

ACT 316

S.B. NO. 2961

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that smoking is the largest cause of morbidity and mortality in the nation that can be easily prevented. Beyond harming individual health, use of tobacco in the United States costs about \$7.18 for each pack of cigarettes sold in terms of health care expenses and decreased worker productivity. In Hawaii, this amounts to \$526,000,000 in health care expenses and productivity losses.

Smoking is also associated with cancer, heart disease, stroke, emphysema, bronchitis, low birth-weight babies, sudden infant death syndrome, increased frequency of colds and ear infections, and asthma. Asthma is the largest single cause of school absenteeism in the state.

The legislature further finds that increasing the tax on cigarettes is the most effective way to prevent young people from becoming daily smokers. It has been estimated that a ten per cent increase in the price of cigarettes decreases the number of youngsters who start smoking by three to seven per cent in the long-term. The estimated decrease for adults is three per cent. Hawaii was once amongst the nation's leaders in cigarette taxes. However, as of January 2005, the State ranks only tenth in the nation in imposing \$1.40 in tax per pack of cigarettes (7.00 cents per cigarette in a twenty-cigarette pack). Rhode Island ranks first with \$2.46 per pack, New Jersey ranks second with \$2.40 per pack, Michigan ranks third at \$2.00, Montana is fourth with \$1.70, and Alaska is fifth at \$1.60 per pack. Tobacco taxes can be viewed as a user tax affecting 17.3 per cent of Hawaii adults who are smokers and who do not pay the full societal costs of their use of tobacco.

The legislature further finds that allocating a significant percentage of tobacco tax revenues to programs that strive to maintain Hawaii's health such as the cancer research center of Hawaii, Hawaii's emergency medical services, critically needed trauma centers, and the community health centers are the most appropriate and effective use of such revenues to help the greatest number of people in our island-state.

The purpose of this bill is to discourage smoking, especially by young people, by increasing the tax on cigarettes, to allocate funds to effective sources in the prevention and treatment of disease and injury, and to appropriate money for these purposes.

SECTION 2. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§304- Hawaii cancer research special fund. (a) There is established within the state treasury a special fund to be known as the Hawaii cancer research special fund to be administered and expended by the University of Hawaii.

(b) The moneys in the special fund shall be used by the University of Hawaii for the cancer research center of Hawaii's research and operating expenses.

(c) Moneys collected pursuant to section 245-15 shall be deposited into the special fund.”

SECTION 3. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§321- Community health centers special fund. (a) There is established within the state treasury a special fund to be known as the community health centers special fund to be administered and expended by the department of health.

(b) The moneys in the special fund shall be used by the department of health for the operations of federally qualified health centers.

(c) Moneys collected pursuant to section 245-15 shall be deposited into the special fund.”

SECTION 4. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“§36-27 Transfers from special funds for central service expenses. Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees’ retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Hawaii health systems corporation special funds;
- (14) Tourism special fund established under section 201B-11;
- (15) Universal service fund established under chapter 269;
- (16) Integrated tax information management systems special fund under section 231-3.2;
- (17) Emergency and budget reserve fund under section 328L-3;
- (18) Public schools special fees and charges fund under section 302A-1130(f);
- (19) Sport fish special fund under section 187A-9.5;
- (20) Neurotrauma special fund under section 321H-4;
- (21) Deposit beverage container deposit special fund under section 342G-104;
- (22) Glass advance disposal fee special fund established by section 342G-82;
- (23) Center for nursing special fund under section 304D-5;
- (24) Passenger facility charge special fund established by section 261-5.5;
- (25) Solicitation of funds for charitable purposes special fund established by section 467B-15;
- (26) Land conservation fund established by section 173A-5; [and]
- (27) Court interpreting services revolving fund [section 607-1.5]¹;
- (28) Hawaii cancer research special fund;
- (29) Community health centers special fund; and
- (30) Emergency medical services special fund.²⁷”

SECTION 5. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
 - (2) Special out-of-school time instructional program fund under section 302A-1310;
 - (3) School cafeteria special funds of the department of education;
 - (4) Special funds of the University of Hawaii;
 - (5) State educational facilities improvement special fund;
 - (6) Special funds established by section 206E-6;
 - (7) Aloha Tower fund created by section 206J-17;
 - (8) Funds of the employees’ retirement system created by section 88-109;
 - (9) Unemployment compensation fund established under section 383-121;
 - (10) Hawaii hurricane relief fund established under chapter 431P;
 - (11) Convention center enterprise special fund established under section 201B-8;
 - (12) Hawaii health systems corporation special funds;
 - (13) Tourism special fund established under section 201B-11;
 - (14) Universal service fund established under chapter 269;
 - (15) Integrated tax information management systems special fund under section 231-3.2;
 - (16) Emergency and budget reserve fund under section 328L-3;
 - (17) Public schools special fees and charges fund under section 302A-1130(f);
 - (18) Sport fish special fund under section 187A-9.5;
 - (19) Neurotrauma special fund under section 321H-4;
 - (20) Center for nursing special fund under section 304D-5;
 - (21) Passenger facility charge special fund established by section 261-5.5;
- [and]
- (22) Court interpreting services revolving fund [section 607-1.5]¹; and
 - (23) Hawaii cancer research special fund;
 - (24) Community health centers special fund; and
 - (25) Emergency medical services special fund.^{2”}

SECTION 6. Section 321-234, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Fees remitted pursuant to section 249-31, cigarette tax revenues designated under section 245-15, interest and investment earnings attributable to the moneys in the special fund, legislative appropriations, and grants, donations, and contributions from private or public sources for the purposes of the fund, shall be deposited into the special fund.”

SECTION 7. Section 245-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

- (1) An excise tax equal to 5.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 1998, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (2) An excise tax equal to 6.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after September 30, 2002, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;

- (3) An excise tax equal to 6.50 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2003, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (4) An excise tax equal to 7.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 2004, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; ~~and~~
- (5) An excise tax equal to 8.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2006, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (6) An excise tax equal to 9.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2007, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (7) An excise tax equal to 10.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2008, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (8) An excise tax equal to 11.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2009, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (9) An excise tax equal to 12.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2010, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer;
- (10) An excise tax equal to 13.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer on and after September 30, 2011, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; and
- ~~(8)~~³ (11) An excise tax equal to forty per cent of the wholesale price of each article or item of tobacco products sold by the wholesaler or dealer, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

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

SECTION 8. Section 245-15, Hawaii Revised Statutes, is amended to read as follows:

“§245-15 Disposition of revenues. All moneys collected pursuant to this chapter shall be paid into the state treasury as state realizations to be kept and accounted for as provided by law[-]; provided that, of the moneys collected under the tax imposed pursuant to section 245-3(a) that represents the difference between the 7.0 cents for each cigarette sold, used, or possessed by a wholesaler or dealer under section 245-3(a)(1) and the amount of tax imposed and collected on each cigarette sold, used, or possessed by a wholesaler or dealer under section 245-3(a) (2), (3), (4), (5), (6), and (7):

- (1) From September 30, 2006 to September 29, 2007, 1.0 cent shall be deposited to the credit of the Hawaii cancer research special fund,

- established pursuant to section 304- , for research and operating expenses;
- (2) From September 30, 2007 to September 29, 2008:
- (A) 1.5 cents shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304- , for research and operating expenses; and
- (B) 0.25 cents of the moneys shall be deposited to the credit of the trauma system special fund established pursuant to section 321- ;
- (C) 0.25 cents of the moneys shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
- (3) From September 30, 2008 to September 29, 2009:
- (A) 2.0 cents shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304- , for research and operating expenses; and
- (B) 0.5 cents of the moneys shall be deposited to the credit of the trauma system special fund established pursuant to section 321- ;
- (C) 0.25 cents of the moneys shall be deposited to the credit of the community health centers special fund;
- (D) 0.25 cents of the moneys shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
- (4) From September 30, 2009 to September 29, 2010:
- (A) 2.0 cents shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304- , for research and operating expenses; and
- (B) 0.75 cents of the moneys shall be deposited to the credit of the trauma system special fund established pursuant to section 321- ;
- (C) 0.75 cents of the moneys shall be deposited to the credit of the community health centers special fund;
- (D) 0.5 cents of the moneys shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
- (5) From September 30, 2010 to September 29, 2011:
- (A) 2.0 cents shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304- , for research and operating expenses; and
- (B) 1.0 cent of the moneys shall be deposited to the credit of the trauma system special fund established pursuant to section 321- ;
- (C) 1.0 cent of the moneys shall be deposited to the credit of the community health centers special fund;
- (D) 1.0 cent of the moneys shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
- (6) From September 30, 2011 and thereafter:
- (A) 2.0 cents shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section 304- , for research and operating expenses; and

- (B) 1.5 cents of the moneys shall be deposited to the credit of the trauma system special fund established pursuant to section 321- ;
- (C) 1.25 cents of the moneys shall be deposited to the credit of the community health centers special fund;
- (D) 1.25 cents of the moneys shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;

The department shall provide an annual accounting of these dispositions to the legislature.”

SECTION 9. There is appropriated out of the Hawaii cancer research special fund the sum of \$11,000,000, or so much thereof as may be necessary for fiscal year 2006-2007 for the research and operating expenses of the Cancer Research Center of Hawaii. The sum appropriated shall be expended by the University of Hawaii.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.⁴

SECTION 11. This Act shall take effect on July 1, 2006; provided that if the trauma system special fund is not established by the legislature in H.B. 3142⁵ in the regular session of 2006, the amounts designated to be paid into the trauma system special fund shall be deposited into the general fund.

(Became law on July 11, 2006, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

Notes

- 1. So in original.
- 2. Material after this paragraph is missing.
- 3. Should be “(5)”.
- 4. Edited pursuant to HRS §23G-16.5.
- 5. Act 305.