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## A BILL FOR AN ACT

RELATING TO THE SALE OF TOBACCO PRODUCTS.

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

1       SECTION 1. The legislature finds it a matter of concern  
2       that pharmacies, as health care institutions, provide smoking  
3       cessation products and other health-promoting items and yet also  
4       provide tobacco products. In response to the well-recognized  
5       health consequences that arise from the continued use of tobacco  
6       products, a few cities in the United States, such as Boston and  
7       San Francisco, have banned the sale of tobacco products by or at  
8       health care institutions, including pharmacies.

9       The purpose of this Act is to prohibit the sale of tobacco  
10      products by or at health care institutions, including  
11      pharmacies.

12      SECTION 2. Chapter 328J, Hawaii Revised Statutes, is  
13      amended by adding a new section to be appropriately designated  
14      and to read as follows:

15      "§328J-       Sale of tobacco products by health care  
16      institutions prohibited. (a) The sale of tobacco products by a  
17      health care institution or a retail establishment that operates



1 or has a health care institution within it, such as a pharmacy  
2 or drug store, is prohibited.

3 (b) Notwithstanding any other provision of this chapter  
4 to the contrary, any person who violates this section shall be  
5 fined:

6 (1) \$200 for a first violation;

7 (2) \$700 for a second violation within twenty-four months  
8 of the date of the first violation; and

9 (3) \$1,000 for a third or any additional violation within  
10 twenty-four months of the date of the preceding  
11 violation.

12 Each day on which a violation of this section occurs shall  
13 be considered a separate and distinct violation.

14 (c) In addition to the fines established in subsection  
15 (b), repeated violations of this section by a person who owns,  
16 manages, operates, or otherwise controls any place or facility  
17 designated by this section shall be grounds for the suspension  
18 or revocation of any permit or license to operate as a health  
19 care institution or pharmacy issued to the person or the place  
20 for the premises on which the violation occurred.



1        (d) Any fines or fees collected under this section shall  
2 be used for the enforcement of this section or for educational  
3 programs on the harmful effects of tobacco, or both.

4        (e) As used in this section:

5        "Health care institution" means an individual, partnership,  
6 association, corporation, trust, or any person or group of  
7 persons that provides health care services and employs health  
8 care providers licensed, certified, or otherwise authorized or  
9 permitted by law to provide health care in the ordinary course  
10 of business. "Health care institution" includes hospitals,  
11 clinics, health centers, pharmacies, drug stores, and doctors'  
12 and dentists' offices.

13        "Retail establishment" means any store that sells goods or  
14 articles of personal services to the public.

15        "Sell" or "sale" means to solicit and receive an order for;  
16 to have, keep, offer, or expose for sale; to deliver for value  
17 or in any other manner than purely gratuitously; to peddle; to  
18 keep with intent to sell; or to traffic in.

19        "Tobacco products" means tobacco in any form that is  
20 prepared or intended for consumption or for personal use by  
21 humans, including but not limited to cigarettes, cigars, pipe  
22 tobacco, snuff, chewing tobacco, and dipping tobacco."



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

10       SECTION 5. New statutory material is underscored.

11       SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

*Hal Khoo*

JAN 11 2012



**Report Title:**

Health Care Institutions; Sale of Tobacco Products; Pharmacies;  
Penalties

**Description:**

Prohibits the sale of tobacco products by any health care institution, including pharmacies, and any retail establishment that operates or has a health care institution within it.  
Provides penalties.

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