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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

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

13 The legislature further finds that tobacco products are  
14 addictive and inherently dangerous, causing many different types  
15 of cancer, heart disease, and other serious illnesses. Hawaii  
16 has a substantial interest in reducing the number of individuals  
17 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 the United States  
4 Food and Drug Administration recently issued a proposed  
5 regulation that would eventually bring all tobacco products,  
6 including nicotine derived from tobacco and any product  
7 containing tobacco, under its authority. An amendment to the  
8 definition of "tobacco products" in chapter 245, Hawaii Revised  
9 Statutes, is therefore needed to include nicotine derived from  
10 tobacco within the definition of tobacco products.

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



1 Finally, the legislature concludes that there should not be  
2 a lower-priced tobacco alternative to cigarettes in Hawaii;  
3 therefore a similar tax rate for cigarettes and tobacco products  
4 that acts as a deterrent for all forms of tobacco use is needed.  
5 Higher tobacco product prices will encourage tobacco users to  
6 quit, sustain cessation, prevent youth initiation, and reduce  
7 consumption among those who continue to use tobacco.

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

11 The purpose of this part is to:

- 12 (1) Amend the definition of "tobacco products", including  
13 by expanding the definition to include any product  
14 containing nicotine, but not containing tobacco;
- 15 (2) Impose an excise tax equal to eighty per cent of the  
16 wholesale price of any tobacco product, other than  
17 large cigars, sold by a wholesaler or dealer on and  
18 after January 1, 2016, whether or not sold at  
19 wholesale, or if not sold then at the same rate upon  
20 the use by the wholesaler or dealer; and



1           (3) Require the moneys collected under the increased  
2           excise tax rate to be deposited to the credit of the  
3           Hawaii cancer research special fund.

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

7           "Tobacco products" means [~~tobacco in any form, other than~~  
8           ~~cigarettes or little cigars, that is prepared or intended for~~  
9           ~~consumption or for personal use by humans, including large~~  
10           ~~cigars and any substitutes thereof other than cigarettes that~~  
11           ~~bear the semblance thereof, snuff, chewing or smokeless tobacco,~~  
12           ~~and smoking or pipe tobacco. ]:~~

13           (1) Any product made or derived from tobacco that contains  
14           nicotine or other harmful substances and is intended  
15           for human consumption or is likely to be consumed,  
16           whether smoked, heated, chewed, absorbed, dissolved,  
17           inhaled, or ingested by any other means including but  
18           not limited to a cigarette, cigar, pipe tobacco,  
19           chewing tobacco, snuff, snus, or an electronic smoking  
20           device; or



1       (2) Any product containing nicotine, but not containing  
2       tobacco, that is intended for human consumption,  
3       whether chewed, smoked, absorbed, dissolved, inhaled,  
4       snorted, sniffed, or ingested by any other means.

5       "Tobacco products" does not include drugs, devices, or  
6       combination products approved for sale by the United States Food  
7       and Drug Administration, as those terms are defined in the  
8       Federal Food, Drug, and Cosmetic Act."

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

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

14       (1) An excise tax equal to 5.00 cents for each cigarette  
15       sold, used, or possessed by a wholesaler or dealer  
16       after June 30, 1998, whether or not sold at wholesale,  
17       or if not sold then at the same rate upon the use by  
18       the wholesaler or dealer;

19       (2) An excise tax equal to 6.00 cents for each cigarette  
20       sold, used, or possessed by a wholesaler or dealer  
21       after September 30, 2002, 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           (3) An excise tax equal to 6.50 cents for each cigarette  
4           sold, used, or possessed by a wholesaler or dealer  
5           after June 30, 2003, 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           (4) An excise tax equal to 7.00 cents for each cigarette  
9           sold, used, or possessed by a wholesaler or dealer  
10          after June 30, 2004, 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          (5) An excise tax equal to 8.00 cents for each cigarette  
14          sold, used, or possessed by a wholesaler or dealer on  
15          and after September 30, 2006, 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          (6) An excise tax equal to 9.00 cents for each cigarette  
19          sold, used, or possessed by a wholesaler or dealer on  
20          and after September 30, 2007, 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           (7) An excise tax equal to 10.00 cents for each cigarette  
4           sold, used, or possessed by a wholesaler or dealer on  
5           and after September 30, 2008, 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           (8) An excise tax equal to 13.00 cents for each cigarette  
9           sold, used, or possessed by a wholesaler or dealer on  
10          and after July 1, 2009, 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          (9) An excise tax equal to 11.00 cents for each little  
14          cigar sold, used, or possessed by a wholesaler or  
15          dealer on and after October 1, 2009, whether or not  
16          sold at wholesale, or if not sold then at the same  
17          rate upon the use by the wholesaler or dealer;
- 18          (10) An excise tax equal to 15.00 cents for each cigarette  
19          or little cigar sold, used, or possessed by a  
20          wholesaler or dealer on and after July 1, 2010,  
21          whether or not sold at wholesale, or if not sold then



1 at the same rate upon the use by the wholesaler or  
2 dealer;

3 (11) An excise tax equal to 16.00 cents for each cigarette  
4 or little cigar sold, used, or possessed by a  
5 wholesaler or dealer on and after July 1, 2011,  
6 whether or not sold at wholesale, or if not sold then  
7 at the same rate upon the use by the wholesaler or  
8 dealer;

9 (12) 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) An excise tax equal to eighty per cent of the  
17 wholesale price of each article or item of tobacco  
18 products, other than large cigars, sold by a  
19 wholesaler or dealer on and after January 1, 2016,  
20 whether or not sold at wholesale, or if not sold then





1           at the same rate upon the use by the wholesaler or  
2           dealer; and

3       ~~[(13)]~~ (14) An excise tax equal to fifty per cent of the  
4           wholesale price of each large cigar of any length,  
5           sold, used, or possessed by a wholesaler or dealer on  
6           and after September 30, 2009, whether or not sold at  
7           wholesale, or if not sold then at the same rate upon  
8           the use by the wholesaler or dealer.

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

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

17           "**§245-15 Disposition of revenues.** All moneys collected  
18       pursuant to this chapter shall be paid into the state treasury  
19       as state realizations to be kept and accounted for as provided  
20       by law; provided that, of the moneys collected under the tax  
21       imposed pursuant to:



- 1           (1) Section 245-3(a)(5), after September 30, 2006, and  
2           prior to October 1, 2007, 1.0 cent per cigarette shall  
3           be deposited to the credit of the Hawaii cancer  
4           research special fund, established pursuant to section  
5           304A-2168, for research and operating expenses and for  
6           capital expenditures;
- 7           (2) Section 245-3(a)(6), after September 30, 2007, and  
8           prior to October 1, 2008:
- 9           (A) 1.5 cents per cigarette shall be deposited to the  
10           credit of the Hawaii cancer research special  
11           fund, established pursuant to section 304A-2168,  
12           for research and operating expenses and for  
13           capital expenditures;
- 14           (B) 0.25 cents per cigarette shall be deposited to  
15           the credit of the trauma system special fund  
16           established pursuant to section 321-22.5; and
- 17           (C) 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 (3) Section 245-3(a)(7), after September 30, 2008, and  
2 prior to July 1, 2009:
- 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) 0.5 cents per cigarette shall be deposited to the  
9 credit of the trauma system special fund  
10 established pursuant to section 321-22.5;
- 11 (C) 0.25 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) 0.25 cents per cigarette shall be deposited to  
16 the credit of the emergency medical services  
17 special fund established pursuant to section 321-  
18 234;
- 19 (4) Section 245-3(a)(8), after June 30, 2009, and prior to  
20 July 1, 2013:



- 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) 0.75 cents per cigarette shall be deposited to
- 7 the credit of the trauma system special fund
- 8 established pursuant to section 321-22.5;
- 9 (C) 0.75 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) 0.5 cents per cigarette shall be deposited to the
- 14 credit of the emergency medical services special
- 15 fund established pursuant to section 321-234;
- 16 [and]
- 17 (5) Section 245-3(a)(11), after June 30, 2013, and
- 18 thereafter:
- 19 (A) 2.0 cents per cigarette shall be deposited to the
- 20 credit of the Hawaii cancer research special
- 21 fund, established pursuant to section 304A-2168,



1 for research and operating expenses and for  
2 capital expenditures;

3 (B) 1.5 cents per cigarette shall be deposited to the  
4 credit of the trauma system special fund  
5 established pursuant to section 321-22.5;

6 (C) 1.25 cents per cigarette shall be deposited to  
7 the credit of the community health centers  
8 special fund established pursuant to section 321-  
9 1.65; and

10 (D) 1.25 cents per cigarette shall be deposited to  
11 the credit of the emergency medical services  
12 special fund established pursuant to section 321-  
13 234 [-]; and

14 (6) Section 245-3(a)(13), after December 31, 2015, and  
15 thereafter, all amounts shall be deposited to the  
16 credit of the Hawaii cancer research special fund,  
17 established pursuant to section 304A-2168, for  
18 research and operating expenses and for capital  
19 expenditures.

20 The department shall provide an annual accounting of these  
21 dispositions to the legislature."



1 PART II

2 SECTION 5. Section 245-3, Hawaii Revised Statutes, is  
3 amended by amending subsection (a) to read as follows:

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

7 (1) An excise tax equal to 5.00 cents for each cigarette  
8 sold, used, or possessed by a wholesaler or dealer  
9 after June 30, 1998, whether or not sold at wholesale,  
10 or if not sold then at the same rate upon the use by  
11 the wholesaler or dealer;

12 (2) An excise tax equal to 6.00 cents for each cigarette  
13 sold, used, or possessed by a wholesaler or dealer  
14 after September 30, 2002, whether or not sold at  
15 wholesale, or if not sold then at the same rate upon  
16 the use by the wholesaler or dealer;

17 (3) An excise tax equal to 6.50 cents for each cigarette  
18 sold, used, or possessed by a wholesaler or dealer  
19 after June 30, 2003, whether or not sold at wholesale,  
20 or if not sold then at the same rate upon the use by  
21 the wholesaler or dealer;



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



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





1 at the same rate upon the use by the wholesaler or  
2 dealer;

3 (12) An excise tax equal to seventy per cent of the  
4 wholesale price of each article or item of tobacco  
5 products, other than large cigars, sold by the  
6 wholesaler or dealer on and after September 30, 2009,  
7 whether or not sold at wholesale, or if not sold then  
8 at the same rate upon the use by the wholesaler or  
9 dealer; [~~and~~]

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

16 (14) An excise tax equal to the lesser of:

17 (A) 50.00 cents; or

18 (B) Fifty per cent of the wholesale price;

19 for each large cigar of any length, sold, used, or  
20 possessed by a wholesaler or dealer on and after

21 December 31, 2015, whether or not sold at wholesale,





**Report Title:**

Tobacco Products; Large Cigars; Excise Tax; Hawaii Cancer Research Special Fund

**Description:**

Amends the definition of "tobacco products", to include any product containing nicotine, but not containing tobacco. Imposes an excise tax equal to 80% of the wholesale price of any tobacco product, other than large cigars, sold by a wholesaler or dealer on and after 1/1/2016, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer. Requires the moneys collected under the increased excise tax rate to be deposited to the credit of the Hawaii cancer research special fund. Amends the excise tax rate on the sale of large cigars beginning on 12/31/2015 to the lesser of 50 cents for each large cigar or 50% of the wholesale price of each large cigar. Effective 7/1/2050. (SD2 Proposed)

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

