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# A BILL FOR AN ACT

RELATING TO CHAPTER 245, HAWAII REVISED STATUTES.

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

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PART I

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SECTION 1. The legislature finds that tobacco use is the

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single most preventable cause of disease, disability, and death

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in the United States. Tobacco use continues to be a problem in

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Hawaii, causing approximately one thousand four hundred deaths

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per year among adults. An estimated twenty-one thousand

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children in Hawaii currently under the age of eighteen will

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ultimately die prematurely from smoking. Tobacco use poses a

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heavy burden on Hawaii's health care system and economy. Each

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year, smoking costs approximately \$526,000,000 in direct health

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care expenditures and \$387,300,000 in lost productivity in the

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State.

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The legislature further finds that tobacco products are

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addictive and inherently dangerous, causing many different types

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of cancer, heart disease, and other serious illnesses. Hawaii

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has a substantial interest in reducing the number of individuals

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of all ages who use tobacco products, and a particular interest



1 in protecting adolescents from tobacco dependence and the  
2 illnesses and premature death associated with tobacco use.

3 The legislature additionally finds that electronic smoking  
4 devices, also known as e-cigarettes, are battery-operated  
5 products designed to turn highly addictive nicotine, flavor, and  
6 other chemicals into an aerosol that is inhaled by the user.  
7 Consumers may choose from varying strengths of e-liquid nicotine  
8 as well as liquids consisting of different flavors. A 2015  
9 study of more than fifty-eight million e-cigarettes found that  
10 ninety-nine per cent contained nicotine, whether or not they  
11 were labeled as "zero nicotine" or "nicotine-free". The  
12 legislature is concerned that labeling alone is not an effective  
13 measure of nicotine content.

14 The electronic smoking device industry, including the  
15 production of e-liquids, is growing rapidly. According to a  
16 2016 report from the United States Surgeon General, e-cigarette  
17 use amongst the nation's youth and young adults has become a  
18 major public health concern. The Surgeon General's report noted  
19 that e-cigarette use has increased considerably in recent years,  
20 growing an astounding nine hundred per cent among high school  
21 students from 2011 to 2015. More than three million middle



1 school and high school students were users of e-cigarettes in  
2 2015. Furthermore, e-cigarettes are now the most commonly used  
3 tobacco product among youth, surpassing conventional cigarettes  
4 in 2014. E-cigarette use among youth and young adults is also  
5 strongly associated with the use of other tobacco products,  
6 including combustible tobacco products. Toxicologists have also  
7 warned that e-liquids pose significant risks to public health,  
8 particularly to children. According to the Surgeon General's  
9 report, if the contents of refill cartridges or bottles are  
10 consumed, ingestion of e-liquids containing nicotine can cause  
11 acute toxicity and possibly death. The Surgeon General's report  
12 also found that there are numerous policies and practices that  
13 can be implemented at the state and local levels to address  
14 electronic smoking device use among youth and young adults,  
15 including preventing access to e-cigarettes by youth,  
16 significant increases in tax and price of e-cigarettes, retail  
17 licensure, and regulation of e-cigarette marketing.

18 The legislature finds that the rapid growth of the  
19 electronic smoking device industry, including retail businesses  
20 selling electronic smoking devices or e-liquids, necessitates



1 further regulations to protect consumers, such as requiring  
2 retailers of e-liquids to obtain a retail tobacco permit.

3 The legislature notes that the federal Food and Drug  
4 Administration recently finalized a rule that expands its  
5 regulatory authority to all tobacco products, including  
6 electronic smoking devices, cigars, and hookah and pipe tobacco.  
7 However, the legislature also notes that there is currently no  
8 state tobacco tax attached to e-liquid, even though electronic  
9 smoking devices are now regulated as tobacco products. The  
10 legislature finds that states such as Indiana, Pennsylvania, and  
11 West Virginia tax e-liquids that may or may not contain  
12 nicotine. Furthermore, tobacco products other than cigarettes  
13 are currently taxed at a lower rate than cigarettes, even though  
14 their use carries similar health risks. Research has shown that  
15 increasing cigarette prices, such as through cigarette taxes,  
16 tends to reduce the rate of smoking by adult and youth smokers.  
17 However, the legislature is concerned that as the price of  
18 cigarettes increases, smokers may purchase less expensive  
19 tobacco products, such as electronic smoking devices or  
20 e-liquids.



1           Finally, the legislature concludes that there needs to be a  
2 tax on e-liquids and taxing these products as other tobacco  
3 products is the most equitable way to do so. Imposing a tax on  
4 e-liquids will also encourage users of e-liquids to quit,  
5 sustain cessation, prevent youth initiation, and reduce  
6 consumption among those who continue to use them.

7           The purpose of this part is to:

- 8           (1) Make unlawful the shipment of tobacco products to  
9           anyone other than a licensee;
- 10          (2) Make unlawful the transport of tobacco products  
11          ordered through remote sale to anyone other than a  
12          licensee;
- 13          (3) Include e-liquid within the definition of "tobacco  
14          products", as used in the cigarette tax and tobacco  
15          tax law, thereby:
- 16               (A) Subjecting e-liquid to the excise tax on tobacco  
17               products;
- 18               (B) Requiring retailers of e-liquid to obtain a  
19               retail tobacco permit to sell, possess, keep,  
20               acquire, distribute, or transport e-liquid;



1 (C) Prohibiting persons from engaging in the business  
2 of wholesaling or dealing e-liquid without first  
3 obtaining a license from the department of  
4 taxation; and

5 (D) Applying other requirements of chapter 245,  
6 Hawaii Revised Statutes;

7 (4) Increase the license fee for persons engaged as a  
8 wholesaler or dealer of cigarettes and tobacco  
9 products; and

10 (5) Increase the retail tobacco permit fee for retailers  
11 engaged in the retail sale of cigarettes and tobacco  
12 products.

13 SECTION 2. Chapter 245, Hawaii Revised Statutes, is  
14 amended by adding two new sections to be appropriately  
15 designated and to read as follows:

16 "§245- Unlawful shipment of tobacco products; penalty;  
17 reports; liability for unpaid taxes. (a) A person or entity  
18 commits the offense of unlawful shipment of tobacco products if  
19 the person or entity is engaged in the business of selling  
20 tobacco products and ships or causes to be shipped, any tobacco



1 products ordered or purchased through a remote sale, to a person  
2 or entity in the State that is not:

3 (1) A licensee under this chapter; or

4 (2) A person or entity transporting tobacco products, as  
5 defined in section 245-1, under federal internal  
6 revenue bond or customs control that are non-tax-paid  
7 under title 26 of the United States Code, or an  
8 operator of a customs bonded warehouse pursuant to  
9 title 19 United States Code section 1311 or 1555.

10 (b) This section shall not apply to the shipment of  
11 tobacco products if any of the following conditions are met:

12 (1) The tobacco products are exempt from taxes as provided  
13 by section 245-3(b);

14 (2) The person or entity engaged in the business of  
15 selling, advertising, or offering tobacco products for  
16 sale and transfer or shipment includes on the outside  
17 of the shipping container an externally visible and  
18 easily legible notice located on the same side of the  
19 shipping container as the address to which the  
20 shipping container is delivered stating as follows:



1           "HAWAII LAW PROHIBITS THE SALE OF CIGARETTES OR  
2           TOBACCO PRODUCTS TO INDIVIDUALS UNDER TWENTY-ONE YEARS  
3           OF AGE AND REQUIRES THE PAYMENT OF ALL APPLICABLE  
4           TAXES. YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE  
5           UNPAID TAXES ON THESE CIGARETTES AND TOBACCO  
6           PRODUCTS."; or

7           (3) All applicable Hawaii taxes on the tobacco products  
8           are paid in accordance with the requirements of this  
9           section.

10          (c) Any person or entity who knowingly violates this  
11          section shall be guilty of a misdemeanor. Each shipment that  
12          violates or fails to comply with this section shall be a  
13          separate and distinct violation.

14          (d) Notwithstanding the existence of other remedies at  
15          law, any person or entity that purchases, uses, controls, or  
16          possesses any tobacco products for which the applicable taxes  
17          imposed under title 14, Hawaii Revised Statutes, have not been  
18          paid, shall be liable for the applicable taxes, plus any penalty  
19          and interest as provided for by law.

20          (e) In addition to, or in lieu of, any other civil or  
21          criminal remedy provided by law, a person or entity who has



1 violated this section is subject to a civil penalty of up to  
2 \$5,000 for each violation. The attorney general may initiate a  
3 civil action seeking recovery of the penalties.

4 (f) For the purposes of this section:

5 "Internet sale" means any internet website or  
6 electronically networked means that solicits or sells cigarettes  
7 or tobacco products, including electronic smoking devices,  
8 regardless of whether cash is actually paid for the product.

9 "Licensee" means a person or entity that is on a list of  
10 authorized licensees published by the department.

11 "Mail order" means any means of soliciting cigarettes or  
12 tobacco products, including electronic smoking devices, that are  
13 set forth in a catalog or other printed solicitation of a  
14 business that is generally available to the public.

15 "Remote sale" means a sale that is conducted by mail order,  
16 telephone, computer, internet sale, or any means other than a  
17 physical storefront.

18 §245- Delivery sales. (a) No person may conduct a  
19 delivery sale or otherwise ship or transport, or cause to be  
20 shipped or transported, any electronic smoking device in



1 connection with a delivery sale to any person under the age of  
2 twenty-one.

3 (b) A person who makes delivery sales must not accept a  
4 purchase or order from any person without first obtaining the  
5 full name, birth date, and address of that person and verifying  
6 the purchaser's age by:

7 (1) An independently operated third-party database or  
8 aggregate of databases that are regularly used by  
9 government and businesses for the purpose of age and  
10 identity verification and authentication;

11 (2) Receiving a copy of a government issued identification  
12 card from the purchaser; or

13 (3) Requiring age and signature verification in the  
14 shipment process and upon and before actual delivery.

15 (c) The purchaser must certify their age before completing  
16 the order.

17 (d) Any person who violates this section shall be fined  
18 \$500 for the first offense. Any subsequent offenses shall be a  
19 fine of no less than \$500 but no more than \$2,000. Any person  
20 under twenty-one years of age who violates this section shall be  
21 finned \$10 for the first offense. Any subsequent offense shall



1 be a fine of \$50, no part of which shall be suspended, or the  
2 person shall be required to perform no less than forty-eight  
3 hours but no more than seventy-two hours of community service  
4 during hours when the person is not employed and is not  
5 attending school.

6 (e) The department shall not adopt rules prohibiting  
7 delivery sales.

8 (f) For the purposes of this section:

9 "Delivery sale" means any sale of a an electronic smoking  
10 device to a purchaser in this State where either:

11 (1) The purchaser submits the order for sale by means of a  
12 telephonic or other method of voice transmission,  
13 mails or any other delivery service, or the internet  
14 or other online service; or

15 (2) The electronic smoking device is delivered by use of  
16 the mail or of a delivery service. The foregoing  
17 sales of electronic smoking devices constitute a  
18 delivery sale regardless of whether the seller is  
19 located within or without this state.

20 "Electronic smoking device" means any electronic product  
21 that can be used to aerosolize and deliver nicotine or other



1 substances to the person inhaling from the device, including but  
2 not limited to an electronic cigarette, electronic cigar,  
3 electronic cigarillo, or electronic pipe, and any cartridge or  
4 other component of the device or related product."

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

7 1. By adding a new definition to be appropriately inserted  
8 and to read:

9 "E-liquid" means any liquid or like substance which may or  
10 may not contain nicotine that is designed or intended to be used  
11 in an electronic smoking device, as defined in section 328J-1,  
12 whether or not packaged in a cartridge or other container. E-  
13 liquid shall not include prescription drugs; medical cannabis or  
14 manufactured cannabis products; or medical devices used to  
15 inhale or ingest prescription drugs, including devices sold at a  
16 licensed medical cannabis dispensary."

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

19 "Tobacco products" means tobacco in any form, other than  
20 cigarettes or little cigars, that is prepared or intended for  
21 consumption or for personal use by humans, including large



1 cigars and any substitutes thereof other than cigarettes that  
2 bear the semblance thereof, snuff, chewing or smokeless tobacco,  
3 [~~and~~] smoking or pipe tobacco[~~-~~], and e-liquid."

4 SECTION 4. Section 245-2, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) The license shall be issued by the department upon  
7 application therefor, in [~~such~~] a form and manner as shall be  
8 required by rule of the department, and the payment of a fee of  
9 [~~\$2.50-~~] \$250, and shall be renewable annually on July 1 for the  
10 twelve months ending the succeeding June 30."

11 SECTION 5. Section 245-2.5, Hawaii Revised Statutes, is  
12 amended by amending subsection (c) to read as follows:

13 "(c) The retail tobacco permit shall be issued by the  
14 department upon application by the retailer in the form and  
15 manner prescribed by the department, and the payment of a fee of  
16 [~~\$20-~~] \$50. Permits shall be valid for one year, from December  
17 1 to November 30, and renewable annually. Whenever a retail  
18 tobacco permit is defaced, destroyed, or lost, or the permittee  
19 relocates the permittee's business, the department may issue a  
20 duplicate retail tobacco permit to the permittee for a fee of \$5  
21 per copy."





- 1 after June 30, 2003, whether or not sold at wholesale,  
2 or if not sold then at the same rate upon the use by  
3 the wholesaler or dealer;
- 4 (4) An excise tax equal to 7.00 cents for each cigarette  
5 sold, used, or possessed by a wholesaler or dealer  
6 after June 30, 2004, whether or not sold at wholesale,  
7 or if not sold then at the same rate upon the use by  
8 the wholesaler or dealer;
- 9 (5) An excise tax equal to 8.00 cents for each cigarette  
10 sold, used, or possessed by a wholesaler or dealer on  
11 and after September 30, 2006, whether or not sold at  
12 wholesale, or if not sold then at the same rate upon  
13 the use by the wholesaler or dealer;
- 14 (6) An excise tax equal to 9.00 cents for each cigarette  
15 sold, used, or possessed by a wholesaler or dealer on  
16 and after September 30, 2007, whether or not sold at  
17 wholesale, or if not sold then at the same rate upon  
18 the use by the wholesaler or dealer;
- 19 (7) An excise tax equal to 10.00 cents for each cigarette  
20 sold, used, or possessed by a wholesaler or dealer on  
21 and after September 30, 2008, whether or not sold at



- 1           wholesale, or if not sold then at the same rate upon  
2           the use by the wholesaler or dealer;
- 3           (8) An excise tax equal to 13.00 cents for each cigarette  
4           sold, used, or possessed by a wholesaler or dealer on  
5           and after July 1, 2009, 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           (9) An excise tax equal to 11.00 cents for each little  
9           cigar sold, used, or possessed by a wholesaler or  
10          dealer on and after October 1, 2009, whether or not  
11          sold at wholesale, or if not sold then at the same  
12          rate upon the use by the wholesaler or dealer;
- 13          (10) An excise tax equal to 15.00 cents for each cigarette  
14          or little cigar sold, used, or possessed by a  
15          wholesaler or dealer on and after July 1, 2010,  
16          whether or not sold at wholesale, or if not sold then  
17          at the same rate upon the use by the wholesaler or  
18          dealer;
- 19          (11) An excise tax equal to 16.00 cents for each cigarette  
20          or little cigar sold, used, or possessed by a  
21          wholesaler or dealer on and after July 1, 2011,



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

4           (12) An excise tax equal to           cents for each cigarette or  
5           little cigar sold, used, or possessed by a wholesaler  
6           or dealer on and after November 1, 2018, whether or  
7           not sold at wholesale, or if not sold then at the same  
8           rate upon the use by the wholesaler or dealer;

9           (13) An excise tax equal to seventy per cent of the  
10          wholesale price of each article or item of tobacco  
11          products, other than large cigars, sold by the  
12          wholesaler or dealer on and after September 30, 2009,  
13          whether or not sold at wholesale, or if not sold then  
14          at the same rate upon the use by the wholesaler or  
15          dealer; [and

16          ~~(13)~~] (14) An excise tax equal to           per cent of the  
17          wholesale price of each article or item of tobacco  
18          products, other than large cigars, sold by the  
19          wholesaler or dealer on and after July 1, 2018,  
20          whether or not sold at wholesale, or if not sold then





1           **§28-A Policy.** The registration of electronic smoking  
2 device retailers, as defined in section 28-B, is reasonably  
3 necessary to protect the health, safety, or welfare of consumers  
4 of electronic smoking devices and for the enforcement of the  
5 laws that regulate the sale of electronic smoking devices.

6           **§28-B Definitions.** As used in this part:

7           "Business location" or "place of business" means the entire  
8 premises occupied by a retailer of electronic smoking devices  
9 and shall include but is not limited to any store, stand,  
10 outlet, vehicle, cart, location, vending machine, or structure  
11 from which electronic smoking devices are sold or distributed to  
12 a consumer.

13           "Electronic smoking device" means any electronic product  
14 that can be used to aerosolize and deliver nicotine or other  
15 substances to the person inhaling from the device, including but  
16 not limited to an electronic cigarette, electronic cigar,  
17 electronic cigarillo, or electronic pipe, and any cartridge or  
18 other component of the device or related product.

19           "Entity" means one or more individuals, a company,  
20 corporation, a partnership, an association, or any other type of  
21 legal entity.



1 "Retail sale" or "electronic smoking device retailing"  
2 means the practice of selling electronic smoking devices to  
3 consumers.

4 **§28-C Electronic smoking device retailer registration**  
5 **unit.** There is established in the department of the attorney  
6 general the electronic smoking device retailer registration  
7 unit.

8 **§28-D Registration.** (a) Every entity with a place of  
9 business in the State that engages in the retail sale of  
10 electronic smoking devices shall register with the unit by  
11 providing all of the information required by this section.  
12 Registration shall not be approved unless all of the applicable  
13 provisions of this section have been met to the satisfaction of  
14 the unit.

15 (b) Registration information required by this section  
16 shall include:

17 (1) The name or names under which the entity conducts or  
18 will conduct business;

19 (2) The address of the principal place of business of the  
20 entity and the address of each place of business the  
21 entity maintains in this State;



- 1 (3) The entity's general excise tax number;
- 2 (4) A statement of ownership, which shall include the name  
3 of each person who, individually or acting in concert  
4 with any other person or persons, owns or controls,  
5 directly or indirectly, twenty-five per cent or more  
6 of the equity interests of the entity;
- 7 (5) An attestation that the entity is not in violation of  
8 the Federal Food, Drug, and Cosmetic Act, as amended  
9 by the Family Smoking Prevention and Tobacco Control  
10 Act (Tobacco Control Act) and its regulations, or has  
11 not received a warning letter from the U.S. Food &  
12 Drug Administration based on a compliance check  
13 inspection within thirty days of applying for  
14 registration.

15 **§28-E Certificate.** (a) Upon receipt of the registration  
16 information, the unit shall issue a certificate to the entity  
17 for each place of business where the entity will engage in  
18 electronic smoking device retailing.

19 (b) The unit may charge a registration fee not to exceed  
20 \$100 for each entity that registers.



1 (c) Registration under this section shall expire on June  
2 30 of each even-numbered year. Before June 30 of each even-  
3 numbered year, the unit shall mail a renewal application for  
4 registration to the address on record of the registrant. In  
5 connection with renewal of registration, a holder of a  
6 certificate shall provide all of the information required by  
7 section 28-D. Failure to renew a registration shall result in a  
8 civil penalty under section 28-H.

9 (d) The entity shall display the registration certificate  
10 in a conspicuous location in each place of business.

11 (e) The entity shall notify the unit within five days of  
12 receiving notice from the U.S. Food & Drug Administration that  
13 it is in violation of the Federal Food, Drug, and Cosmetic Act,  
14 as amended by the Family Smoking Prevention and Tobacco Control  
15 Act (Tobacco Control Act) and its regulations, and provide the  
16 unit with all material details related to the violation.

17 (f) The unit shall publish on the department's website a  
18 list of all entities that hold a certificate.

19 **§28-F Inspection.** (a) The unit may examine all records  
20 of any entity engaged in the business of electronic smoking  
21 device retailing to verify the accuracy of the information



1 provided for registration or to verify that an entity is selling  
2 electronic smoking devices without being registered. Every  
3 person in possession of any books, papers, and records, and the  
4 person's agents and employees, are directed and required to give  
5 the unit opportunities for examination of applicable records.

6 (b) The unit may inspect the operations, premises, and  
7 storage areas of any entity engaged in the retail sale of  
8 electronic smoking devices as necessary.

9 **§28-G Personnel.** The unit shall employ such attorneys,  
10 auditors, investigators, and other personnel as necessary to  
11 promote the effective and efficient conduct of the unit's  
12 activities.

13 **§28-H Civil penalty for failure to register.** An entity  
14 that fails to register with the unit within thirty days of  
15 engaging in the retail sale of electronic smoking devices shall  
16 be subject to a civil penalty of \$100 each day plus the costs of  
17 any investigation by the unit."

18 SECTION 9. Chapter 328J, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:



1           "§328J- Statewide concern. (a) Sales of cigarettes,  
2 tobacco products, and electronic smoking devices are a statewide  
3 concern. It is the intent of the legislature to regulate the  
4 sale of cigarettes, tobacco products, and electronic smoking  
5 devices in a uniform and exclusive manner.

6           (b) All local ordinances or regulations that regulate the  
7 sale of cigarettes, tobacco products, and electronic smoking  
8 devices are preempted, and existing local laws and regulations  
9 conflicting with this chapter are null and void.

10           (c) Nothing in this chapter shall be construed to limit a  
11 county's authority under section 328J-15."

12           SECTION 10. Section 328J-18, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "~~+~~§328J-18~~+~~ **Placement of cigarettes and tobacco**  
15 **products.** (a) Except as otherwise provided under this section,  
16 a retailer may sell cigarettes, smokeless tobacco, and all other  
17 tobacco products only in a direct, face-to-face exchange between  
18 the retailer and the consumer. Examples of methods of sale that  
19 are not permitted include vending machines and self-service  
20 displays.



1        (b) A retailer may only display or store cigarettes and  
2 tobacco products:

3        (1) Behind a sales counter or in any other area of the  
4        establishment that is inaccessible to the public; or

5        (2) In a locked container.

6        ~~[(b)]~~ (c) This section shall not apply to:

7        (1) A duty-free sales enterprise selling duty-free  
8        merchandise in accordance with the provisions of title  
9        19 United States Code section 1555(b), and any  
10        implementing regulations; and

11        (2) Retail tobacco stores, bars, or any other  
12        establishment for which the minimum age for admission  
13        is eighteen."

14        SECTION 11. Section 712-1258, Hawaii Revised Statutes, is  
15 amended to read as follows:

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



1        (2) All persons engaged in the retail sale of tobacco  
2 products or electronic smoking devices shall check the  
3 identification of tobacco or electronic smoking device  
4 purchasers, to establish the age of the purchaser, if the  
5 purchaser reasonably appears to be under twenty-seven years of  
6 age.

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

20        [~~+2~~] (4) Signs using the statement, "The sale of tobacco  
21 products or electronic smoking devices to persons under twenty-



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

6 ~~[(3)]~~ (5) It shall be unlawful for a person under twenty-  
7 one years of age to purchase any tobacco product or electronic  
8 smoking device, as those terms are defined in subsection ~~[(5)-]~~  
9 (7). This provision does not apply if a person under the age of  
10 twenty-one, with parental authorization, is participating in a  
11 controlled purchase as part of a law enforcement activity or a  
12 study authorized by the department of health under the  
13 supervision of law enforcement to determine the level of  
14 incidence of tobacco or electronic smoking devices sales to  
15 persons under twenty-one years of age.

16 ~~[(4)]~~ (6) Any person who violates subsection (1) or ~~[(2)-]~~  
17 (4), or both, shall be fined \$500 for the first offense. Any  
18 subsequent offenses shall subject the person to a fine not less  
19 than \$500 nor more than \$2,000. Any person under twenty-one  
20 years of age who violates subsection ~~[(3)]~~ (5) shall be fined  
21 \$10 for the first offense. Any subsequent offense shall subject



1 the violator to a fine of \$50, no part of which shall be  
2 suspended, or the person shall be required to perform not less  
3 than forty-eight hours nor more than seventy-two hours of  
4 community service during hours when the person is not employed  
5 and is not attending school.

6 ~~[(5)]~~ (7) For the purposes of this section:

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

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



1 Administration, as those terms are defined in the Federal Food,  
2 Drug, and Cosmetic Act."

3 **PART IV**

4 SECTION 12. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 13. This Act shall take effect on July 1, 3000.



**Report Title:**

Unlawful Shipment and Transport of Tobacco Products; Electronic Smoking Devices; E-liquid; Tax; Permit; License; Excise Tax; Department of the Attorney General; Department of Health; Penal Code

**Description:**

Prohibits the shipment of tobacco products, and the transport of tobacco products ordered or purchased through a remote sale, to anyone other than a licensee. Makes all provisions of the cigarette tax and tobacco tax law that relate to tobacco products applicable to e-liquid. Increases the license fee for wholesalers or dealers and the retail tobacco permit fee. Amends the taxes on cigarettes and tobacco products. Increases the excise tax for each cigarette or little cigar sold, used, or possessed by a wholesaler or dealer. Increases the excise tax on the wholesale price of each article or item of tobacco products, other than large cigars, sold by the wholesaler or dealer. Establishing an electronic smoking device retailer registration unit within the Department of the Attorney General. Amends the Penal Code. Regulates the delivery and sale of electronic smoking devices to purchasers within the State.  
(SB2654 HD2)

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

