

JAN 28 2015

A BILL FOR AN ACT

RELATING TO CHAPTER 245, HAWAII REVISED STATUTES.

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

1 SECTION 1. The legislature finds that tobacco use is the
2 single most preventable cause of disease, disability, and death
3 in the United States. Tobacco use continues to be a problem in
4 Hawaii, causing approximately 1,400 deaths per year among
5 adults. An estimated 21,000 children in Hawaii currently under
6 the age of eighteen will ultimately die prematurely from
7 smoking. Tobacco use poses a heavy burden on Hawaii's health
8 care system and economy. Each year, smoking costs approximately
9 \$526,000,000 in direct health care expenditures and \$387,300,000
10 in lost productivity in the State.

11 The legislature further finds that tobacco products are
12 addictive and inherently dangerous, causing many different types
13 of cancer, heart disease, and other serious illnesses. Hawaii
14 has a substantial interest in reducing the number of individuals
15 of all ages who use tobacco products, and a particular interest
16 in protecting adolescents from tobacco dependence and the
17 illnesses and premature death associated with tobacco use.



1 The legislature additionally finds that the United States
2 Federal Food and Drug Administration recently issued a proposed
3 deeming regulation that will eventually bring all tobacco
4 products under its authority. This will include any product
5 containing tobacco, or nicotine derived from tobacco. An
6 amendment to the definition of tobacco products in chapter 245,
7 Hawaii Revised Statutes, is therefore needed to include nicotine
8 derived from tobacco within the definition of tobacco products.

9 The legislature also finds that taxes on tobacco products
10 should be similar to the tax rates already imposed on
11 cigarettes. Tobacco products other than cigarettes are
12 currently taxed at a lower rate than cigarettes, even though
13 their use carries similar health risks. Research has shown that
14 either a tax on cigarettes or cigarette price increases have the
15 propensity to reduce the rate of smoking by adult and youth
16 smokers. However, the legislature is concerned that as the
17 price of cigarettes increases, smokers may be tempted to
18 purchase less expensive tobacco products, including loose or
19 roll-your-own tobacco.

20 Finally, the legislature concludes that there should not be
21 a lower-priced tobacco alternative to cigarettes in Hawaii;



1 therefore a similar tax rate for cigarettes and tobacco products
2 that acts as a deterrent for all forms of tobacco use is needed.
3 Higher tobacco product prices will encourage tobacco users to
4 quit, sustain cessation, prevent youth initiation, and reduce
5 consumption among those who continue to use tobacco.

6 It is the legislature's intent for loose and roll-your-own
7 tobacco to be considered a tobacco product subject to the excise
8 tax under this Act.

9 The purpose of this Act is to:

- 10 (1) Expand the definition of "tobacco products" to include
11 any product containing nicotine, but not containing
12 tobacco;
- 13 (2) Impose an excise tax equal to 80 per cent of the
14 wholesale price of any tobacco product, other than
15 large cigars, sold by a wholesaler or dealer on and
16 after January 1, 2016, 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 (3) Require any subsequent increase in the excise tax rate
20 imposed on cigarettes or little cigars to trigger an



1 automatic excise tax increase on other tobacco
2 products; and

- 3 (4) Require the additional moneys collected under the
4 excise tax to be deposited to the credit of the Hawaii
5 cancer research special fund.

6 SECTION 2. Section 245-1, Hawaii Revised Statutes, is
7 amended by amending the definition of "tobacco products" to read
8 as follows:

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

10 (1) Tobacco in any form, other than cigarettes or little
11 cigars, that is prepared or intended for consumption
12 or for personal use by humans, including large cigars
13 and any substitutes thereof other than cigarettes that
14 bear the semblance thereof, snuff, chewing or
15 smokeless tobacco, and smoking or pipe tobacco[-]; or

16 (2) Any product containing nicotine, but not containing
17 tobacco, that is intended for human consumption,
18 whether chewed, smoked, absorbed, dissolved, inhaled,
19 snorted, sniffed, or ingested by any other means, that
20 has not been approved by the United States Food and



1 Drug Administration for tobacco cessation or other
2 medical purposes."

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

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

8 (1) An excise tax equal to 5.00 cents for each cigarette
9 sold, used, or possessed by a wholesaler or dealer
10 after June 30, 1998, 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 (2) An excise tax equal to 6.00 cents for each cigarette
14 sold, used, or possessed by a wholesaler or dealer
15 after September 30, 2002, 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 (3) An excise tax equal to 6.50 cents for each cigarette
19 sold, used, or possessed by a wholesaler or dealer
20 after June 30, 2003, whether or not sold at wholesale,



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- 1 or if not sold then at the same rate upon the use by
2 the wholesaler or dealer;
- 3 (4) An excise tax equal to 7.00 cents for each cigarette
4 sold, used, or possessed by a wholesaler or dealer
5 after June 30, 2004, whether or not sold at wholesale,
6 or if not sold then at the same rate upon the use by
7 the wholesaler or dealer;
- 8 (5) An excise tax equal to 8.00 cents for each cigarette
9 sold, used, or possessed by a wholesaler or dealer on
10 and after September 30, 2006, 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 (6) An excise tax equal to 9.00 cents for each cigarette
14 sold, used, or possessed by a wholesaler or dealer on
15 and after September 30, 2007, 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 (7) An excise tax equal to 10.00 cents for each cigarette
19 sold, used, or possessed by a wholesaler or dealer on
20 and after September 30, 2008, 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 (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 [~~seventy~~] 70 per cent of the
5 wholesale price of each article or item of tobacco
6 products, other than large cigars, sold by the
7 wholesaler or dealer on and after September 30, 2009,
8 whether or not sold at wholesale, or if not sold then
9 at the same rate upon the use by the wholesaler or
10 dealer; [and]

11 (13) An excise tax equal to 80 per cent of the wholesale
12 price of each article or item of tobacco products,
13 other than large cigars, sold by a wholesaler or
14 dealer on and after January 1, 2016, whether or not
15 sold at wholesale, or if not sold then at the same
16 rate upon the use by the wholesaler or dealer;
17 provided that if the excise tax rate of 16.00 cents
18 for each cigarette or little cigar pursuant to
19 paragraph (11) increases on or after January 1, 2016,
20 the excise tax rate equal to 80 per cent of the
21 wholesale price for each article or item of tobacco



1 products, other than large cigars, pursuant to this
2 paragraph shall automatically increase by the same
3 percentage in the increase of the excise tax rate per
4 cigarette or little cigar pursuant to paragraph (11);
5 and

6 ~~[(13)]~~ (14) An excise tax equal to ~~[fifty]~~ 50 per cent of
7 the wholesale price of each large cigar of any length,
8 sold, used, or possessed by a wholesaler or dealer on
9 and after September 30, 2009, whether or not sold at
10 wholesale, or if not sold then at the same rate upon
11 the use by the wholesaler or dealer.

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

18 SECTION 4. Section 245-15, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§245-15 Disposition of revenues.** All moneys collected
21 pursuant to this chapter shall be paid into the state treasury



1 as state realizations to be kept and accounted for as provided
2 by law; provided that, of the moneys collected under the tax
3 imposed pursuant to:

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

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

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

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

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



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

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

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

13 (C) 0.25 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) 0.25 cents per cigarette shall be deposited to
18 the credit of the emergency medical services
19 special fund established pursuant to section 321-
20 234;



- 1 (4) Section 245-3(a)(8), after June 30, 2009, and prior to
2 July 1, 2013:
- 3 (A) 2.0 cents per cigarette shall be deposited to the
4 credit of the Hawaii cancer research special
5 fund, established pursuant to section 304A-2168,
6 for research and operating expenses and for
7 capital expenditures;
- 8 (B) 0.75 cents per cigarette shall be deposited to
9 the credit of the trauma system special fund
10 established pursuant to section 321-22.5;
- 11 (C) 0.75 cents per cigarette shall be deposited to
12 the credit of the community health centers
13 special fund established pursuant to section 321-
14 1.65; and
- 15 (D) 0.5 cents per cigarette shall be deposited to the
16 credit of the emergency medical services special
17 fund established pursuant to section 321-234;
18 [and]
- 19 (5) Section 245-3(a)(11), after June 30, 2013, and
20 thereafter:



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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)(13), after December 31, 2015, and
18 thereafter, all amounts shall be deposited to the
19 credit of the Hawaii cancer research special fund,
20 established pursuant to section 304A-2168, for



1 research and operating expenses and for capital
2 expenditures.

3 The department shall provide an annual accounting of these
4 dispositions to the legislature."

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

7 SECTION 6. This Act shall take effect on July 1, 2015.

8

INTRODUCED BY:

Rosely H. Baker

[Signature]

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Michelle Sidani



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Report Title:

Tobacco Products; Excise Tax; Hawaii Cancer Research Special Fund

Description:

Expands the definition of "tobacco products" to include any product containing nicotine, but not containing tobacco. Imposes an excise tax equal to 80 per cent of the wholesale price of any tobacco product, other than large cigars, sold by a wholesaler or dealer on and after January 1, 2016, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer. Requires any increase in the excise tax rate imposed on cigarettes or little cigars on or after 1/1/2016 to trigger an automatic excise tax increase on other tobacco products on or after 1/1/2016. Requires the additional moneys collected under the excise tax to be deposited to the credit of the Hawaii cancer research special fund.

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

