#### HOUSE OF REPRESENTATIVES TWENTY-EIGHTH LEGISLATURE, 2016 STATE OF HAWAII

H.B. NO. 2624

### A BILL FOR AN ACT

RELATING TO CHAPTER 245, HAWAII REVISED STATUTES.

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

1 SECTION 1. The legislature finds that the public health 2 rationale for the regulation of cigarettes and tobacco products 3 is well developed, as tobacco use is the single most preventable cause of disease, disability, and death in the United States. 4 5 In addition to substantive laws in the State governing specific 6 aspects of tobacco production, sales, and use, Hawaii law 7 requires retailers, wholesalers, and dealers of cigarettes or 8 tobacco products to obtain a special license or permit. These 9 licenses and permits facilitate the enforcement of the cigarette 10 tax and tobacco tax law under chapter 245, Hawaii Revised 11 Statutes. However, the current license fee for wholesalers and 12 dealers is only \$2.50 a year, while retail tobacco permit fees 13 cost only \$20 a year. To ensure continued tobacco regulation 14 and enforcement of relevant tax laws, the legislature concludes 15 that these fees should be increased and the law updated to 16 include electronic smoking devices and e-liquid. 17

Accordingly, the purpose of this Act is to:



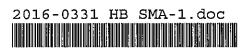
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1	(1)	Add and amend various definitions in chapter 245,
2		Hawaii Revised Statutes, to ensure that dealers,
3		retailers, and wholesalers of electronic smoking
4		devices and e-liquid obtain the applicable license or
5		permit;
6	(2)	Increase the license fee for persons engaged as a
7		wholesaler or dealer of cigarettes or tobacco
8		products; and
9	(3)	Increase the retail tobacco permit fee for retailers
10		engaged in the retail sale of cigarettes, tobacco
11		products, electronic smoking devices, and e-liquid.
12	SECT	ION 2. Section 245-1, Hawaii Revised Statutes, is
13	amended a	s follows:
14	1.	By adding four new definitions to be appropriately
15	inserted	and to read:
16	" <u>"Di</u>	sposable electronic smoking device" means an electronic
17	smoking d	evice that is designed or intended not to be reused or
18	refilled.	
19	<u>"Ele</u>	ctronic smoking device" means any electronic product
20	that can	be used to aerosolize and deliver nicotine to the
21	<u>person in</u>	haling from the device, including but not limited to an



1	electronic cigarette, electronic cigar, electronic cigarillo,
2	electronic pipe, hookah pipe, or hookah pen, and any component
3	of the device or related product, whether or not sold
4	separately, including but not limited to, atomizers, coils, drip
5	tips, and tanks.
6	"E-liquid" means any liquid containing nicotine that is
7	designed or intended to be used in a reusable electronic smoking
8	device, whether or not packaged in a cartridge or other
9	container.
10	"Reusable electronic smoking device" means an electronic
11	smoking device that is designed or intended to be reused or
12	refilled."
13	2. By amending the definitions of "dealer", "retailer",
14	"sale" or "sold", "wholesale price", and "wholesaler" to read as
15	follows:
16	""Dealer" means any person coming into the possession of
17	cigarettes [ <del>or</del> ], tobacco products, electronic smoking devices,
18	or e-liquid which have not been acquired from an authorized
19	permit holder or licensee under this chapter, or any person
20	rendering a distribution service who buys and maintains, at the
21	person's place of business, a stock of cigarettes $[\frac{\partial r}{L}]_{\underline{L}}$ tobacco



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products, electronic smoking devices, or e-liquid that have not 1 been acquired from a licensee and who distributes or uses such 2 3 cigarettes [or], tobacco products [-], electronic smoking devices, or e-liquid. 4 "Retailer" means an entity that engages in the practice of 5 selling cigarettes [or], tobacco products, electronic smoking 6 7 devices, or e-liquid to consumers and includes the owner of a 8 cigarette [or], tobacco product, electronic smoking device, or 9 e-liquid vending machine. 10 "Sale" or "sold" includes any delivery of cigarettes [or], tobacco products, electronic smoking devices, or e-liquid 11 12 whether cash is actually paid therefor or not. "Wholesale price", in addition to any other meaning of the 13 14 term, means in the case of a tax upon the use of tobacco 15 products, electronic smoking devices, or e-liquid, or upon a 16 sale not made at wholesale: 17 If made by a person who during the month preceding the (1) accrual of the tax made substantial sales to retailers 18 of like tobacco products, electronic smoking devices, 19 20 or e-liquid, the average price of the sales, and



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1	(2) If made by any other person, the average price of				
2	sales to retailers of like tobacco products,				
3	electronic smoking devices, or e-liquid, made by other				
4	taxpayers in the same county during the month				
5	preceding the accrual of the tax.				
6	"Wholesaler" means a person rendering a distribution				
7	service who buys and maintains, at the person's place of				
8	business, a stock of cigarettes $[\Theta r]_{,}$ tobacco products,				
9	electronic smoking devices, or e-liquid that the person uses,				
10	possesses, or distributes only to retailers, or other				
11	wholesalers, or both."				
12	SECTION 3. Section 245-2, Hawaii Revised Statutes, is				
13	amended by amending subsection (b) to read as follows:				
14	"(b) The license shall be issued by the department upon				
15	application therefor, in such form and manner as shall be				
16	required by rule of the department, and the payment of a fee of				
17	$[\frac{2.50}{2}]$ $\frac{250}{2}$ and shall be renewable annually on July 1 for the				
18	twelve months ending the succeeding June 30."				
19	SECTION 4. Section 245-2.5, Hawaii Revised Statutes, is				
20	amended as follows:				
21	1. By amending subsection (a) to (c) to read:				



"(a) Beginning December 1, 2006, every retailer engaged in
the retail sale of cigarettes [and], other tobacco products,
<u>electronic smoking devices</u>, or <u>e-liquid</u> upon which a tax is
required to be paid under this chapter shall obtain a retail
tobacco permit.

6 Beginning March 1, 2007, it shall be unlawful for any (b) retailer engaged in the retail sale of cigarettes [and], other 7 8 tobacco products, electronic smoking devices, or e-liquid upon 9 which a tax is required to be paid under this chapter to sell, 10 possess, keep, acquire, distribute, or transport cigarettes 11 [or], other tobacco products, electronic smoking devices, or 12 e-liquid for retail sale unless a retail tobacco permit has been issued to the retailer under this section and the retail tobacco 13 permit is in full force and effect. 14

(c) The retail tobacco permit shall be issued by the department upon application by the retailer in the form and manner prescribed by the department, and the payment of a fee of [\$20-] \$50. Permits shall be valid for one year, from December 1 to November 30, and renewable annually. Whenever a retail tobacco permit is defaced, destroyed, or lost, or the permittee relocates the permittee's business, the department may



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issue a duplicate retail tobacco permit to the permittee for a 1 2 fee of \$5 per copy." 2. By amending subsection (e) to read: 3 "(e) Any entity that operates as a dealer or wholesaler 4 and also sells cigarettes [or], other tobacco products, 5 6 electronic smoking devices, or e-liquid to consumers at retail 7 shall acquire a separate retail tobacco permit." 8 By amending subsection (h) to read: 3. "(h) Any sales of cigarettes [<del>or</del>], tobacco products, 9 10 electronic smoking devices, or e-liquid made through a [cigarette or tobacco product] vending machine are subject to 11 the terms, conditions, and penalties of this chapter. A retail 12 tobacco permit need not be displayed on [cigarette or tobacco 13 product] vending machines if the retail tobacco permit holder is 14 the owner of the [cigarette or tobacco product] vending machines 15 and the [cigarette or tobacco-product] vending machines are 16 operated at the location described in the retail tobacco 17 18 permit." 19 By amending subsection (j) to read: 4. 20 "(j) A vehicle from which cigarettes  $[\Theta x]$ , tobacco products, electronic smoking devices, or e-liquid are sold is 21



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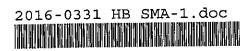
considered a place of business and requires a retail tobacco 1 permit. Retail tobacco permits for a vehicle shall be issued 2 bearing a specific motor vehicle identification number and are 3 valid only when physically carried in the vehicle having the 4 corresponding motor vehicle identification number. Retail 5 tobacco permits for vehicles shall not be moved from one vehicle 6 7 to another." By amending subsection (1) to read: 8 5. "(1) A permittee shall keep a complete and accurate record 9 of the permittee's cigarette [or], tobacco product, electronic 10 smoking devices, and e-liquid inventory. The records shall: 11 Include: (1)12 A written statement containing the name and 13 (A) address of the permittee's source of its 14 cigarettes [and], tobacco products[+], electronic 15 smoking devices, and e-liquid; 16 The date of delivery, quantity, trade name or (B) 17 brand, and price of the cigarettes [and], tobacco 18 products [+], electronic smoking devices, and 19 e-liquid; and 20



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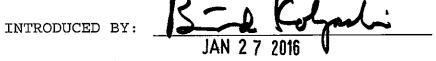
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1		(C)	Documentation in the form of any purchase orders,
2			invoices, bills of lading, other written
3			statements, books, papers, or records in whatever
4			format, including electronic format, which
5			substantiate the purchase or acquisition of the
6			cigarettes [ <del>and</del> ] <u>,</u> tobacco products <u>, electronic</u>
7			smoking devices, and e-liquid stored or offered
8			for sale; and
9	(2)	Be o	ffered for inspection and examination within
10		twen	ty-four hours of demand by the department or the
11		atto	orney general, and shall be preserved for a period
12		of t	hree years; provided that:
13		(A)	Specified records may be destroyed if the
14		·	department and the attorney general both consent
15			to their destruction within the three-year
16			period; and
17		(B)	Either the department or the attorney general may
18			adopt rules pursuant to chapter 91 that require
19			specified records to be kept longer than a period
20			of three years."
21	6.	By a	mending subsection (o) to read:



1	"(o) Any cigarette, package of cigarettes, carton of
2	cigarettes, container of cigarettes, tobacco product, package of
3	tobacco products, [ <del>or</del> ] any container of tobacco products <u>,</u>
4	electronic smoking devices, or e-liquid unlawfully sold,
5	possessed, kept, stored, acquired, distributed, or transported
6	in violation of this section may be seized and ordered forfeited
7	pursuant to chapter 712A."
8	SECTION 5. Statutory material to be repealed is bracketed
9	and stricken. New statutory material is underscored.
10	SECTION 6. This Act shall take effect on January 1, 2017.
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Report Title: Tobacco Regulation; License Fee; Retail Tobacco Permit; Cigarettes; Tobacco Products

Description:

Amends the definitions of "dealer", "retailer", "wholesale price" and "wholesaler" to include electronic smoking devices and e-liquid. Establishes definitions for "disposable electronic smoking device", "electronic smoking device", "e-liquid", and "reusable electronic smoking device". Increases the license fee for persons engaged as a wholesaler or dealer. Increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products, and includes electronic smoking devices and e-liquid. Effective January 1, 2017.

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

