

**ACT 227**

H.B. NO. 672

A Bill for an Act Relating to Health.

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

**PART I**

**SECTION 1.** The legislature finds that according to a 2009 study, frequent visits to stores selling tobacco and a greater awareness of cigarettes sold in stores increased the likelihood of teenagers' susceptibility to initiating smoking, experimenting with smoking, or becoming smokers.

The State has a compelling interest in reducing the number of children and teenagers in Hawaii who smoke.

The purpose of this part is to reduce the number of minors and youth who smoke by prohibiting the sale of electronic smoking devices to minors and the purchase of these items by minors.

SECTION 2. Section 709-908, Hawaii Revised Statutes, is amended to read as follows:

**“§709-908 Tobacco~~s~~ and electronic smoking devices prohibited; minors.**

(1) It shall be unlawful to sell or furnish tobacco in any shape or form, including chewing tobacco and snuff, or an electronic smoking device to a minor under eighteen years of age.

(2) Signs using the statement, “The sale of tobacco products or electronic smoking devices to persons under eighteen is prohibited”, shall be posted on or near any vending machine in letters at least one-half inch high and at or near the point of sale of any other location where tobacco products or electronic smoking devices are sold in letters at least one-half inch high.

(3) It shall be unlawful for a minor under eighteen years of age to purchase any tobacco product, as described under subsection (1)~~]-~~, or an electronic smoking device, as described under subsection (5). This provision does not apply if a person under the age of eighteen, with parental authorization, is participating in a controlled purchase as part of a law enforcement activity or a study authorized by the department of health under the supervision of law enforcement to determine the level of incidence of tobacco or electronic smoking devices sales to minors.

(4) Any person who violates subsection (1) or (2), or both, shall be fined \$500 for the first offense. Any subsequent offenses shall subject the person to a fine not less than \$500 nor more than \$2,000. Any minor under eighteen years of age who violates subsection (3) shall be fined \$10 for the first offense. Any subsequent offense shall subject the violator to a fine of \$50, no part of which shall be suspended, or the person shall be required to perform not less than forty-eight hours nor more than seventy-two hours of community service during hours when the person is not employed and is not attending school.

(5) For the purposes of this section:

“Electronic smoking device” means any electronic product that can be used to simulate smoking in the delivery of nicotine or other substances to the person inhaling from the device, including but not limited to an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe, and any cartridge or other component of the device or related product.”

PART II

SECTION 3. Chapter 328J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§328J- Placement of cigarettes and tobacco products.** (a) Except as otherwise provided under this section, a retailer may sell cigarettes, smokeless tobacco, and all other tobacco products only in a direct, face-to-face exchange between the retailer and the consumer. Examples of methods of sale that are not permitted include vending machines and self-service displays.

(b) This section shall not apply to:

- (1) A duty-free sales enterprise selling duty-free merchandise in accordance with the provisions of Title 19 United States Code section 1555(b), and any implementing regulations; and
- (2) Retail tobacco stores, bars, or any other establishment for which the minimum age for admission is eighteen.”

PART III

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval; provided that section 3 of this Act shall take effect on July 1, 2014.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.