

JAN 19 2007

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# 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 marketing and promotion of its flavored cigarettes. No  
2 agreement has been reached with the other tobacco manufacturers.

3 The legislature further finds that the continued existence  
4 of these products being manufactured by other tobacco companies  
5 increases the incidence of tobacco use among children and that  
6 the earlier that an individual begins using tobacco products,  
7 the more likely the individual will become addicted to and use  
8 them throughout the person's lifetime. Thus, flavored tobacco  
9 products result in greater tobacco use, increased addiction,  
10 greater incidence of smoking and other tobacco-related illnesses  
11 and deaths, and higher health care costs.

12 The purpose of this Act is to protect public health by  
13 prohibiting the sale and distribution of flavored tobacco  
14 products.

15 SECTION 2. The Hawaii Revised Statutes is amended by  
16 adding a new chapter to be appropriately designated and to read  
17 as follows:

18 **"CHAPTER**

19 **FLAVORED TOBACCO PRODUCTS**

20 **§ -1 Definitions.** As used in this part, unless the  
21 context otherwise requires:



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.

