
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
4 cause of disease, disability, and death in the United States.
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:



(1) Add and amend various definitions in chapter 245, Hawaii Revised Statutes, to ensure that dealers, retailers, and wholesalers of electronic smoking devices and e-liquid obtain the applicable license or permit;

(2) Increase the license fee for persons engaged as a wholesaler or dealer of cigarettes, tobacco products, electronic smoking devices, and e-liquid; and

(3) Increase the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes, tobacco products, electronic smoking devices, and e-liquid.

SECTION 2. Section 245-1, Hawaii Revised Statutes, is amended as follows:

1. By adding four new definitions to be appropriately inserted and to read:

"Disposable electronic smoking device" means an electronic smoking device that is designed or intended not to be reused or refilled.

"Electronic smoking device" means any electronic product that can be used to aerosolize and deliver nicotine to the person inhaling 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 definition of "dealer" to read:

14 "Dealer" means any person coming into the possession of
15 cigarettes [œ], tobacco products, electronic smoking devices,
16 or e-liquid which have not been acquired from an authorized
17 permit holder or licensee under this chapter, or any person
18 rendering a distribution service who buys and maintains, at the
19 person's place of business, a stock of cigarettes [œ], tobacco
20 products, electronic smoking devices, or e-liquid that have not
21 been acquired from a licensee and who distributes or uses such



1 cigarettes [~~or~~], tobacco products[~~-~~], electronic smoking
2 devices, or e-liquid."

3 3. By amending the definition of "retailer" to read:

4 "Retailer" means an entity that engages in the practice of
5 selling cigarettes [~~or~~], tobacco products, electronic smoking
6 devices, or e-liquid to consumers and includes the owner of a
7 cigarette [~~or~~], tobacco product, electronic smoking device, or
8 e-liquid vending machine."

9 4. By amending the definition of "sale" or "sold" to read:

10 "Sale" or "sold" includes any delivery of cigarettes [~~or~~],
11 tobacco products, electronic smoking devices, or e-liquid,
12 whether cash is actually paid therefor or not."

13 5. By amending the definition of "wholesale price" to
14 read:

15 "Wholesale price", in addition to any other meaning of the
16 term, means in the case of a tax upon the use of tobacco
17 products, electronic smoking devices, or e-liquid, or upon a
18 sale not made at wholesale:

19 (1) If made by a person who during the month preceding the
20 accrual of the tax made substantial sales to retailers



1 of like tobacco products, electronic smoking devices,
2 or e-liquid, the average price of the sales~~[7]~~; and

3 (2) If made by any other person, the average price of
4 sales to retailers of like tobacco products,
5 electronic smoking devices, or e-liquid, made by other
6 taxpayers in the same county during the month
7 preceding the accrual of the tax."

8 6. By amending the definition of "wholesaler" to read:

9 "'Wholesaler" means a person rendering a distribution
10 service who buys and maintains, at the person's place of
11 business, a stock of cigarettes ~~[e]~~, tobacco products,
12 electronic smoking devices, or e-liquid that the person uses,
13 possesses, or distributes only to retailers, or other
14 wholesalers, or both."

15 SECTION 3. Section 245-2, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) The license shall be issued by the department upon
18 application therefor, in such form and manner as shall be
19 required by rule of the department, and the payment of a fee of
20 ~~[\$2.50,]~~ \$250, and shall be renewable annually on July 1 for the
21 twelve months ending the succeeding June 30."



1 SECTION 4. Section 245-2.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a) to (c) to read:

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

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

19 (c) The retail tobacco permit shall be issued by the
20 department upon application by the retailer in the form and
21 manner prescribed by the department, and the payment of a fee of



1 ~~[\$20.]~~ \$50. Permits shall be valid for one year, from
2 December 1 to November 30, and renewable annually. Whenever a
3 retail tobacco permit is defaced, destroyed, or lost, or the
4 permittee relocates the permittee's business, the department may
5 issue a duplicate retail tobacco permit to the permittee for a
6 fee of \$5 per copy."

7 2. By amending subsection (e) to read:

8 "(e) Any entity that operates as a dealer or wholesaler
9 and also sells cigarettes ~~[or]~~ , other tobacco products,
10 electronic smoking devices, or e-liquid to consumers at retail
11 shall acquire a separate retail tobacco permit."

12 3. By amending subsection (h) to read:

13 "(h) Any sales of cigarettes ~~[or]~~ , tobacco products,
14 electronic smoking devices, or e-liquid made through a
15 ~~[cigarette or tobacco product]~~ vending machine are subject to
16 the terms, conditions, and penalties of this chapter. A retail
17 tobacco permit need not be displayed on ~~[cigarette or tobacco~~
18 ~~product]~~ vending machines if the retail tobacco permit holder is
19 the owner of the ~~[cigarette or tobacco product]~~ vending machines
20 and the ~~[cigarette or tobacco product]~~ vending machines are



1 operated at the location described in the retail tobacco
2 permit."

3 4. By amending subsection (j) to read:

4 "(j) A vehicle from which cigarettes ~~[or]~~, tobacco
5 products ~~[are]~~, electronic smoking devices, or e-liquid is sold
6 is considered a place of business and requires a retail tobacco
7 permit. Retail tobacco permits for a vehicle shall be issued
8 bearing a specific motor vehicle identification number and are
9 valid only when physically carried in the vehicle having the
10 corresponding motor vehicle identification number. Retail
11 tobacco permits for vehicles shall not be moved from one vehicle
12 to another."

13 5. By amending subsection (l) to read:

14 "(l) A permittee shall keep a complete and accurate record
15 of the permittee's cigarette ~~[or]~~, tobacco product, electronic
16 smoking devices, and e-liquid inventory. The records shall:

17 (1) Include:

18 (A) A written statement containing the name and
19 address of the permittee's source of its
20 cigarettes ~~[and]~~, tobacco products~~[,]~~, electronic
21 smoking devices, and e-liquid;



1 (B) The date of delivery, quantity, trade name or
2 brand, and price of the cigarettes [~~and~~], tobacco
3 products[~~+~~], electronic smoking devices, and
4 e-liquid; and

5 (C) Documentation in the form of any purchase orders,
6 invoices, bills of lading, other written
7 statements, books, papers, or records in whatever
8 format, including electronic format, which
9 substantiate the purchase or acquisition of the
10 cigarettes [~~and~~], tobacco products, electronic
11 smoking devices, and e-liquid stored or offered
12 for sale; and

13 (2) Be offered for inspection and examination within
14 twenty-four hours of demand by the department or the
15 attorney general, and shall be preserved for a period
16 of three years; provided that:

17 (A) Specified records may be destroyed if the
18 department and the attorney general both consent
19 to their destruction within the three-year
20 period; and



1 (B) Either the department or the attorney general may
2 adopt rules pursuant to chapter 91 that require
3 specified records to be kept longer than a period
4 of three years."

5 6. By amending subsection (o) to read:

6 "(o) Any cigarette, package of cigarettes, carton of
7 cigarettes, container of cigarettes, tobacco product, package of
8 tobacco products, ~~[or any]~~ container of tobacco products,
9 electronic smoking device, package of electronic smoking
10 devices, container of electronic smoking devices, e-liquid,
11 package of e-liquid, or container of e-liquid unlawfully sold,
12 possessed, kept, stored, acquired, distributed, or transported
13 in violation of this section may be seized and ordered forfeited
14 pursuant to chapter 712A."

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

17 SECTION 6. This Act shall take effect on January 7, 2059.
18



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". Allows electronic smoking devices, packages of electronic smoking devices, containers of electronic smoking devices, e-liquid, packages of e-liquid, and containers of e-liquid to be seized and forfeited if unlawfully sold, possessed, kept, stored, acquired, distributed, or transported. 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, tobacco products, electronic smoking devices, and e-liquid. Effective January 7, 2059. (SD2)

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