A BILL FOR AN ACT

RELATING TO COUNTY AUTHORITY ON THE SALE OF TOBACCO PRODUCTS.

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

SECTION 1. The legislature finds that tobacco use continues to be a public health problem in Hawaii, causing approximately one thousand four hundred deaths per year among adults, costing approximately $526,000,000 in direct health care expenditures, and resulting in $387,300,000 of lost productivity in the State. In response to the heavy burden of tobacco, the State has enacted many tobacco control policies including adoption of sweeping prohibitions on indoor tobacco use and raising the minimum age for the purchase of tobacco products from eighteen to twenty-one. Many of these initiatives were led by the counties and later adopted at the state level. The legislature finds that extending these regulations statewide ultimately saved the State $1,000,000,000 in health care costs over ten years.

The legislature further finds that different communities need different solutions. Many issues are most effectively addressed at the local level, as local governments are best
equipped to respond to the needs of the people who live and work locally.

The legislature also finds that while it is important to establish minimum regulations statewide, local policies are integral to tobacco control because they enable a targeted approach to reduce public health disparities. The federal Centers for Disease Control 2017 youth risk behavior survey found that while 25.3 per cent of high school students in Hawaii currently vape, both Maui and Hawaii counties exceed this percentage with high school students vaping at rates of 31.8 per cent and 32.4 per cent, respectively. Local tobacco control measures are so significant that one of the objectives of the federal Office of Disease Prevention and Health Promotion's healthy people 2020 campaign is to eliminate state laws that preempt stronger local tobacco control laws.

The legislature understands that for public health, communities should not be prevented from working with their local elected officials to pass laws tailored to unique local needs. Reversing existing laws or preventing future enactment of applicable laws negates the value of home rule.
In 2006, the legislature enacted an enabling clause to explicitly allow local jurisdictions to pass smoking ordinances that are more stringent than state law. The legislature finds that over the years, counties have adopted and put into action some of the strongest, most innovative, and effective tobacco control policies. These policies have served as catalysts for changing social norms regarding tobacco use by discouraging young people from initiating use and encouraging adult tobacco users to quit.

The purpose of this Act is to amend and repeal certain provisions relating to the preemption of local laws or ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices.

SECTION 2. Section 328J-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Nothing in this chapter shall be construed to supersede or in any manner affect a county smoking ordinance[+ provided that the ordinance is at least as protective of the rights of nonsmokers as this chapter−] or the ability of any county to adopt and enforce ordinances that regulate the sale or use of cigarettes, tobacco products, or electronic smoking
devices; provided that the ordinance is no less protective of public health as this chapter."

SECTION 3. Section 328J-11.5, Hawaii Revised Statutes, is repealed.

["[§328J-11.5] Statewide concern. (a) Sales of cigarettes, tobacco products, and electronic smoking devices are a statewide concern. It is the intent of the legislature to regulate the sale of cigarettes, tobacco products, and electronic smoking devices in a uniform and exclusive manner.

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

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

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

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 6. This Act shall take effect upon its approval.
Report Title:
Maui County Package; Counties; Home Rule; Tobacco Use; Cigarettes; Electronic Smoking Devices; Smoking; Public Health

Description:
Allows counties to adopt and enforce additional ordinances that regulate the sale or use of cigarettes, tobacco products, and electronic smoking devices. Requires county ordinances to be no less protective of public health than state law. Repeals statute that preempts local smoking ordinances and regulations and voids any local law or regulation that conflicts with state smoking laws.

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