A BILL FOR AN ACT
RELATING TO COUNTY AUTHORITY ON THE SALE AND USE 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 1,400 deaths per year among adults and costs approximately $526,000,000 in direct health care expenditures and $387,300,000 in lost productivity in the State. In response to the heavy burden of tobacco, Hawaii has enacted many tobacco control policies including clean indoor air ordinances and raising the age of sale of tobacco products from 18 to 21.

Many of these initiatives were led by the counties and were later adopted at the state level, extending these protections statewide and ultimately saving the state $1 billion in healthcare costs over 10 years.

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

The legislature additionally finds that, while it is important to establish minimum protections statewide, local level policies are integral to tobacco control because they enable a targeted approach to reduce health disparities. The 2017 Youth Risk Behavior Survey found that while 25.3 per cent of high school students in Hawaii currently vape, both Maui and Hawaii county exceed this, with rates of 31.8 per cent and 32.4 per cent respectively.

The legislature understands that, for public health, communities should not be prevented from working with their local elected officials to pass laws tailored to their unique needs. Reversing existing laws or preventing future enactment of such laws negates the value of home rule.

The legislature finds that an enabling clause to explicitly allow local jurisdictions to pass smoking ordinances that are more stringent than state law was enacted by the legislature in 2006 under section 328J-15, Hawaii Revised Statutes, "County ordinances." The legislature additionally
finds that over the years, communities have adopted and put
into action some of the strongest, most innovative, and
effective tobacco control policies that have served as
catalysts for changing social norms about tobacco use. These
policies discourage young people from initiating use and
encourage adult tobacco users to quit. A national Healthy
People 2020 objective calls to eliminate state laws that
preempt stronger local tobacco control laws.

The purpose of this act is to amend 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-11.5, Hawaii Revised Statutes, is
amended by amending subsections (a) and (b) to read as follows:

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

HTH-14(19)
(b) All local ordinances or regulations that regulate the sale and use of cigarettes, tobacco products, and electronic smoking devices [are preempted, and existing local laws and regulations conflicting] that conflict with this chapter are [null and] void."

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

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY:  

BY REQUEST
Report Title:
County Authority on the Sale and Use of Tobacco Products

Description:
Amends provisions relating to the preemption of local laws or ordinances that regulate the sale and use of cigarettes, tobacco products, and electronic smoking devices.

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

TITLE: A BILL FOR AN ACT RELATING TO COUNTY AUTHORITY ON THE SALE AND USE OF TOBACCO PRODUCTS.

PURPOSE: To assure counties have regulatory authority over the sale and use of tobacco products that may be more stringent than State laws.


JUSTIFICATION: Counties have responded more quickly and stringently than the State with regard to tobacco control policy. More stringent regulations are generally better for public health. Section 328J-11.5, HRS, preempted local authority and rendered void local laws and regulations more stringent than State standards.

Impact on the public: This measure protects public health by assuring that counties may regulate smoking, sales, and use of tobacco products consistent with community standards, especially if more stringent than State laws.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HTH 590.

OTHER AFFECTED AGENCIES: Counties.

EFFECTIVE DATE: Upon approval.