

JAN 16 2025

A BILL FOR AN ACT

RELATING TO TOBACCO PRODUCTS.

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

1 SECTION 1. The legislature finds that according to the
2 department of health, tobacco use is the leading cause of
3 preventable death and disease in the State. Tobacco use in
4 Hawai'i kills 1,400 adults and contributes to 21,000 premature
5 deaths in children and youth annually. Tobacco use also costs
6 each Hawai'i resident household \$849 in state and federal taxes,
7 while state health care costs directly attributable to smoking
8 exceed half a billion dollars each year. Despite these harms,
9 three per cent of high school students in the state smoke
10 cigarettes, and nearly fifteen per cent report using e-
11 cigarettes, according to the Truth Initiative's 2023 Hawai'i
12 factsheet.

13 The legislature further finds that many jurisdictions are
14 responding to the lifelong health risks posed by nicotine
15 products by enacting "nicotine-free generation" policies. Since
16 Brookline, Massachusetts, became the first local government in
17 the United States to impose such a restriction in 2021, a number



1 of other municipalities have followed suit. Similar legislation
2 has been proposed in several states as well. In the United
3 Kingdom, a bill seeking to impose such restrictions at the
4 national level is currently making its way through Parliament.

5 The legislature also finds that a prohibition based on a
6 person's date of birth is fair to everyone -- those who have not
7 yet attained the age of twenty-one and cannot presently purchase
8 tobacco will never be able to buy it, while the right to
9 purchase tobacco will remain available to those who are legally
10 permitted to do so and who may have already formed addictive
11 habits as a result. This approach is also fair to tobacco
12 vendors, as the gradual nature of the prohibition provides them
13 time to adjust their business models to account for declining
14 tobacco sales.

15 Accordingly, the purpose of this Act is to create an
16 incremental prohibition on tobacco products and electronic
17 smoking devices by restricting their sale, possession,
18 furnishing, or consumption in a public place to people born
19 after January 1, 2005.

20 SECTION 2. Section 245-16, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) This section shall not apply to the shipment of
2 cigarettes if any of the following conditions are met:

3 (1) The cigarettes are exempt from taxes as provided by
4 section 245-3(b) or are otherwise exempt from the
5 applicability of this chapter as provided by section
6 245-62;

7 (2) All applicable Hawaii taxes on the cigarettes are paid
8 in accordance with the requirements of this chapter;
9 or

10 (3) The person or entity engaged in the business of
11 selling, advertising, or offering cigarettes for sale
12 and transfer or shipment:

13 (A) Has fully complied with all of the requirements
14 of chapter 10A (commencing with section 375) of
15 title 15 of the United States Code, otherwise
16 known as the Jenkins Act; and

17 (B) Includes on the outside of the shipping container
18 an externally visible and easily legible notice
19 located on the same side of the shipping
20 container as the address to which the shipping
21 container is delivered stating as follows:



1 "CIGARETTES: HAWAII LAW PROHIBITS THE SALE OF
 2 CIGARETTES TO INDIVIDUALS [~~UNDER TWENTY ONE YEARS~~
 3 ~~OF AGE~~] BORN ON OR AFTER JANUARY 1, 2005, AND
 4 REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES.
 5 YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE
 6 UNPAID TAXES ON THESE CIGARETTES."

7 SECTION 3. Section 321-212, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 "[+]§321-212[+] **Tobacco products; possession or**
 10 **consumption prohibited.** Possession or consumption of a tobacco
 11 product by a person [~~under twenty one years of age~~] born on or
 12 after January 1, 2005, in a public place shall be prohibited."

13 SECTION 4. Section 321-213, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 "[+]§321-213[+] **Exemptions.** This part shall not apply to:

- 16 (1) Any person [~~under twenty one years of age, with~~
 17 ~~parental authorization,~~] born on or after January 1,
 18 2005, who is participating in a controlled purchase as
 19 part of a law enforcement activity or a study
 20 authorized by the department of health under the
 21 supervision of law enforcement to determine the level



1 of incidence of tobacco sales to persons [~~under~~
2 ~~twenty-one years of age;~~] born on or after January 1,
3 2005; provided that if the person is under eighteen
4 years of age, the person shall have parental
5 authorization to participate in the law enforcement
6 activity or study; or

7 (2) Possession of tobacco products by a person [~~under~~
8 ~~twenty-one years of age]~~ born on or after January 1,
9 2005, in the course of delivery, pursuant to the
10 direction of the person's employer lawfully engaged in
11 business necessitating the delivery."

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

14 **"§712-1258 Tobacco products and electronic smoking**
15 **devices; persons [~~under twenty-one years of age.]~~ born on or**
16 **after January 1, 2005.** (1) It shall be unlawful to sell or
17 furnish a tobacco product in any shape or form or an electronic
18 smoking device to a person [~~under twenty-one years of age.]~~ born
19 on or after January 1, 2005.

20 (2) All persons engaged in the retail sale of tobacco
21 products or electronic smoking devices shall check the



1 identification of tobacco product or electronic smoking device
2 purchasers to establish the [~~age~~] date of birth of the purchaser
3 if the purchaser reasonably appears to be [~~under twenty seven~~
4 ~~years of age.~~] born on or after January 1, 1999.

5 (3) It shall be an affirmative defense that the seller of
6 a tobacco product or an electronic smoking device to a person
7 [~~under twenty one years of age~~] born on or after January 1,
8 2005, in violation of this section had requested, examined, and
9 reasonably relied upon a photographic identification from the
10 person establishing that person's [~~age as at least twenty one~~
11 ~~years of age prior to~~] date of birth as before January 1, 2005,
12 before selling the person a tobacco product or an electronic
13 smoking device. The failure of a seller to request and examine
14 photographic identification from a person [~~under twenty one~~
15 ~~years of age prior to~~] born on or after January 1, 2005, before
16 the sale of a tobacco product or an electronic smoking device to
17 the person shall be construed against the seller and form a
18 conclusive basis for the seller's violation of this section.

19 (4) Signs using the statement, "The sale of tobacco
20 products or electronic smoking devices to persons [~~under twenty-~~
21 ~~one~~] born on or after January 1, 2005, is prohibited", shall be



1 posted on or near any vending machine in letters at least one-
2 half inch high and at or near the point of sale of any other
3 location where tobacco products or electronic smoking devices
4 are sold in letters at least one-half inch high.

5 (5) It shall be unlawful for a person [~~under twenty one~~
6 ~~years of age~~] born on or after January 1, 2005, to purchase or
7 possess any tobacco product or electronic smoking device, as
8 those terms are defined in subsection (7). This provision does
9 not apply if a person [~~under the age of twenty one, with~~
10 ~~parental authorization,~~] born on or after January 1, 2005, is
11 participating in a controlled purchase as part of a law
12 enforcement activity or a study authorized by the department of
13 health under the supervision of law enforcement to determine the
14 level of incidence of tobacco or electronic smoking devices
15 sales to persons [~~under twenty one years of age.~~] born on or
16 after January 1, 2005; provided that if the person is under
17 eighteen years of age, the person shall have parental
18 authorization to participate in the law enforcement activity or
19 study.

20 (6) Any person who violates subsection (1) or (4), or
21 both, shall be fined \$500 for the first offense. Any subsequent



1 offenses shall subject the person to a fine not less than \$500
2 nor more than \$2,000. Any person [~~under twenty-one years of~~
3 ~~age~~] born on or after January 1, 2005, who violates
4 subsection (5) shall be fined \$10 for the first offense. Any
5 subsequent offense shall subject the violator to a fine of \$50,
6 no part of which shall be suspended, or the person shall be
7 required to perform not less than forty-eight hours nor more
8 than seventy-two hours of community service during hours when
9 the person is not employed and is not attending school. Any
10 tobacco product or electronic smoking device, as those terms are
11 defined in subsection (7), in the person's possession at the
12 time of violation of subsection (5) shall be seized, summarily
13 forfeited to the State, and destroyed by law enforcement
14 following the conclusion of an administrative or judicial
15 proceeding finding that a violation of subsection (5) has been
16 committed. The procedures set forth in chapter 712A shall not
17 apply to this subsection.

18 (7) For the purposes of this section:

19 "Electronic smoking device" means any electronic product
20 that can be used to aerosolize and deliver nicotine or other
21 substances to the person inhaling from the device, including but



1 not limited to an electronic cigarette, electronic cigar,
2 electronic cigarillo, or electronic pipe, and any cartridge or
3 other component of the device or related product.

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

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

17 SECTION 7. This Act shall take effect on January 1, 2026.

18

INTRODUCED BY: _____

Karl Rhoads



S.B. NO. 429

Report Title:

Tobacco Products; Electronic Smoking Devices; Incremental Prohibition; Date of Birth Restriction

Description:

Creates an incremental prohibition on tobacco products and electronic smoking devices by restricting their sale, possession, furnishing, or consumption in a public place to people born after 1/1/2005. Effective 1/1/2026.

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

