

JAN 17 2014

S.B. NO. 2498

---

# A BILL FOR AN ACT

RELATING TO PROHIBITIONS ON UNIVERSITY OF HAWAII PREMISES.

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

1       SECTION 1. The legislature finds that tobacco use is the  
2       single most preventable cause of death in the United States,  
3       with tobacco-related disease resulting in \$96,000,000,000 in  
4       health care costs annually. The 2012 United States Surgeon  
5       General Report states that tobacco use and exposure to second-  
6       hand smoke are serious public health concerns and that there is  
7       no safe level of exposure to environmental tobacco smoke.

8       The legislature further finds that additional concerns have  
9       been raised about the growing popularity of electronic smoking  
10      devices. Sales of electronic smoking devices in the United  
11      States have doubled each year since 2008, with sales in 2013  
12      projected to reach \$1,700,000,000. Due to the relative lack of  
13      research data on electronic smoking devices, many public health  
14      organizations and policymakers are concerned about the safety  
15      and impact of these products on public health.

16      The legislature additionally finds that smoking and all  
17      tobacco use is already prohibited on over seven hundred sixty  
18      college and university campuses in the United States. Many



1 colleges and universities are including electronic smoking  
2 devices in these campus-wide bans. Allowing smoking and tobacco  
3 use on the University of Hawaii premises presents substantial  
4 fiscal burdens for employee health care costs, absenteeism,  
5 turnover, physical facilities upkeep, fire risks and losses, and  
6 litter control, and imposes an adverse impact on the surrounding  
7 land and water environments.

8 The legislature also finds that the University of Hawaii's  
9 Executive Policy E10.102 prohibits smoking under certain  
10 circumstances, but it does not make all of the premises smoke-  
11 and tobacco-free.

12 The purpose of this Act is to protect University of Hawaii  
13 students, employees, and visitors, from exposure to second-hand  
14 smoke and other potentially harmful substances, as well as  
15 promote positive health practices, by prohibiting smoking,  
16 including the use of electronic smoking devices, and tobacco use  
17 on the University of Hawaii premises.

18 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:

21 "§304A- Smoking and tobacco use prohibitions on  
22 University of Hawaii premises. (a) The University of Hawaii



1 shall prohibit smoking and tobacco use by any person on the  
2 University of Hawaii premises, to the extent not prohibited by  
3 federal law and regulation. Mere possession or storage of  
4 cigarettes, tobacco products, or an electronic smoking device  
5 for use outside the University of Hawaii premises shall not  
6 constitute a violation of this subsection.

7 (b) The University of Hawaii shall provide tobacco  
8 cessation programs for employees who are interested in  
9 participating; provided that issues relating to the cost of the  
10 program shall be subject to collective bargaining.

11 (c) This section shall not be subject to chapter 328J.  
12 Pursuant to section 89-9(d), the smoking and tobacco use  
13 prohibitions under this section shall not be subject to  
14 collective bargaining.

15 (d) The University of Hawaii shall be responsible for  
16 educating students, employees, and all visitors about the  
17 smoking and tobacco use prohibitions under this section.  
18 Clearly legible signs shall be prominently displayed stating  
19 that "smoking, including smoking of electronic smoking devices,  
20 and tobacco use are prohibited by law" at all premise entrances  
21 and at other conspicuous outdoor locations throughout the  
22 premises.



1       (e) As used in this section:

2       "Cigarette" has the same meaning as in section 486P-1.

3       "Electronic smoking device" means any electronic product  
4 that can be used to simulate smoking in the delivery of nicotine  
5 or other substances to the person inhaling from the device,  
6 including but not limited to an electronic cigarette, electronic  
7 cigar, electronic cigarillo, or electronic pipe, and any  
8 cartridge or other component of the device or related product.  
9 The term does not include any product approved by the United  
10 States Food and Drug Administration for use in medical  
11 treatment.

12       "Premises" means all indoor and outdoor areas within the  
13 University of Hawaii property boundary lines.

14       "Smoke" or "smoking" means inhaling or exhaling the fumes  
15 of tobacco or any other plant material, burning or carrying any  
16 lighted smoking equipment for tobacco or any other plant  
17 material, or inhaling or exhaling smoke or vapor from an  
18 electronic smoking device.

19       "Tobacco products" has the same meaning as in section  
20 245-1.

21       "Tobacco use" means the personal use of any tobacco  
22 product, including the use of smokeless tobacco."



SECTION 3. Section 89-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Excluded from the subjects of negotiations are matters of classification, reclassification, benefits of but not contributions to the Hawaii employer-union health benefits trust fund, recruitment, examination, initial pricing, and retirement benefits except as provided in section 88-8(h). The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with the merit principle or the principle of equal pay for equal work pursuant to section 76-1 or which would interfere with the rights and obligations of a public employer to:

- (1) Direct employees;
- (2) Determine qualifications, standards for work, and the nature and contents of examinations;
- (3) Hire, promote, transfer, assign, and retain employees in positions;
- (4) Suspend, demote, discharge, or take other disciplinary action against employees for proper cause;
- (5) Relieve an employee from duties because of lack of work or other legitimate reason;



- 1           (6) Maintain efficiency and productivity, including  
2           maximizing the use of advanced technology, in  
3           government operations;
- 4           (7) Determine methods, means, and personnel by which the  
5           employer's operations are to be conducted; [~~and~~]
- 6           (8) Take such actions as may be necessary to carry out the  
7           missions of the employer in cases of emergencies[~~-~~];  
8           and
- 9           (9) Prohibit smoking, including the use of electronic  
10          smoking devices, and tobacco use on the premises of  
11          all facilities owned or operated by the University of  
12          Hawaii within the State.

13          This subsection shall not be used to invalidate provisions  
14 of collective bargaining agreements in effect on and after  
15 June 30, 2007, and shall not preclude negotiations over the  
16 procedures and criteria on promotions, transfers, assignments,  
17 demotions, layoffs, suspensions, terminations, discharges, or  
18 other disciplinary actions as a permissive subject of bargaining  
19 during collective bargaining negotiations or negotiations over a  
20 memorandum of agreement, memorandum of understanding, or other  
21 supplemental agreement.



1 Violations of the procedures and criteria so negotiated may  
2 be subject to the grievance procedure in the collective  
3 bargaining agreement."

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

6 SECTION 5. This Act shall take effect upon its approval.  
7

INTRODUCED BY: Rosalyn H. Baker

*Clara & Michiko*

*V. D. D. J. L.*

*Amid y. L.*

*M. L.*

*[Signature]*



# S.B. NO. 2498

**Report Title:**

University of Hawaii; Smoking; Tobacco; Electronic Smoking  
Devices; Prohibitions

**Description:**

Prohibits smoking, including the use of electronic smoking  
devices, and tobacco use on University of Hawaii premises.

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

