
A BILL FOR AN ACT

RELATING TO TOBACCO.

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

1 SECTION 1. The legislature finds that there has been a
2 proliferation of flavored tobacco products in recent years.
3 Many of these products contain fruit, chocolate, honey, candy,
4 mint, cocoa, dessert, herb, spice, or other flavors that are
5 particularly attractive to children. According to public health
6 experts, children are more likely to choose flavored tobacco
7 when they start smoking or use other tobacco products, in part,
8 because the product names for flavored tobacco products are
9 similar to product names for candy, drinks, and other products
10 marketed directly to children.

11 In October 2006, R.J. Reynolds Tobacco Company and the
12 Attorneys General of thirty-eight states, including Hawaii,
13 entered into a settlement agreement that ends the sale of candy,
14 fruit, and alcohol flavored cigarettes manufactured and sold by
15 the company. The states had asserted that Reynolds was
16 violating the 1998 tobacco Master Settlement Agreement's
17 prohibition on youth targeting through its advertising,



1 "Characterizing flavor" means a distinguishable taste or
2 aroma, other than tobacco, menthol, or clove, imparted either
3 prior to or during consumption.

4 "Chewing tobacco" means loose tobacco or a flat compressed
5 cake of tobacco a portion of which is inserted into the mouth.

6 "Cigarette" means any product that contains nicotine, is
7 intended to be burned or heated under ordinary condition of use,
8 and consists of or contains:

- 9 (1) Any roll of tobacco wrapped in paper or in any
10 substance not containing tobacco;
- 11 (2) Tobacco in any form that is functional in the product
12 which, because of its appearance, the type of tobacco
13 used in the filler or its packaging and labeling is
14 likely to be offered to or purchased by consumers as a
15 cigarette; or
- 16 (3) Any roll of tobacco wrapped in any substance
17 containing tobacco which, because of its appearance,
18 the type of tobacco used in the filler, or its
19 packaging and labeling is likely to be offered to or
20 purchased by consumers as a cigarette described in
21 paragraph (1) of this definition. The term



1 "cigarette" includes "roll-your-own" which enables a
2 consumer to make their own product.

3 "Component parts" includes but is not limited to the
4 tobacco, filter, and paper in a cigarette.

5 "Constituent" includes a smoke constituent.

6 "Smokeless tobacco" means chewing tobacco or tobacco snuff.

7 "Tobacco snuff" means a small amount of shredded, powdered,
8 or pulverized tobacco that may be inhaled through the nostrils,
9 chewed, or held in the mouth of an individual user.

10 **§ -2 Prohibition.** No person shall sell, offer for sale,
11 or distribute in this State or to any person in this State any
12 cigarette, smokeless tobacco product, or any component part
13 thereof containing a natural or artificial constituent or
14 additive that causes the cigarette or smokeless tobacco product
15 to have a characterizing flavor.

16 **§ -3 Remedies.** The attorney general may institute a
17 civil action in the name of the State in the circuit court for
18 an injunction prohibiting a violation of this chapter. If the
19 court grants an injunction in accordance with this section, the
20 State shall not be required to furnish a bond. The court, upon
21 notice to the defendant in compliance with the Hawaii rules of
22 civil procedure and upon proof that the defendant has violated



1 this chapter, may enjoin further sale, offering for sale, or
 2 distribution by the defendant. The court may impose a civil
 3 penalty in an amount not to exceed \$5,000 for each violation.
 4 The attorney general may recover costs and disbursements,
 5 including costs of investigation and reasonable attorney's fees.
 6 Nothing in this section shall preclude the State or any other
 7 person from pursuing any other claims, remedies, or actions
 8 available by law."

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

12 SECTION 4. This Act shall take effect on January 1, 2008.
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Report Title:

Flavored Tobacco; Health

Description:

Prohibits the sale and distribution of flavored tobacco products.

