
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 tobacco use is the
2 single most preventable cause of disease, disability, and death
3 in the United States. Tobacco use continues to be a problem in
4 Hawaii, causing approximately 1,400 deaths per year among
5 adults. An estimated 21,000 children in Hawaii currently under
6 the age of eighteen will ultimately die prematurely from
7 smoking. Tobacco use poses a heavy burden on Hawaii's health
8 care system and economy. Each year, smoking costs approximately
9 \$526,000,000 in direct health care expenditures and \$387,300,000
10 in lost productivity in the State.

11 The legislature further finds that tobacco products are
12 addictive and inherently dangerous, causing many different types
13 of cancer, heart disease, and other serious illnesses. Hawaii
14 has a substantial interest in reducing the number of individuals
15 of all ages who use tobacco products, and a particular interest
16 in protecting adolescents from tobacco dependence and the
17 illnesses and premature death associated with tobacco use.



1 The legislature additionally finds that electronic smoking
2 devices, also known as e-cigarettes, are battery-operated
3 products designed to deliver nicotine, flavor, and other
4 chemicals to the user by turning chemicals including highly
5 addictive nicotine into an aerosol that is inhaled by the user.
6 Consumers may choose from varying strengths of e-liquid as well
7 as liquids consisting of different flavors.

8 The electronic smoking device industry, including the
9 production of e-liquid, is growing rapidly. According to a 2016
10 report from the United States Surgeon General, e-cigarette use
11 amongst the nation's youth and young adults has become a major
12 public health concern. The Surgeon General's report noted that
13 e-cigarette use has increased considerably in recent years,
14 growing an astounding nine hundred per cent among high school
15 students from 2011 to 2015. Recent figures from the federal
16 Centers for Disease Control and Prevention indicate that more
17 than 3,000,000 middle school and high school students were
18 current users of e-cigarettes in 2015. Furthermore,
19 e-cigarettes are now the most commonly used tobacco product
20 among youth, surpassing conventional cigarettes in 2014.
21 E-cigarette use among youth and young adults is also strongly



1 associated with the use of other tobacco products, including
2 combustible tobacco products. Toxicologists have also warned
3 that e-liquids pose significant risks to public health,
4 particularly to children. According to the Surgeon General's
5 report, ingestion of e-liquids containing nicotine can cause
6 acute toxicity and possibly death, if the contents of refill
7 cartridges or bottles containing nicotine are consumed. The
8 Surgeon General's report also found that there are numerous
9 policies and practices that can be implemented at the state and
10 local levels to address electronic smoking device use among
11 youth and young adults, including preventing access to
12 e-cigarettes by youth, significant increases in tax and price of
13 e-cigarettes, retail licensure, and regulation of e-cigarette
14 marketing.

15 The legislature finds that the rapid growth of the
16 electronic smoking device industry, including retail businesses
17 selling electronic smoking devices or e-liquid, necessitates
18 further regulations to protect consumers, such as requiring
19 retailers of electronic smoking devices or e-liquid to obtain a
20 retail tobacco permit.



1 The legislature notes that the federal Food and Drug
2 Administration recently finalized a rule that expands its
3 regulatory authority to all tobacco products, including
4 electronic smoking devices, cigars, and hookah and pipe tobacco.
5 However, the legislature also notes that there is currently no
6 state tobacco tax attached to electronic smoking devices, even
7 though these products are now regulated as tobacco products.
8 Furthermore, e-liquid and tobacco products other than cigarettes
9 are currently taxed at a lower rate than cigarettes, even though
10 their use carries similar health risks. Research has shown that
11 either a tax on cigarettes or cigarette price increases have the
12 propensity to reduce the rate of smoking by adult and youth
13 smokers. However, the legislature is concerned that as the
14 price of cigarettes increases, smokers may be tempted to
15 purchase less expensive products such as electronic smoking
16 devices.

17 Finally, the legislature concludes that there needs to be a
18 tax on electronic smoking devices and e-liquids and taxing these
19 products at the same rate as other tobacco products is the most
20 equitable way to do so. Imposing a tax on electronic smoking
21 devices and e-liquids will also encourage users of electronic



1 smoking devices to quit, sustain cessation, prevent youth
2 initiation, and reduce consumption among those who continue to
3 use them.

4 The purpose of this Act is to:

- 5 (1) Require every retailer engaged in the retail sale of
6 cigarettes, tobacco products, electronic smoking
7 devices, or e-liquid to obtain a retail tobacco permit
8 to sell, possess, keep, acquire, distribute, or
9 transport cigarettes, tobacco products, electronic
10 smoking devices, or e-liquid for retail sale;
- 11 (2) Increase the license fee for persons engaged as a
12 wholesaler or dealer of cigarettes, tobacco products,
13 electronic smoking devices, and e-liquid;
- 14 (3) Increase the retail tobacco permit fee for retailers
15 engaged in the retail sale of cigarettes, tobacco
16 products, electronic smoking devices, and e-liquid;
17 and
- 18 (4) Impose an excise tax on electronic smoking devices,
19 disposable electronic smoking devices, reusable
20 electronic smoking devices, and e-liquid sold by a
21 wholesaler or dealer on and after January 1, 2018,



1 whether or not sold at wholesale, or if not sold then
2 at the same rate upon the use by the wholesaler or
3 dealer.

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

6 1. By adding two new definitions to be appropriately
7 inserted and to read:

8 "Electronic smoking device" means any electronic product
9 that can be used to aerosolize and deliver nicotine to the
10 person inhaling from the device, including but not limited to an
11 electronic cigarette, electronic cigar, electronic cigarillo,
12 electronic pipe, electronic hookah pipe, or hookah pen, and any
13 component of the device or related product, whether or not sold
14 separately, that is used during the operation of the device,
15 including but not limited to atomizers, coils, drip tips, and
16 tanks. Electronic smoking device does not include any battery
17 or battery charger that is sold separately.

18 "E-liquid" means any liquid containing nicotine that is
19 designed or intended to be used in a reusable electronic smoking
20 device, whether or not packaged in a cartridge or other
21 container."



1 2. By amending the definition of "business location" or
2 "place of business" to read:

3 "Business location" or "place of business" means the
4 entire premises occupied by a retail tobacco permit applicant or
5 an entity required to hold a retail tobacco permit under this
6 chapter and shall include but is not limited to any store,
7 stand, outlet, vehicle, cart, location, vending machine, or
8 structure from which cigarettes [~~or~~], tobacco products [~~are~~],
9 electronic smoking devices, or e-liquid are sold or distributed
10 to a consumer."

11 3. By amending the definition of "dealer" to read:

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



1 4. By amending the definition of "license" to read:
2 "License" means a license granted under this chapter, that
3 authorizes the holder to engage in the business of a wholesaler
4 or dealer of cigarettes [~~or~~], tobacco products, electronic
5 smoking devices, or e-liquid in the State. For purposes of any
6 action brought pursuant to section 231-35, the term "license"
7 shall include a retail tobacco permit required under this
8 chapter."

9 5. By amending the definition of "retailer" to read:
10 "Retailer" means an entity that engages in the practice of
11 selling cigarettes [~~or~~], tobacco products, electronic smoking
12 devices, or e-liquid to consumers and includes the owner of a
13 cigarette [~~or~~], tobacco product, electronic smoking device, or
14 e-liquid vending machine."

15 6. By amending the definition of "retail sale" or "tobacco
16 retailing" to read:
17 "Retail sale" or "tobacco retailing" means the practice of
18 selling cigarettes [~~or~~], tobacco products, electronic smoking
19 devices, or e-liquid to consumers and includes the sale of
20 cigarettes or tobacco through a vending machine."



1 7. By amending the definition of "retail tobacco permit"
2 to read:

3 "Retail tobacco permit" means a permit granted under this
4 chapter that authorizes an entity to engage in the business of
5 selling cigarettes [~~and~~], tobacco products, electronic smoking
6 devices, or e-liquid to consumers."

7 8. By amending the definition of "sale" or "sold" to read:

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

11 9. By amending the definition of "wholesale price" to
12 read:

13 "Wholesale price", in addition to any other meaning of the
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 (1) If made by a person who during the month preceding the
18 accrual of the tax made substantial sales to retailers
19 of like tobacco products, electronic smoking devices,
20 or e-liquid, the average price of the sales[~~r~~]; and



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 10. By amending the definition of "wholesaler" to read:

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

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

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

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



1 1. By amending subsections (a), (b), and (c) to read:

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

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

17 (c) The retail tobacco permit shall be issued by the
18 department upon application by the retailer in the form and
19 manner prescribed by the department, and the payment of a fee of
20 [~~\$20.~~] \$50. Permits shall be valid for one year, from
21 December 1 to November 30, and renewable annually. Whenever a



1 retail tobacco permit is defaced, destroyed, or lost, or the
2 permittee relocates the permittee's business, the department may
3 issue a duplicate retail tobacco permit to the permittee for a
4 fee of \$5 per copy."

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

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

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

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

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



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

10 5. By amending subsection (1) to read:

11 "(1) A permittee shall keep a complete and accurate record
12 of the permittee's cigarette [~~æ~~], tobacco product, electronic
13 smoking device, and e-liquid inventory. The records shall:

14 (1) Include:

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

19 (B) The date of delivery, quantity, trade name or
20 brand, and price of the cigarettes [~~and~~], tobacco



- 1 products[7], electronic smoking devices, and
2 e-liquid; and
- 3 (C) Documentation in the form of any purchase orders,
4 invoices, bills of lading, other written
5 statements, books, papers, or records in whatever
6 format, including electronic format, which
7 substantiate the purchase or acquisition of the
8 cigarettes [~~and~~], tobacco products, electronic
9 smoking devices, and e-liquid stored or offered
10 for sale; and
- 11 (2) Be offered for inspection and examination within
12 twenty-four hours of demand by the department or the
13 attorney general, and shall be preserved for a period
14 of three years; provided that:
- 15 (A) Specified records may be destroyed if the
16 department and the attorney general both consent
17 to their destruction within the three-year
18 period; and
- 19 (B) Either the department or the attorney general may
20 adopt rules pursuant to chapter 91 that require



1 specified records to be kept longer than a period
2 of three years."

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

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

13 SECTION 5. Section 245-2.7, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Beginning March 1, 2007, a person or entity required
16 to obtain a retail tobacco permit commits the offense of
17 unlawful tobacco retailing in the second degree if the person or
18 entity recklessly fails to obtain a valid permit required under
19 section 245-2.5 and, for the purposes of retail sale, recklessly
20 sells, possesses, stores, acquires, distributes, or transports



1 fewer than five thousand cigarettes [~~or~~], any tobacco
2 products[-], electronic smoking devices, or e-liquids."

3 SECTION 6. Section 245-3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§245-3 Taxes. (a) Every wholesaler or dealer, in
6 addition to any other taxes provided by law, shall pay for the
7 privilege of conducting business and other activities in the
8 State:

9 (1) An excise tax equal to 5.00 cents for each cigarette
10 sold, used, or possessed by a wholesaler or dealer
11 after June 30, 1998, whether or not sold at wholesale,
12 or if not sold then at the same rate upon the use by
13 the wholesaler or dealer;

14 (2) An excise tax equal to 6.00 cents for each cigarette
15 sold, used, or possessed by a wholesaler or dealer
16 after September 30, 2002, whether or not sold at
17 wholesale, or if not sold then at the same rate upon
18 the use by the wholesaler or dealer;

19 (3) An excise tax equal to 6.50 cents for each cigarette
20 sold, used, or possessed by a wholesaler or dealer
21 after June 30, 2003, whether or not sold at wholesale,



- 1 or if not sold then at the same rate upon the use by
2 the wholesaler or dealer;
- 3 (4) An excise tax equal to 7.00 cents for each cigarette
4 sold, used, or possessed by a wholesaler or dealer
5 after June 30, 2004, whether or not sold at wholesale,
6 or if not sold then at the same rate upon the use by
7 the wholesaler or dealer;
- 8 (5) An excise tax equal to 8.00 cents for each cigarette
9 sold, used, or possessed by a wholesaler or dealer on
10 and after September 30, 2006, whether or not sold at
11 wholesale, or if not sold then at the same rate upon
12 the use by the wholesaler or dealer;
- 13 (6) An excise tax equal to 9.00 cents for each cigarette
14 sold, used, or possessed by a wholesaler or dealer on
15 and after September 30, 2007, whether or not sold at
16 wholesale, or if not sold then at the same rate upon
17 the use by the wholesaler or dealer;
- 18 (7) An excise tax equal to 10.00 cents for each cigarette
19 sold, used, or possessed by a wholesaler or dealer on
20 and after September 30, 2008, whether or not sold at



- 1 wholesale, or if not sold then at the same rate upon
2 the use by the wholesaler or dealer;
- 3 (8) An excise tax equal to 13.00 cents for each cigarette
4 sold, used, or possessed by a wholesaler or dealer on
5 and after July 1, 2009, whether or not sold at
6 wholesale, or if not sold then at the same rate upon
7 the use by the wholesaler or dealer;
- 8 (9) An excise tax equal to 11.00 cents for each little
9 cigar sold, used, or possessed by a wholesaler or
10 dealer on and after October 1, 2009, whether or not
11 sold at wholesale, or if not sold then at the same
12 rate upon the use by the wholesaler or dealer;
- 13 (10) An excise tax equal to 15.00 cents for each cigarette
14 or little cigar sold, used, or possessed by a
15 wholesaler or dealer on and after July 1, 2010,
16 whether or not sold at wholesale, or if not sold then
17 at the same rate upon the use by the wholesaler or
18 dealer;
- 19 (11) An excise tax equal to 16.00 cents for each cigarette
20 or little cigar sold, used, or possessed by a
21 wholesaler or dealer on and after July 1, 2011,



1 whether or not sold at wholesale, or if not sold then
2 at the same rate upon the use by the wholesaler or
3 dealer;

4 (12) An excise tax equal to seventy per cent of the
5 wholesale price of each article or item of tobacco
6 products, other than large cigars, sold by the
7 wholesaler or dealer on and after September 30, 2009,
8 whether or not sold at wholesale, or if not sold then
9 at the same rate upon the use by the wholesaler or
10 dealer; [~~and~~]

11 (13) An excise tax equal to fifty per cent of the wholesale
12 price of each large cigar of any length, sold, used,
13 or possessed by a wholesaler or dealer on and after
14 September 30, 2009, whether or not sold at wholesale,
15 or if not sold then at the same rate upon the use by
16 the wholesaler or dealer[~~-~~]; and

17 (14) An excise tax equal to per cent of the wholesale
18 price of each electronic smoking device or e-liquid
19 sold, used, or possessed by a wholesaler or dealer on
20 and after January 1, 2018, whether or not sold at



1 wholesale, or if not sold then at the same rate upon
2 the use by the wholesaler or dealer.

3 Where the tax imposed has been paid on cigarettes, little
4 cigars, [~~or~~] tobacco products, electronic smoking devices, or
5 e-liquid that thereafter become the subject of a casualty loss
6 deduction allowable under chapter 235, the tax paid shall be
7 refunded or credited to the account of the wholesaler or dealer.
8 The tax shall be applied to cigarettes through the use of
9 stamps.

10 (b) The taxes, however, are subject to the following
11 limitations:

12 (1) The measure of the taxes shall not include any
13 cigarettes [~~or~~], tobacco products, electronic smoking
14 devices, or e-liquid exempted, and so long as the same
15 are exempted, from the imposition of taxes by the
16 Constitution or laws of the United States;

17 (2) The measure of taxes shall exempt and exclude all
18 sales of cigarettes [~~and~~], tobacco products,
19 electronic smoking devices, and e-liquid to the United
20 States (including any agency or instrumentality
21 thereof that is wholly owned or otherwise so



1 constituted as to be immune from the levy of a tax
2 under this chapter), sold by any person licensed under
3 this chapter; and

4 (3) The taxes shall be paid only once with respect to the
5 same cigarettes [~~or~~], tobacco product [~~or~~], electronic
6 smoking devices, or e-liquid. This limitation shall
7 not prohibit the imposition of the excise tax on
8 receipts from sales of tobacco products under
9 subsection (a) (5); provided that the amount subject to
10 the tax on each sale shall not include amounts
11 previously taxed under this chapter."

12 SECTION 7. Section 245-5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§245-5 Returns.** Every wholesaler or dealer, on or before
15 the twentieth day of each month, shall file with the department
16 a return showing the cigarettes [~~and~~], tobacco products,
17 electronic smoking devices, and e-liquid sold, possessed, or
18 used by the wholesaler or dealer during the preceding calendar
19 month and of the taxes chargeable against the taxpayer in
20 accordance with this chapter. The form of the return shall be
21 prescribed by the department and shall include:



- 1 (1) A separate statement of the number and wholesale price
- 2 of cigarettes;
- 3 (2) The amount of stamps purchased and used;
- 4 (3) The wholesale price of tobacco products, sold,
- 5 possessed, or used; [~~and~~]
- 6 (4) The wholesale price of electronic smoking devices and
- 7 e-liquid sold, possessed, or used; and
- 8 [~~(4)~~] (5) Any other information that the department may
- 9 deem necessary, for the proper administration of this
- 10 chapter."

11 SECTION 8. Section 245-8, Hawaii Revised Statutes, is
 12 amended by amending subsection (a) to read as follows:

- 13 "(a) Each wholesaler or dealer shall keep a record of:
- 14 (1) Every sale or use of cigarettes [~~and~~], tobacco
- 15 products, electronic smoking devices, and e-liquid by
- 16 the wholesaler or dealer;
- 17 (2) The number and wholesale price of cigarettes;
- 18 (3) The wholesale price of tobacco products, electronic
- 19 smoking devices, and e-liquid sold, possessed, or
- 20 used;



1 (4) The taxes payable on tobacco products, electronic
2 smoking devices, and e-liquid sold, possessed, or
3 used, if any; and

4 (5) The amounts of stamps purchased and used,
5 in a form as the department may prescribe. The records shall be
6 offered for inspection and examination at any time upon demand
7 by the department or the attorney general, and shall be
8 preserved for a period of five years, except that the department
9 and the attorney general, in writing, shall both consent to
10 their destruction within the five-year period or either the
11 department or the attorney general may require that they be kept
12 longer. The department, by rule, may require the wholesaler or
13 dealer to keep other records as it may deem necessary for the
14 proper enforcement of this chapter."

15 SECTION 9. Section 245-9, Hawaii Revised Statutes, is
16 amended by amending subsections (a) and (b) to read as follows:

17 "(a) The department and the attorney general may examine
18 all records, including tax returns and reports under section
19 245-31, required to be kept or filed under this chapter, and
20 books, papers, and records of any person engaged in the business
21 of wholesaling or dealing cigarettes [~~and~~], tobacco products,



1 electronic smoking devices, and e-liquid, to verify the accuracy
2 of the payment of the taxes imposed by this chapter. Every
3 person in possession of any books, papers, and records, and the
4 person's agents and employees, are directed and required to give
5 the department and the attorney general the means, facilities,
6 and opportunities for the examinations.

7 (b) The department and the attorney general may inspect
8 the operations, premises, and storage areas of any entity
9 engaged in the sale of cigarettes, or the contents of a specific
10 vending machine, during regular business hours. This inspection
11 shall include inspection of all statements, books, papers, and
12 records in whatever format, including electronic format,
13 pertaining to the acquisition, possession, transportation, sale,
14 or use of packages of cigarettes [~~and~~], tobacco products other
15 than cigarettes, electronic smoking devices, and e-liquid, to
16 verify the accuracy of the payment of taxes imposed by this
17 chapter, and of the contents of cartons and shipping or storage
18 containers to ascertain that all individual packages of
19 cigarettes have an affixed stamp of proper denomination as
20 required by this chapter. This inspection may also verify that
21 all stamps were produced under the authority of the department.



1 Every entity in possession of any books, papers, and records,
2 and the entity's agents and employees, are directed and required
3 to give the department and the attorney general the means,
4 facilities, and opportunities for the examinations. For
5 purposes of this chapter "entity" means one or more individuals,
6 a company, corporation, a partnership, an association, or any
7 other type of legal entity."

8 SECTION 10. Section 245-31, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending its title to read:

11 "§245-31 Monthly report on distributions of cigarettes
12 [~~and~~], tobacco products, electronic smoking devices, e-liquid,
13 and purchases of stamps."

14 2. By amending subsection (b) to read:

15 "(b) On or before the twentieth day of each month, every
16 licensee shall file on forms prescribed by the department:

17 (1) A report of the licensee's distributions of tobacco
18 products and the wholesale costs of tobacco products
19 during the preceding month; [~~and~~]

20 (2) A report of the licensee's distributions of electronic
21 smoking devices and e-liquid and the wholesale costs



1 of the electronic smoking devices and e-liquid during
2 the preceding month; and

3 ~~[-2-]~~ (3) Any other information that the department may
4 require to carry out this part."

5 SECTION 11. Section 245-32, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[-]~~§245-32~~[-]~~ Tax refund or credit for cigarettes ~~[and]~~,
8 tobacco products, electronic smoking devices, and e-liquid
9 shipped for sale or use outside the State. (a) The department
10 shall adopt rules to provide a tobacco tax refund or credit to a
11 licensee who has paid a tobacco tax on the distribution of
12 cigarettes ~~[or]~~, tobacco products, electronic smoking devices,
13 or e-liquid that are shipped to a point outside the State for
14 subsequent sale or use outside the State.

15 (b) This part shall not apply to cigarettes ~~[or]~~, tobacco
16 products, electronic smoking devices, or e-liquid that are
17 distributed in this State to consumers and that are subsequently
18 taken outside the State."

19 SECTION 12. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 13. This Act shall take effect on July 1, 2070.



Report Title:

Electronic Smoking Devices; E-liquid; Tax; Permit; License

Description:

Requires sellers of electronic smoking devices or e-liquid to obtain a retail tobacco permit or dealer or wholesale license. Increases the license fee for wholesalers or dealers and the retail tobacco permit fee. Applies the cigarette and tobacco product excise tax to electronic smoking devices and e-liquid.

(SB404 HD1)

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