
A BILL FOR AN ACT

RELATING TO ELECTRONIC SMOKING PRODUCTS.

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

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

12 The legislature further finds that tobacco products are
13 addictive and inherently dangerous, causing many different types
14 of cancer, heart disease, and other serious illnesses. Hawaii
15 has a substantial interest in reducing the number of individuals
16 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 electronic smoking
4 devices, also known as e-cigarettes, are battery-operated
5 products designed to deliver nicotine, flavor, and other
6 chemicals to the user by turning chemicals including highly
7 addictive nicotine into an aerosol that is inhaled by the user.
8 Consumers may choose from varying strengths of e-liquid nicotine
9 as well as liquids consisting of different flavors.

10 The electronic smoking device industry, including the
11 production of e-liquids, is growing rapidly. On December 18,
12 2018, the United States Surgeon General made the unprecedented
13 move of classifying the danger of youth usage of electronic
14 smoking devices as an epidemic. Since the Surgeon General first
15 issued a warning in 2016 about the dangers of these products,
16 data has shown a historic rise in use by youth and young adults.
17 According to the 2016 report from the Surgeon General,
18 e-cigarette use amongst the nation's youth and young adults has
19 become a major public health concern. The Surgeon General's
20 report noted that e-cigarette use has increased considerably in
21 recent years, growing an astounding nine hundred per cent among



1 high school students from 2011 to 2015. In a 2018 study
2 conducted by the National Institute on Drug Abuse, the use of
3 electronic smoking devices among high school seniors increased
4 nationally from 27.8 per cent to 37.3 per cent in a twelve-month
5 period. The increase translates to 1.3 million more teens using
6 electronic smoking devices in a single year. E-cigarette use
7 among youth and young adults is also strongly associated with
8 the use of other tobacco products, including combustible tobacco
9 products. Toxicologists have also warned that e-liquids pose
10 significant risks to public health, particularly to children.
11 According to the Surgeon General's report, if the contents of
12 refill cartridges or bottles are consumed, ingestion of e-
13 liquids containing nicotine can cause acute toxicity and
14 possibly death. The Surgeon General's report also found that
15 there are numerous policies and practices that can be
16 implemented at the state and local levels to address electronic
17 smoking device use among youth and young adults.

18 The legislature additionally finds that the rapid growth of
19 the electronic smoking device industry, including retail
20 businesses selling electronic smoking devices or e-liquids,
21 necessitates further regulations to protect consumers.



1 The purpose of this Act is to:

2 (1) Establish the offense of unlawful shipment of e-liquid
3 products;

4 (2) Increase the license fee for persons engaged as a
5 wholesaler or dealer of cigarettes and tobacco
6 products;

7 (3) Increase the retail tobacco permit fee for retailers
8 engaged in the retail sale of cigarettes and tobacco
9 products; and

10 (4) Increase the various fines and penalties regarding
11 electronic smoking devices by persons under the age of
12 twenty-one.

13 SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended
14 by adding a new section to part XII to be appropriately
15 designated and to read as follows:

16 "§28- Unlawful shipment of e-liquid products; penalty;
17 reports; liability for unpaid taxes. (a) A person commits the
18 offense of unlawful shipment of e-liquid products if the person:

19 (1) Is engaged in the business of selling e-liquid
20 products; and



1 (2) Ships or causes to be shipped any e-liquid products to
2 a person or entity in this State that is not a
3 licensee under this chapter.

4 (b) This section shall not apply to the shipment of
5 e-liquid products if any of the following conditions is met:

6 (1) The e-liquid products are exempt from taxes as
7 provided by section 245-3(b) or are otherwise exempt
8 from the applicability of this chapter as provided by
9 section 245-62; or

10 (2) All applicable state taxes on the e-liquid products
11 are paid in accordance with the requirements of this
12 chapter.

13 (c) Unlawful shipment of e-liquid products is a class C
14 felony if the person or entity knowingly ships or causes to be
15 shipped e-liquid products with a value of \$10,000 or more in
16 violation of subsection (a).

17 (d) Unlawful shipment of e-liquid products is a
18 misdemeanor if the person or entity knowingly ships or causes to
19 be shipped e-liquid products with a value of less than \$10,000
20 in violation of subsection (a).



1 (e) For the purposes of this section, a person is a
2 licensee if the person or entity's name appears on a list of
3 authorized licensees published by the department.

4 (f) Notwithstanding the existence of other remedies at
5 law, any person that purchases, uses, controls, or possesses any
6 e-liquid products for which the applicable taxes imposed under
7 title 14 have not been paid, shall be liable for the applicable
8 taxes, plus any penalty and interest as provided for by law."

9 SECTION 3. Section 28-162, Hawaii Revised Statutes, is
10 amended by adding three new definitions to be appropriately
11 inserted and to read as follows:

12 "E-liquid products" means e-liquid, electronic smoking
13 devices containing e-liquid, or component parts containing e-
14 liquid.

15 "Person" shall have the same meaning as in section 1-19.

16 "Value" means the fair market value at the time of the
17 offense."

18 SECTION 4. Section 245-2, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) The license shall be issued by the department upon
21 application therefor, in such form and manner as shall be



1 required by rule of the department, and the payment of a fee of
2 [~~\$2.50,~~] \$250, and shall be renewable annually on July 1 for the
3 twelve months ending the succeeding June 30."

4 SECTION 5. Section 245-2.5, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) The retail tobacco permit shall be issued by the
7 department upon application by the retailer in the form and
8 manner prescribed by the department, and the payment of a fee of
9 [~~\$20-~~] \$50. Permits shall be valid for one year, from December
10 1 to November 30, and renewable annually. Whenever a retail
11 tobacco permit is defaced, destroyed, or lost, or the permittee
12 relocates the permittee's business, the department may issue a
13 duplicate retail tobacco permit to the permittee for a fee of \$5
14 per copy."

15 SECTION 6. Section 245-17, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) Any person who violates this section shall be fined
18 \$500 for the first offense. Any subsequent offenses shall
19 subject the person to a fine of no less than \$500 but no more
20 than \$2,000. Any person under twenty-one years of age who
21 violates this section shall be fined [~~\$10~~] \$100 for the first



1 offense [7] and \$250 for the second offense; provided that any
2 subsequent offense shall subject the person to a fine of [~~\$50,~~
3 \$500, no part of which shall be suspended, or the person shall
4 be required to perform no less than forty-eight hours but no
5 more than seventy-two hours of community service during hours
6 when the person is not employed or attending school."

7 SECTION 7. Section 321-214, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~[§]~~ §321-214 ~~[§]~~ **Enforcement; rules.** Any person under
10 twenty-one years of age who violates section 321-212 shall be
11 fined [~~\$10~~] \$100 for the first offense [7] and \$250 for the
12 second offense. Any subsequent offense shall subject the
13 violator to a fine of [~~\$50,~~] \$500, no part of which shall be
14 suspended, or the person shall be required to perform not less
15 than forty-eight hours nor more than seventy-two hours of
16 community service during hours when the person is not employed
17 and is not attending school."

18 SECTION 8. Section 712-1258, Hawaii Revised Statutes, is
19 amended by amending subsection (6) to read as follows:

20 "(6) Any person who violates subsection (1) or (4), or
21 both, shall be fined \$500 for the first offense. Any subsequent



1 offenses shall subject the person to a fine not less than \$500
2 nor more than \$2,000. Any person under twenty-one years of age
3 who violates subsection (5) shall be fined [~~\$10~~] \$100 for the
4 first offense[-] and \$250 for the second offense. Any
5 subsequent offense shall subject the violator to a fine of
6 [~~\$50,~~] \$500, no part of which shall be suspended, or the person
7 shall be required to perform not less than forty-eight hours nor
8 more than seventy-two hours of community service during hours
9 when the person is not employed and is not attending school.
10 Any tobacco product or electronic smoking device, as those terms
11 are defined in subsection (7), in the person's possession at the
12 time of violation of subsection (5) shall be seized, summarily
13 forfeited to the State, and destroyed by law enforcement
14 following the conclusion of an administrative or judicial
15 proceeding finding that a violation of subsection (5) has been
16 committed. The procedures set forth in chapter 712A shall not
17 apply to this subsection."

18 SECTION 9. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



1 SECTION 10. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 11. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 12. This Act shall take effect on March 15, 2030.



Report Title:

E-liquid; Tobacco Products; Tax

Description:

Establishes the offense of unlawful shipment of e-liquid products. Increases tobacco wholesaler or dealer license fees and retail permit fees. Increases administrative fines and criminal penalties for electronic smoking devices by persons under the age of twenty-one. (SB1405 HD2)

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