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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. Section 328J-16, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           " ~~[+]§328J-16 [+] Cigarette sales from vending machines and~~  
4 ~~by lunch wagons; prohibited.~~ (a) The sale or distribution at  
5 no charge of cigarettes by the following methods is prohibited:  
6           (1) From cigarette vending machines unless the vending  
7 machine is located in a bar, cabaret, or any  
8 establishment for which the minimum age for admission  
9 is ~~[eighteen,]~~ twenty-one; or  
10           (2) From a lunch wagon engaging in any sales activity  
11 within one thousand feet of any public or private  
12 elementary or secondary school grounds.  
13           (b) Violations of subsection (a), including placement of a  
14 cigarette vending machine in a location other than a bar,  
15 cabaret, or any establishment for which the minimum age for  
16 admission is ~~[eighteen,]~~ twenty-one, are subject to a fine of up  
17 to \$1,000 per day for each violation.



1 (c) As used in this section:

2 "Cigarette vending machine" means a self-service device  
3 that dispenses cigarettes, cigars, tobacco, or any other product  
4 containing tobacco.

5 "Lunch wagon" means a mobile vehicle designed and  
6 constructed to transport food and from which food is sold to the  
7 general public and includes, but is not limited to, manapua  
8 trucks.

9 "Sell" or "sale" means to solicit and receive an order for;  
10 to have, keep, offer, or expose for sale; to deliver for value  
11 or in any other manner than purely gratuitously; to peddle; to  
12 keep with intent to sell; or to traffic in."

13 SECTION 2. Section 328J-17, Hawaii Revised Statutes, is  
14 amended by amending subsection (c) to read as follows:

15 "(c) This section shall not apply:

16 (1) Within private commercial establishments, such as  
17 stores and restaurants, where tobacco products are  
18 sold, as long as distribution is not visible to the  
19 public from outside the establishment; or

20 (2) To commercial establishments where access to the  
21 premises by persons under [eighteen] twenty-one years  
22 of age is prohibited by law."



1 SECTION 3. Section 328J-18, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) This section shall not apply to:

4 (1) A duty-free sales enterprise selling duty-free  
5 merchandise in accordance with the provisions of title  
6 19 United States Code section 1555(b), and any  
7 implementing regulations; and

8 (2) Retail tobacco stores, bars, or any other  
9 establishment for which the minimum age for admission  
10 is ~~[eighteen-]~~ twenty-one."

11 SECTION 4. Section 709-908, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "§709-908 Tobacco and electronic smoking devices  
14 prohibited; ~~[minors-]~~ persons under twenty-one years of age.

15 (1) It shall be unlawful to sell or furnish tobacco in any  
16 shape or form, including chewing tobacco and snuff, or an  
17 electronic smoking device, to a ~~[minor]~~ person under ~~[eighteen]~~  
18 twenty-one years of age.

19 (2) Signs using the statement, "The sale of tobacco  
20 products or electronic smoking devices to persons under  
21 ~~[eighteen]~~ twenty-one is prohibited", shall be posted ~~[on or~~  
22 ~~near any vending machine]~~ in letters at least one-half inch high



1 on or near any vending machine and at or near the point of sale  
2 of any other location where tobacco products or electronic  
3 smoking devices are sold [~~in letters at least one half inch~~  
4 ~~high~~].

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

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



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

6 (5) For the purposes of this section:

7 "Electronic smoking device" means any electronic product  
8 that can be used to [~~simulate smoking in the delivery of~~]  
9 aerosolize and deliver nicotine or other substances to the  
10 person inhaling from the device[~~7~~] including, but not limited  
11 to, an electronic cigarette, electronic cigar, electronic  
12 cigarillo, [~~ex~~] electronic pipe, hookah pipe, or hookah pen, and  
13 any cartridge or other component of the device or related  
14 product[~~-~~], whether or not sold separately."

15 SECTION 5. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

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

20 SECTION 7. This Act shall take effect on January 1, 2050.



**Report Title:**

Electronic Smoking Devices; Tobacco; Cigarettes; Minors

**Description:**

Increases the minimum age in which one can purchase any tobacco product or electronic smoking device from 18 to 21 years of age. Prohibits the sale or furnishing of tobacco, tobacco products, and electronic smoking devices to persons under 21 years of age. (HB385 HD1)

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

