



GOV. MSG. NO. 1222

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 19, 2015

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 19, 2015, the following bill was signed into law:

SB1030 SD1 HD2

RELATING TO HEALTH
ACT 122 (15)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that the use of
2 electronic smoking devices is prevalent among adolescents in
3 Hawaii. According to recent figures from six Hawaii high
4 schools, among the ninth and tenth grade students, twenty-nine
5 percent have used electronic smoking devices at least once and
6 eighteen percent use them regularly. This sample's rate of
7 electronic smoking device use by adolescents is considerably
8 higher than rates in current studies of adolescents in other
9 areas of the United States.

10 The legislature further finds that electronic smoking
11 devices are popular among adolescents and the majority regard
12 electronic smoking devices as healthier than cigarettes.
13 However, using electronic smoking devices in most instances
14 exposes adolescents to nicotine, which is a highly addictive
15 substance. Therefore, in addition to preventing electronic
16 smoking device use by adolescents, more research is needed to
17 test why electronic smoking devices appeal to adolescents and



1 whether using electronic smoking devices carries more benefits
2 than risks.

3 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
4 amended by adding a new part to be appropriately designated and
5 to read as follows:

6 "PART . TOBACCO PRODUCTS

7 §321-A Definitions. As used in this part:

8 "Electronic smoking device" means any electronic product
9 that can be used to aerosolize and deliver nicotine or other
10 substances to the person inhaling the device, an electronic
11 cigarette, electronic cigar, electronic cigarillo, or electronic
12 pipe, and any cartridge or other component of the device or
13 related product.

14 "Possession" means knowingly having direct physical control
15 at a given time or knowingly having the power and the intention,
16 at a given time, to exercise dominion or control, including the
17 actual use of the tobacco product.

18 "Tobacco product" means tobacco in any form, including an
19 electronic smoking device, cigarettes, cigars, snuff, and
20 chewing tobacco, that is prepared or intended for consumption
21 by, or the personal use of, humans.



1 **§321-B Tobacco products; possession or consumption**
2 prohibited. Possession or consumption of a tobacco product by a
3 person under twenty-one years of age in a public place shall be
4 prohibited.

5 **§321-C Exemptions.** This part shall not apply to:

- 6 (1) Any person under twenty-one years of age, with
7 parental authorization, who is participating in a
8 controlled purchase as part of a law enforcement
9 activity or a study authorized by the department of
10 health under the supervision of law enforcement to
11 determine the level of incidence of tobacco sales to
12 persons under twenty-one years of age; or
13 (2) Possession of tobacco products by a person under
14 twenty-one years of age in the course of delivery,
15 pursuant to the direction of the person's employer
16 lawfully engaged in business necessitating the
17 delivery.

18 **§321-D Enforcement; rules.** Any person under twenty-one
19 years of age who violates section 321-B shall be fined \$10 for
20 the first offense. Any subsequent offense shall subject the
21 violator to a fine of \$50, no part of which shall be suspended,



1 or the person shall be required to perform not less than forty-
2 eight hours nor more than seventy-two hours of community service
3 during hours when the person is not employed and is not
4 attending school."

5 SECTION 3. Section 709-908, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§709-908 Tobacco products and electronic smoking devices
8 [prohibited; minors]; persons under twenty-one years of age.

9 (1) [It] Effective January 1, 2016, it shall be unlawful
10 to sell or furnish a tobacco product in any shape or form[
11 including chewing tobacco and snuff,] or an electronic smoking
12 device to a [minor] person under [eighteen] twenty-one years of
13 age.

14 (2) [Signs] Effective January 1, 2016, signs using the
15 statement, "The sale of tobacco products or electronic smoking
16 devices to persons under [eighteen] twenty-one is prohibited",
17 shall be posted on or near any vending machine in letters at
18 least one-half inch high and at or near the point of sale of any
19 other location where tobacco products or electronic smoking
20 devices are sold in letters at least one-half inch high.



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

12 (4) Any person who violates subsection (1) or (2), or
13 both, shall be fined \$500 for the first offense. Any subsequent
14 offenses shall subject the person to a fine not less than \$500
15 nor more than \$2,000. Any [~~minor~~] person under [~~eighteen~~]
16 twenty-one years of age who violates subsection (3) shall be
17 fined \$10 for the first offense. Any subsequent offense shall
18 subject the violator to a fine of \$50, no part of which shall be
19 suspended, or the person shall be required to perform not less
20 than forty-eight hours nor more than seventy-two hours of



1 community service during hours when the person is not employed
2 and is not attending school.

3 (5) For the purposes of this section:

4 "Electronic smoking device" means any electronic product
5 that can be used to [~~simulate smoking in the delivery of~~]
6 aerosolize and deliver nicotine or other substances to the
7 person inhaling from the device, including but not limited to an
8 electronic cigarette, electronic cigar, electronic cigarillo, or
9 electronic pipe, and any cartridge or other component of the
10 device or related product.

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



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. In codifying the new sections added by section
5 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

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

10 SECTION 7. This Act shall take effect on January 1, 2016.

APPROVED this 19 day of JUN, 2015



GOVERNOR OF THE STATE OF HAWAII