
A BILL FOR AN ACT

RELATING TO TOBACCO.

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

1 SECTION 1. The legislature finds that the density of
2 tobacco retailers around schools has a significant impact on the
3 prevalence of youth tobacco use. A 2008 study by L. Henriksen,
4 et al., found that the incidence of smoking was significantly
5 higher among students in schools with the highest density of
6 surrounding tobacco retailers compared with students in schools
7 without any tobacco retailers nearby.

8 The legislature further finds that electronic smoking
9 devices are especially popular among youth, surpassing
10 cigarettes as the most commonly used tobacco product. The 2015
11 Hawaii Youth Risk Behaviors Survey reports that twenty-five per
12 cent of high school students and fifteen per cent of middle
13 school students have used electronic vapor products in the past
14 thirty days. The popularity of these devices is concerning, as
15 electronic smoking devices are not safe alternatives to other
16 tobacco products, as exposure to nicotine increases the risk of
17 addiction and may disrupt critical brain development.



1 The legislature recognizes that tobacco advertising and
2 retailers suggest smoking is acceptable, and youth and children
3 are particularly susceptible to these cues. Tobacco and
4 electronic smoking device manufacturers employ tactics that
5 appeal to youth, such as child-friendly flavors, celebrity
6 endorsements, and high-tech design. The tobacco industry spends
7 \$24,300,000 on marketing per year in Hawaii. In addition, the
8 electronic smoking device industry spent an estimated
9 \$115,000,000 in 2014, a nearly 1,700 per cent increase from
10 2011. Youth who walk or take public transportation to school
11 may be exposed to advertising of tobacco products and electronic
12 smoking devices at locations such as convenience stores, grocery
13 stores, and gas stations.

14 The legislature further finds that several cities in
15 California and New York have implemented tobacco retail buffer
16 zones, ranging from three to fifteen hundred feet, where sales
17 of tobacco products and permits for tobacco retailers are
18 prohibited within a certain proximity to schools, parks,
19 libraries, and other youth-oriented areas. Tobacco retail
20 buffer zones encourage responsible tobacco retailing, reduces
21 tobacco-related health disparities, and most importantly,



1 reduces youth tobacco use, especially electronic smoking device
2 use.

3 The purpose of this Act is to reduce the use, access, and
4 exposure of tobacco products to youth by prohibiting the
5 issuance and renewal of retail tobacco permits for, and the sale
6 of a tobacco product or an electronic smoking device at, a place
7 of business within five hundred feet of preschools, schools, and
8 public playgrounds.

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

12 "§328J- Tobacco products and electronic smoking devices;
13 prohibited locations. (a) It shall be unlawful to sell a
14 tobacco product or an electronic smoking device at a place of
15 business located within five hundred feet of a public or private
16 preschool; a public or private elementary, intermediate, or high
17 school; or public playground utilized extensively by minors.
18 The distance of five hundred feet shall be measured from the
19 boundary of the preschool, school, or public playground to the
20 boundary of the place of business's premises. Public or private
21 beaches, and public or private day care centers located in or



1 adjacent to commercial areas shall not be deemed schools or
2 public playgrounds for purposes of this subsection. Vocational
3 or licensing schools, or other schools attended primarily by
4 adults, shall not be considered schools for the purposes of this
5 subsection.

6 (b) Any person who violates this section shall be fined
7 \$500 for the first day of offense and no less than \$500 and no
8 more than \$2,000 for any subsequent days of offense.

9 (c) For purposes of this section:

10 "Electronic smoking device" shall have the same meaning as
11 in section 712-1258.

12 "Tobacco product" shall have the same meaning as in section
13 712-1258.

14 "To sell" shall have the same meaning as in section 712-
15 1257."

16 SECTION 3. Section 245-2.5, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) The retail tobacco permit shall be issued by the
19 department upon application by the retailer in the form and
20 manner prescribed by the department, and the payment of a fee of
21 \$20 [-]; provided that the place of business for which the permit



1 is sought shall not be within five hundred of a public or
2 private preschool; a public or private elementary, intermediate,
3 or high school; or public playground utilized extensively by
4 minors. Permits shall be valid for one year, from December 1 to
5 November 30, and renewable annually[-]; provided that the
6 department shall not renew a permit for a place of business that
7 is located within five hundred feet of a public or private
8 preschool; a public or private elementary, intermediate, or high
9 school; or public playground utilized extensively by minors,
10 such that the permit shall be valid beyond November 30, 2019.
11 Whenever a retail tobacco permit is defaced, destroyed, or lost,
12 or the permittee relocates the permittee's business, the
13 department may issue a duplicate retail tobacco permit to the
14 permittee for a fee of \$5 per copy. The distance of five
15 hundred feet shall be measured from the boundary of the
16 preschool, school, or public playground to the boundary of the
17 place of business's premises. Public or private beaches, and
18 public or private day care centers located in or adjacent to
19 commercial areas shall not be deemed schools or public
20 playgrounds for purposes of this subsection. Vocational or
21 licensing schools, or other schools attended primarily by



1 adults, shall not be considered schools for the purposes of this
2 subsection."

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

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

8 SECTION 6. This Act shall take effect on July 1, 2018;
9 provided that section 2 shall take effect on December 1, 2019.

10



Report Title:

Tobacco; Electronic Smoking Devices; Tobacco Retailer Buffer Zones; Keiki Caucus

Description:

Prohibits the issuance and renewal beyond November 30, 2019, of retail tobacco permits for businesses that are located within five hundred feet of a preschool, school, or certain public playgrounds. Beginning on December 1, 2019, prohibits the sale of tobacco products and electronic smoking devices by businesses that are located within five hundred feet of a preschool, school, or certain public playgrounds. (SD1)

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