
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. (a) The legislature finds that a study
2 published by Theodore Slotkin, a neuroscientist at Duke
3 University, demonstrates that nicotine has a similarly harmful
4 effect on developing brains as chlorpyrifos, a chemical agent
5 used in pesticides that was banned in the State by Act 45,
6 Session Laws of Hawaii 2018. The legislature further finds that
7 exposure to nicotine in utero can cause serious harm to
8 children, ranging from death due to Sudden Infant Death Syndrome
9 to learning and behavioral problems later in life. In
10 recognition of the damage that nicotine can inflict on
11 developing brains, Hawaii was the first state to raise the legal
12 smoking age to twenty-one in 2016.

13 In 2013, the Food and Drug Administration contracted with
14 the Institute of Medicine to convene a committee to study the
15 impact of raising the minimum age for purchase of tobacco
16 products to either twenty-one or twenty-five years. In their
17 study, the Institute of Medicine found that raising the minimum



1 age to twenty-five would lead to a significant decrease in
2 smoking prevalence as well as substantial reductions in smoking-
3 related mortality.

4 (b) The legislature finds that all tobacco products,
5 including electronic smoking devices, severely contribute to the
6 injurious health burdens currently harming our State and
7 country. Furthermore, the legislature finds that smoking has
8 reached epidemic proportions and, despite efforts to reverse
9 smoking trends, the problem only seems to be getting worse each
10 year. Ensuring the quality of health, life, and opportunity for
11 society today, as well as for future generations to come, is not
12 only a great benefit to public health, but is a vital public
13 necessity.

14 According to the Centers for Disease Control and
15 Prevention, cigarette smoking is the leading preventable cause
16 of death in the United States. With more than 480,000 deaths
17 due to smoking each year in the United States, approximately one
18 in five deaths are caused by cigarettes annually, equaling to
19 around 1,300 deaths every day. More than sixteen million
20 Americans are living with a disease caused by cigarette smoking
21 alone, and life expectancy for smokers is at least ten years



1 shorter than for non-smokers. For every person who dies because
2 of smoking, at least thirty people live with a serious smoking-
3 related illness.

4 In 2004, the United States Surgeon General's report
5 concluded that smoking causes many diseases and other adverse
6 effects such as: cancer, heart disease, lung diseases, diabetes,
7 and chronic obstructive pulmonary disease, which includes
8 emphysema and chronic bronchitis. Smoking also increases risk
9 for tuberculosis, certain eye diseases, and problems of the
10 immune system, including rheumatoid arthritis.

11 The American Cancer Society reports that pregnant women who
12 smoke risk the health and lives of their unborn babies. The
13 nicotine, carbon monoxide, and other toxins in tobacco smoke
14 enter the mother's bloodstream, go into the baby's body, and can
15 keep the baby from getting the key nutrients and oxygen it needs
16 to grow and develop. Almost every developing organ system is
17 affected by the chemicals in tobacco smoke. This increases the
18 risk of serious complications such as: miscarriage, premature
19 delivery, stillbirth, infant death, low birth weight, smaller
20 head circumference, slightly higher risk of heart defects, cleft
21 lip or palate, and hearing problems.



1 Some research has also suggested that children whose
2 mothers smoked while pregnant or who have been exposed to
3 secondhand smoke, even in small amounts, have a higher risk for:
4 having attention-deficit/hyperactivity disorder (ADHD), being
5 slower learners in school, being more likely to have high blood
6 pressure, asthma, ear infections, tonsillitis, or cavities,
7 having impaired lung function, being overweight or obese than
8 children of non-smokers, and being more likely to smoke when
9 they get older.

10 Many people who wished to quit smoking turned to electronic
11 smoking devices. The Centers for Disease Control and Prevention
12 reports that although the aerosol of electronic smoking devices
13 generally has fewer harmful substances than cigarette smoke,
14 electronic smoking devices and other products containing
15 nicotine are not safe to use during pregnancy, and quitting all
16 forms of tobacco products, including electronic smoking devices,
17 is the best choice for pregnant women and their babies. The
18 Centers for Disease Control and Prevention further reports that
19 most smokers become addicted to nicotine, a drug that is found
20 naturally in tobacco, and that more people in the United States
21 are addicted to nicotine than to any other drug. Research



1 suggests that nicotine may be as addictive as heroin, cocaine,
2 or alcohol, thus, explaining why quitting smoking is very hard
3 and may require several attempts. People who stop smoking often
4 start again because of withdrawal symptoms, stress, and weight
5 gain. According to the American Addiction Centers, nicotine is
6 one of the top five hardest drugs to quit. Nicotine is a health
7 danger for pregnant women and developing babies and can damage a
8 developing baby's brain and lungs. Also, some of the flavorings
9 used in electronic smoking devices may be harmful to a
10 developing baby.

11 The American Pregnancy Association reports that between
12 twelve to twenty per cent of pregnant women smoke, putting
13 themselves and their babies at risk, and that over one thousand
14 babies in the United States die each year because their mothers
15 smoked while pregnant. The legislature is cognizant that these
16 disturbing statistics reflect only the results disclosed, and
17 that the actual percentage of women who smoke while pregnant as
18 well as the number of babies negatively affected by their
19 mothers who smoked while carrying them in the womb may be
20 significantly higher.



1 Admittedly, nearly seven in ten adult cigarette smokers
2 want to stop smoking and more than five in ten adult cigarette
3 smokers had made a quit attempt in the past year. In the
4 National Center for Health Statistics January 2016 Data Brief,
5 the average age of first-time mothers increased 1.4 years, from
6 24.9 in 2000 to 26.3 in 2014. The thirty-first tobacco-related
7 report by the United States Office of the Surgeon General
8 includes a description of tobacco use amongst young adults ages
9 nineteen through twenty-five, including the epidemiology,
10 causes, and health effect of tobacco use and interventions to
11 prevent it. Scientific evidence contained in the reports
12 supports the fact that prevention efforts must include focus on
13 young adults eighteen through twenty-five years old. According
14 to the report, almost no one starts smoking after age twenty-
15 five. Nearly nine out of ten smokers started smoking by age
16 eighteen, and ninety-nine per cent started by age twenty-six.
17 Progression from occasional to daily smoking almost always
18 occurs before age twenty-six.

19 Accordingly, the legislature finds that it is a great
20 public benefit and necessity to increase the minimum age at
21 which one can purchase or possess any tobacco product, including



1 electronic smoking devices. Therefore, the purpose of this Act
2 is to reduce the harmful effects that smoking has on society by
3 prohibiting the sale or furnishing of tobacco and tobacco
4 products, including electronic smoking devices, to persons under
5 twenty-five years of age.

6 SECTION 2. Section 712-1258, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§712-1258 Tobacco products and electronic smoking
9 devices; persons under [~~twenty-one~~] twenty-five years of age.

10 (1) It shall be unlawful to sell or furnish a tobacco product
11 in any shape or form or an electronic smoking device to a person
12 under [~~twenty-one~~] twenty-five years of age.

13 (2) All persons engaged in the retail sale of tobacco
14 products or electronic smoking devices shall check the
15 identification of tobacco product or electronic smoking device
16 purchasers to establish the age of the purchaser if the
17 purchaser reasonably appears to be under [~~twenty-seven~~] thirty-
18 five years of age.

19 (3) It shall be an affirmative defense that the seller of
20 a tobacco product or an electronic smoking device to a person
21 under [~~twenty-one~~] twenty-five years of age in violation of this



1 section had requested, examined, and reasonably relied upon a
2 photographic identification from the person establishing that
3 person's age as at least [~~twenty-one~~] twenty-five years of age
4 prior to selling the person a tobacco product or an electronic
5 smoking device. The failure of a seller to request and examine
6 photographic identification from a person under [~~twenty-one~~]
7 twenty-five years of age prior to the sale of a tobacco product
8 or an electronic smoking device to the person shall be construed
9 against the seller and form a conclusive basis for the seller's
10 violation of this section.

11 (4) Signs using the statement, "The sale of tobacco
12 products or electronic smoking devices to persons under [~~twenty-~~
13 ~~one~~] twenty-five is prohibited", shall be posted on or near any
14 vending machine in letters at least one-half inch high and at or
15 near the point of sale of any other location where tobacco
16 products or electronic smoking devices are sold in letters at
17 least one-half inch high.

18 (5) It shall be unlawful for a person under [~~twenty-one~~]
19 twenty-five years of age to purchase or possess any tobacco
20 product or electronic smoking device, as those terms are defined
21 in subsection (7). This provision does not apply if a person



1 under the age of [~~twenty-one,~~] twenty-five, or eighteen with
2 parental authorization, is participating in a controlled
3 purchase as part of a law enforcement activity or a study
4 authorized by the department of health under the supervision of
5 law enforcement to determine the level of incidence of tobacco
6 or electronic smoking devices sales to persons under [~~twenty-~~
7 ~~one~~] twenty-five years of age.

8 (6) Any person who violates subsection (1) or (4), or
9 both, shall be fined \$500 for the first offense. Any subsequent
10 offenses shall subject the person to a fine not less than \$500
11 nor more than \$2,000. Any person under [~~twenty-one~~] twenty-five
12 years of age who violates subsection (5) shall be fined [~~\$10~~]
13 \$50 for the first offense. Any subsequent offense shall subject
14 the violator to a fine of [~~\$50~~] \$100, no part of which shall be
15 suspended, or the person shall be required to perform not less
16 than forty-eight hours nor more than seventy-two hours of
17 community service during hours when the person is not employed
18 and is not attending school. Any tobacco product or electronic
19 smoking device, as those terms are defined in subsection (7), in
20 the person's possession at the time of violation of subsection
21 (5) shall be seized, summarily forfeited to the State, and



1 destroyed by law enforcement following the conclusion of an
2 administrative or judicial proceeding finding that a violation
3 of subsection (5) has been committed. The procedures set forth
4 in chapter 712A shall not apply to this subsection.

5 (7) For the purposes of this section:

6 "Electronic smoking device" means any electronic product
7 that can be used to aerosolize and deliver nicotine or other
8 substances to the person inhaling from the device, including but
9 not limited to an electronic cigarette, electronic cigar,
10 electronic cigarillo, or electronic pipe, and any cartridge or
11 other component of the device or related product.

12 "Tobacco product" means any product made or derived from
13 tobacco that contains nicotine or other substances and is
14 intended for human consumption or is likely to be consumed,
15 whether smoked, heated, chewed, absorbed, dissolved, inhaled, or
16 ingested by other means. "Tobacco product" includes but is not
17 limited to a cigarette, cigar, pipe tobacco, chewing tobacco,
18 snuff, snus, or an electronic smoking device. "Tobacco product"
19 does not include drugs, devices, or combination products
20 approved for sale by the United States Food and Drug



H.B. NO. 2507

1 Administration, as those terms are defined in the Federal Food,
2 Drug, and Cosmetic Act."

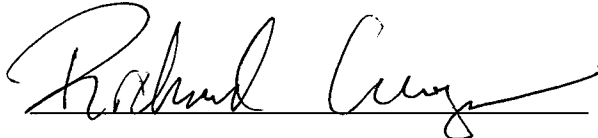
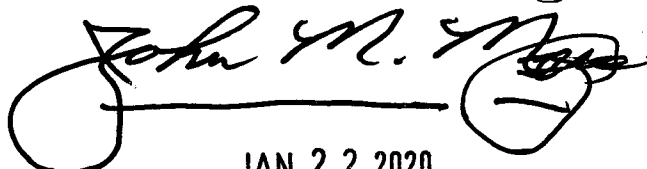
3 SECTION 3. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

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

8 SECTION 5. This Act shall take effect on July 1, 2020.

9

INTRODUCED BY:

JAN 22 2020



H.B. NO. 2507

Report Title:

Tobacco; Tobacco Products; Electronic Smoking Devices; Minimum Age; Tobacco Sales

Description:

Prohibits the sale or furnishing of tobacco and tobacco products to persons under twenty-five years of age. Increases minimum age from twenty-one years of age to twenty-five years of age for purchase and possession of tobacco and tobacco products, including electronic smoking devices and increases fines.

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

