

JAN 24 2018

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# A BILL FOR AN ACT

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RELATING TO HEALTH.

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

1       SECTION 1. The legislature finds in accordance with  
2 article X, section 6, of the state constitution that this Act is  
3 of statewide concern.

4       The legislature further finds that tobacco use is the  
5 single most preventable cause of death in the United States,  
6 with tobacco-related diseases resulting in \$96,000,000,000 in  
7 health care costs annually. A 2012 United States Surgeon  
8 General report states that tobacco use and exposure to  
9 secondhand smoke are serious public health concerns and there is  
10 no safe level of exposure to environmental tobacco smoke.

11       Additional concerns have been raised about the growing  
12 popularity of electronic smoking devices. Sales of electronic  
13 smoking devices in the United States have doubled each year  
14 since 2008, with sales in 2013 estimated to have reached  
15 \$1,700,000,000. Due to the relative lack of research data on  
16 electronic smoking devices, many public health organizations and



1 policymakers are concerned about the safety and impact of these  
2 products on public health.

3 Smoking and tobacco use is already prohibited in over seven  
4 hundred sixty college and university campuses in the United  
5 States. Many colleges and universities are also including  
6 electronic smoking devices in their campus-wide bans. Smoking  
7 and tobacco use on University of Hawaii premises presents  
8 substantial fiscal burdens on employee health care costs,  
9 absenteeism, and turnover; the maintenance and upkeep of  
10 physical facilities; fire risks and losses; and litter control,  
11 as well as imposes an adverse impact on the surrounding land and  
12 water environments.

13 University of Hawaii's executive policy E10.102 prohibits  
14 smoking under certain circumstances, but the policy does not  
15 make all of the campuses smoke- and tobacco-free.

16 The purpose of this Act is to promote positive health  
17 practices and protect University of Hawaii students, employees,  
18 and visitors from exposure to secondhand smoke and other  
19 potentially harmful substances by prohibiting smoking, including  
20 the use of electronic smoking devices, and tobacco use on  
21 University of Hawaii premises.



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

"§304A- Smoking and tobacco use prohibited; University of Hawaii premises. (a) Notwithstanding chapter 328J to the contrary, the University of Hawaii shall prohibit smoking and tobacco use by any person on University of Hawaii premises, to the extent that such a prohibition is not prohibited by federal law. Mere possession or storage of a cigarette, tobacco product, or electronic smoking device for use outside the University of Hawaii premises shall not constitute a violation under this section.

(b) Pursuant to section 89-9(d), the smoking and tobacco use prohibitions under this section shall not be subject to collective bargaining.

(c) The University of Hawaii shall be responsible for educating students, employees, and visitors about the smoking and tobacco use prohibitions under this section. Clearly legible signs shall be prominently displayed at all entrances to the premises and at other conspicuous outdoor locations throughout the premises and shall state that smoking, including



1 the use of electronic smoking devices, and tobacco use, are  
2 prohibited by law.

3 (d) As used in this section:

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

5 "Electronic smoking device" means any electronic product  
6 that can be used to aerosolize and deliver nicotine or other  
7 substances to the person inhaling from the device including but  
8 not limited to an electronic cigarette, electronic cigar,  
9 electronic cigarillo, electronic pipe, hookah pipe, or hookah  
10 pen, and any cartridge or other component of the device or  
11 related product, whether or not sold separately.

12 "Premises" means all indoor and outdoor areas within  
13 property owned or controlled by the University of Hawaii or for  
14 which the university is otherwise responsible.

15 "Smoke" or "smoking" means inhaling, exhaling, burning, or  
16 carrying any lighted or heated tobacco product or plant product  
17 intended for inhalation in any manner or in any form. "Smoking"  
18 includes the use of an electronic smoking device.

19 "Tobacco product" means any product made or derived from  
20 tobacco that contains nicotine or other substances, and is  
21 intended for human consumption or is likely to be consumed,



1 whether smoked, heated, chewed, absorbed, dissolved, inhaled, or  
2 ingested by any other means, including but not limited to a  
3 cigarette, cigar, pipe tobacco, chewing tobacco, snuff, snus, or  
4 an electronic smoking device. "Tobacco product" does not  
5 include drugs, devices, or combination products approved for  
6 sale by the United States Food and Drug Administration, as those  
7 terms are defined in the Federal Food, Drug, and Cosmetic Act.

8 "Tobacco use" means the personal use of any tobacco  
9 product, including the use of smokeless tobacco."

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

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



- 1 (1) Direct employees;
- 2 (2) Determine qualifications, standards for work, and the
- 3 nature and contents of examinations;
- 4 (3) Hire, promote, transfer, assign, and retain employees
- 5 in positions;
- 6 (4) Suspend, demote, discharge, or take other disciplinary
- 7 action against employees for proper cause;
- 8 (5) Relieve an employee from duties because of lack of
- 9 work or other legitimate reason;
- 10 (6) Maintain efficiency and productivity, including
- 11 maximizing the use of advanced technology, in
- 12 government operations;
- 13 (7) Determine methods, means, and personnel by which the
- 14 employer's operations are to be conducted; [and]
- 15 (8) Take such actions as may be necessary to carry out the
- 16 missions of the employer in cases of emergencies[-];
- 17 and
- 18 (9) Prohibit smoking, including the use of electronic
- 19 smoking devices, and tobacco use on the premises of
- 20 the University of Hawaii, as defined in section
- 21 304A- .



1 This subsection shall not be used to invalidate provisions  
2 of collective bargaining agreements in effect on and after  
3 June 30, 2007, and shall not preclude negotiations over the  
4 procedures and criteria on promotions, transfers, assignments,  
5 demotions, layoffs, suspensions, terminations, discharges, or  
6 other disciplinary actions as a permissive subject of bargaining  
7 during collective bargaining negotiations or negotiations over a  
8 memorandum of agreement, memorandum of understanding, or other  
9 supplemental agreement.

10 Violations of the procedures and criteria so negotiated may  
11 be subject to the grievance procedure in the collective  
12 bargaining agreement."

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

15 SECTION 5. This Act shall take effect upon its approval.

16 INTRODUCED BY:

*Donald D. [Signature]*

*Michelle A. Tedani*

*Ronald H. Baker*  
*Breanne Harris*

*Bob [Signature]*  
*Quince R. Monroe*



# S.B. NO. 3004

**Report Title:**

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

**Description:**

Prohibits tobacco use and smoking, including the use of  
electronic smoking devices, by any person on the premises of UH.

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

