

S.B. NO. 1127

JAN 24 2013

A BILL FOR AN ACT

RELATING TO SALES OF ELECTRONIC SMOKING DEVICES TO PERSONS UNDER
18 YEARS OF AGE.

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

1 SECTION 1. Section 709-908, Hawaii Revised Statutes, is
2 amended by amending subsection (1) to read as follows:
3 "[~~f~~]§709-908[~~t~~] **Tobacco**[~~r~~] and electronic smoking devices
4 prohibited; minors. (1) It shall be unlawful to sell or
5 furnish tobacco, or any electronic smoking device [~~in any shape~~
6 ~~or form, including chewing tobacco and snuff,~~]to a minor under
7 eighteen years of age. For the purposes of this section
8 "tobacco" means tobacco in any shape or form including chewing
9 tobacco and snuff; and the term "electronic smoking device"
10 means any electronic product that can be used to simulate
11 smoking in the delivery of nicotine or other substances to the
12 person inhaling from the device, including, but not limited to,
13 an electronic cigarette, electronic cigar, electronic cigarillo,
14 or electronic pipe, and any cartridge or other component of the
15 device or related product.
16 (2) Signs using the statement, "The sale of tobacco
17 products and electronic smoking devices to persons under

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1 eighteen is prohibited", shall be posted on or near any vending
2 machine in letters at least one-half inch high and at or near
3 the point of sale of any other location where tobacco products
4 are sold in letters at least one-half inch high.

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

14 (4) Any person who violates subsection (1) or (2), or
15 both, shall be fined \$500 for the first offense. Any subsequent
16 offenses shall subject the person to a fine not less than \$500
17 nor more than \$2,000. Any minor under eighteen years of age who
18 violates subsection (3) shall be fined \$10 for the first
19 offense. Any subsequent offense shall subject the violator to a
20 fine of \$50, no part of which shall be suspended, or the person
21 shall be required to perform not less than forty-eight hours nor
22 more than seventy-two hours of community service during hours
23 when the person is not employed and is not attending school."

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Report Title:

Sales of Electronic Smoking Devices to Persons Under Eighteen Years of Age

Description:

Adds electronic smoking devices to tobacco as products that are unlawful to sell to or be purchased by persons under eighteen years of age; and requires the additional listing of electronic smoking devices to sales prohibition signage.

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JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO SALES OF ELECTRONIC SMOKING DEVICES TO PERSONS UNDER 18 YEARS OF AGE.

PURPOSE: 1) Prohibits the selling or furnishing of electronic smoking devices to persons under 18 years of age; 2) Prohibits persons under 18 from purchasing electronic smoking devices; and 3) Requires the listing of electronic smoking devices on sales prohibition signage.

MEANS: Amend section 709-908, Hawaii Revised Statutes.

JUSTIFICATION: An electronic smoking device is any electronic product that can be used to simulate smoking in the delivery of nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe, or any cartridge or other component of the device or related product.

There is very little known about the long term health and psychological effects of the use of electronic smoking devices. The US Food and Drug Administration (FDA) cautions that such devices "may contain ingredients that are known to be toxic to humans, and may contain other ingredients that may not be safe." In 2010, federal courts ruled that the FDA may regulate the devices as tobacco products.

The FDA asserts that the ready availability of electronic smoking devices presents a serious risk of addicting new users, including children. As was the case with flavored cigarettes, now banned by the FDA, the cartridges in the devices come in a

variety of fruit and candy flavors that are appealing to young users in their teens. Electronic smoking devices present a compelling introduction to the sensation of smoking by allowing users, not only to mimic the tactile sensations of smoking, but also actually appear to blow smoke. These devices have the power to promote a physiological addiction to an addictive drug, as well as a psychological habituation to smoking.

Impact on the public: This bill prevents sales or furnishing of electronic smoking devices to persons under 18 years of age, bans persons under 18 years from purchasing electronic smoking devices and requires that electronic smoking devices be added to signs prohibiting sales of tobacco products to persons under 18. The public may recognize that promoting nicotine delivery system alternatives like electronic smoking devices could lead to the use of other tobacco products in youth, and this would be unwise from an overall public health point of view.

Impact on the department and other agencies: The Department of Health would need to monitor utilization, compliance, implement public health education interventions, and develop signage, as well as coordinate with the tobacco sales-enforcement entities such as county police departments.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HTH-590.

OTHER AFFECTED
AGENCIES: County police departments.

EFFECTIVE DATE: July 1, 2013.