable under chapter 235, the
16 tax paid shall be refunded or credited to the account of the
17 wholesaler or dealer. The tax shall be applied to cigarettes
18 through the use of stamps."

19 SECTION 5. Section 245-15, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§245-15 Disposition of revenues. All moneys collected
2 pursuant to this chapter shall be paid into the state treasury
3 as state realizations to be kept and accounted for as provided
4 by law; provided that, of the moneys collected under the tax
5 imposed pursuant to:

6 (1) Section 245-3(a) (5), after September 30, 2006, and
7 prior to October 1, 2007, 1.0 cent per cigarette shall
8 be deposited to the credit of the Hawaii cancer
9 research special fund, established pursuant to section
10 304A-2168, for research and operating expenses and for
11 capital expenditures;

12 (2) Section 245-3(a) (6), after September 30, 2007, and
13 prior to October 1, 2008:

14 (A) 1.5 cents per cigarette shall be deposited to the
15 credit of the Hawaii cancer research special
16 fund, established pursuant to section 304A-2168,
17 for research and operating expenses and for
18 capital expenditures;

19 (B) 0.25 cents per cigarette shall be deposited to
20 the credit of the trauma system special fund
21 established pursuant to section 321-22.5; and



1 (C) 0.25 cents per cigarette shall be deposited to
2 the credit of the emergency medical services
3 special fund established pursuant to section 321-
4 234;

5 (3) Section 245-3(a)(7), after September 30, 2008, and
6 prior to July 1, 2009:

7 (A) 2.0 cents per cigarette shall be deposited to the
8 credit of the Hawaii cancer research special
9 fund, established pursuant to section 304A-2168,
10 for research and operating expenses and for
11 capital expenditures;

12 (B) 0.5 cents per cigarette shall be deposited to the
13 credit of the trauma system special fund
14 established pursuant to section 321-22.5;

15 (C) 0.25 cents per cigarette shall be deposited to
16 the credit of the community health centers
17 special fund established pursuant to section 321-
18 1.65; and

19 (D) 0.25 cents per cigarette shall be deposited to
20 the credit of the emergency medical services



1 special fund established pursuant to section 321-
2 234;

3 (4) Section 245-3(a)(8), after June 30, 2009, and prior to
4 July 1, 2013:

5 (A) 2.0 cents per cigarette shall be deposited to the
6 credit of the Hawaii cancer research special
7 fund, established pursuant to section 304A-2168,
8 for research and operating expenses and for
9 capital expenditures;

10 (B) 0.75 cents per cigarette shall be deposited to
11 the credit of the trauma system special fund
12 established pursuant to section 321-22.5;

13 (C) 0.75 cents per cigarette shall be deposited to
14 the credit of the community health centers
15 special fund established pursuant to section 321-
16 1.65; and

17 (D) 0.5 cents per cigarette shall be deposited to the
18 credit of the emergency medical services special
19 fund established pursuant to section 321-234;

20 (5) Section 245-3(a)(11), after June 30, 2013, and prior
21 to July 1, 2015:



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- 1 (A) 2.0 cents per cigarette shall be deposited to the
2 credit of the Hawaii cancer research special
3 fund, established pursuant to section 304A-2168,
4 for research and operating expenses and for
5 capital expenditures;
- 6 (B) 1.5 cents per cigarette shall be deposited to the
7 credit of the trauma system special fund
8 established pursuant to section 321-22.5;
- 9 (C) 1.25 cents per cigarette shall be deposited to
10 the credit of the community health centers
11 special fund established pursuant to section 321-
12 1.65; and
- 13 (D) 1.25 cents per cigarette shall be deposited to
14 the credit of the emergency medical services
15 special fund established pursuant to section 321-
16 234; [~~and~~]
- 17 (6) Section 245-3(a)(11), after June 30, 2015, and
18 thereafter:
- 19 (A) 2.0 cents per cigarette shall be deposited to the
20 credit of the Hawaii cancer research special
21 fund, established pursuant to section 304A-2168,



1 for research and operating expenses and for
2 capital expenditures;

3 (B) 1.125 cents per cigarette, but not more than
4 \$7,400,000 in a fiscal year, shall be deposited
5 to the credit of the trauma system special fund
6 established pursuant to section 321-22.5;

7 (C) 1.25 cents per cigarette, but not more than
8 \$8,800,000 in a fiscal year, shall be deposited
9 to the credit of the community health centers
10 special fund established pursuant to section 321-
11 1.65; and

12 (D) 1.25 cents per cigarette, but not more than
13 \$8,800,000 in a fiscal year, shall be deposited
14 to the credit of the emergency medical services
15 special fund established pursuant to section 321-
16 234[-]; and

17 (7) Section 245-3(a)(14), after September 30, 2023, and
18 thereafter:

19 (A) \$ _____ shall be deposited to the credit of
20 the trauma system special fund established
21 pursuant to section 321-22.5;



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1 (B) \$ _____ shall be deposited to the credit of
 2 the community health centers special fund
 3 established pursuant to section 321-1.65;

4 (C) \$ _____ shall be deposited to the credit of
 5 the emergency medical services special fund
 6 established pursuant to section 321-234; and

7 (D) \$ _____ shall be deposited to the credit of
 8 the tobacco enforcement special fund established
 9 pursuant to section 28-15.

10 The department shall provide an annual accounting of these
 11 dispositions to the legislature."

12 SECTION 6. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval.

15

INTRODUCED BY: 

JAN 25 2023



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Report Title:

Taxation; Electronic Smoking Devices; Tobacco Products; Tobacco Enforcement Special Fund

Description:

Includes electronic smoking devices within the definition of "tobacco products", as used in the cigarette tax and tobacco tax law. Establishes a tax of ten per cent for the wholesale price for electronic smoking devices. Allocates a portion of funds collected on excise taxes on electronic smoking devices to the trauma system special fund, community health centers special fund, emergency medical services special fund, and tobacco enforcement special fund. Permits funds in the tobacco enforcement special fund to be used to enforce provisions prohibiting the sale and distribution of electronic smoking devices to, and possession or use of electronic smoking devices by, persons under the age of twenty-one.

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

