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# 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.

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

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



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

4        8. By amending the definition of "wholesale price" to  
5 read:

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

- 10       (1) If made by a person who during the month preceding the  
11 accrual of the tax made substantial sales to retailers  
12 of like tobacco products, electronic smoking devices,  
13 or e-liquid, the average price of the sales[~~7~~]; and  
14       (2) If made by any other person, the average price of  
15 sales to retailers of like tobacco products,  
16 electronic smoking devices, or e-liquid made by other  
17 taxpayers in the same county during the month  
18 preceding the accrual of the tax."

19        9. By amending the definition of "wholesaler" to read:

20        ""Wholesaler" means a person rendering a distribution  
21 service who buys and maintains, at the person's place of



1 business, a stock of cigarettes [~~or~~], tobacco products,  
2 electronic smoking devices, or e-liquid that the person uses,  
3 possesses, or distributes only to retailers, or other  
4 wholesalers, or both."

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

7 "(b) The license shall be issued by the department upon  
8 application therefor, in such form and manner as shall be  
9 required by rule of the department, and the payment of a fee of  
10 [~~\$2.50,~~] \$250, and shall be renewable annually on July 1 for the  
11 twelve months ending the succeeding June 30. Fees collected  
12 pursuant to this section shall be used to cover administrative  
13 expenses, merchant education, legal signage, and the enforcement  
14 of tobacco sales laws."

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

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

18 "(a) [~~Beginning December 1, 2006, every~~] Every retailer  
19 engaged in the retail sale of cigarettes [~~and other~~], tobacco  
20 products [~~upon which a tax is required to be paid under this~~



1 ~~chapter]~~, electronic smoking devices, or e-liquid shall obtain a  
2 retail tobacco permit.

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

13 (c) The retail tobacco permit shall be issued by the  
14 department upon application by the retailer in the form and  
15 manner prescribed by the department, and the payment of a fee of  
16 [~~\$20.~~] \$50. Permits shall be valid for one year, from  
17 December 1 to November 30, and renewable annually. Whenever a  
18 retail tobacco permit is defaced, destroyed, or lost, or the  
19 permittee relocates the permittee's business, the department may  
20 issue a duplicate retail tobacco permit to the permittee for a  
21 fee of \$5 per copy. Fees collected pursuant to this section



1 shall be used to cover administrative expenses, merchant  
2 education, legal signage, and the enforcement of tobacco sales  
3 laws."

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

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

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

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

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



1           "(j) A vehicle from which cigarettes [~~or~~], tobacco  
2 products [~~are~~], electronic smoking devices, or e-liquid is sold  
3 is 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 [~~or~~], 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 [~~and~~], 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, [~~er 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 245-3, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§245-3 Taxes.** (a) Every wholesaler or dealer, in  
16 addition to any other taxes provided by law, shall pay for the  
17 privilege of conducting business and other activities in the  
18 State:

19 (1) An excise tax equal to 5.00 cents for each cigarette  
20 sold, used, or possessed by a wholesaler or dealer  
21 after June 30, 1998, 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 (2) An excise tax equal to 6.00 cents for each cigarette  
4 sold, used, or possessed by a wholesaler or dealer  
5 after September 30, 2002, 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 (3) An excise tax equal to 6.50 cents for each cigarette  
9 sold, used, or possessed by a wholesaler or dealer  
10 after June 30, 2003, whether or not sold at wholesale,  
11 or if not sold then at the same rate upon the use by  
12 the wholesaler or dealer;
- 13 (4) An excise tax equal to 7.00 cents for each cigarette  
14 sold, used, or possessed by a wholesaler or dealer  
15 after June 30, 2004, whether or not sold at wholesale,  
16 or if not sold then at the same rate upon the use by  
17 the wholesaler or dealer;
- 18 (5) An excise tax equal to 8.00 cents for each cigarette  
19 sold, used, or possessed by a wholesaler or dealer on  
20 and after September 30, 2006, 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           (6)   An excise tax equal to 9.00 cents for each cigarette  
4           sold, used, or possessed by a wholesaler or dealer on  
5           and after September 30, 2007, 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           (7)   An excise tax equal to 10.00 cents for each cigarette  
9           sold, used, or possessed by a wholesaler or dealer on  
10          and after September 30, 2008, 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          (8)   An excise tax equal to 13.00 cents for each cigarette  
14          sold, used, or possessed by a wholesaler or dealer on  
15          and after July 1, 2009, 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          (9)   An excise tax equal to 11.00 cents for each little  
19          cigar sold, used, or possessed by a wholesaler or  
20          dealer on and after October 1, 2009, whether or not



- 1 sold at wholesale, or if not sold then at the same  
2 rate upon the use by the wholesaler or dealer;
- 3 (10) An excise tax equal to 15.00 cents for each cigarette  
4 or little cigar sold, used, or possessed by a  
5 wholesaler or dealer on and after July 1, 2010,  
6 whether or not sold at wholesale, or if not sold then  
7 at the same rate upon the use by the wholesaler or  
8 dealer;
- 9 (11) An excise tax equal to 16.00 cents for each cigarette  
10 or little cigar sold, used, or possessed by a  
11 wholesaler or dealer on and after July 1, 2011,  
12 whether or not sold at wholesale, or if not sold then  
13 at the same rate upon the use by the wholesaler or  
14 dealer;
- 15 (12) An excise tax equal to seventy per cent of the  
16 wholesale price of each article or item of tobacco  
17 products, other than large cigars, sold by the  
18 wholesaler or dealer on and after September 30, 2009,  
19 whether or not sold at wholesale, or if not sold then  
20 at the same rate upon the use by the wholesaler or  
21 dealer; [and]



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

7           (14) An excise tax equal to seventy per cent of the  
8           wholesale price of each electronic smoking device or  
9           e-liquid sold, used, or possessed by a wholesaler or  
10           dealer on and after January 1, 2018, 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 Where the tax imposed has been paid on cigarettes, little  
14 cigars, [~~or~~] tobacco products, electronic smoking devices, or  
15 e-liquid that thereafter [~~become~~] becomes the subject of a  
16 casualty loss deduction allowable under chapter 235, the tax  
17 paid shall be refunded or credited to the account of the  
18 wholesaler or dealer. The tax shall be applied to cigarettes  
19 through the use of stamps.

20           (b) The taxes, however, are subject to the following  
21 limitations:



- 1           (1) The measure of the taxes shall not include any  
2           cigarettes [~~e~~], tobacco products, electronic smoking  
3           devices, or e-liquid exempted, and so long as the same  
4           are exempted, from the imposition of taxes by the  
5           Constitution or laws of the United States;
- 6           (2) The measure of taxes shall exempt and exclude all  
7           sales of cigarettes [~~and~~], tobacco products,  
8           electronic smoking devices, and e-liquid to the United  
9           States (including any agency or instrumentality  
10          thereof that is wholly owned or otherwise so  
11          constituted as to be immune from the levy of a tax  
12          under this chapter), sold by any person licensed under  
13          this chapter; and
- 14          (3) The taxes shall be paid only once with respect to the  
15          same cigarettes [~~e~~], tobacco product[-], electronic  
16          smoking devices, or e-liquid. This limitation shall  
17          not prohibit the imposition of the excise tax on  
18          receipts from sales of tobacco products under  
19          subsection (a) (5); provided that the amount subject to  
20          the tax on each sale shall not include amounts  
21          previously taxed under this chapter."



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

3 **"§245-5 Returns.** Every wholesaler or dealer, on or before  
4 the twentieth day of each month, shall file with the department  
5 a return showing the cigarettes [~~and~~], tobacco products,  
6 electronic smoking devices, and e-liquid sold, possessed, or  
7 used by the wholesaler or dealer during the preceding calendar  
8 month and of the taxes chargeable against the taxpayer in  
9 accordance with this chapter. The form of the return shall be  
10 prescribed by the department and shall include:

- 11 (1) A separate statement of the number and wholesale price  
12 of cigarettes;
- 13 (2) The amount of stamps purchased and used;
- 14 (3) The wholesale price of tobacco products, sold,  
15 possessed, or used; [~~and~~]
- 16 (4) The wholesale price of electronic smoking devices and  
17 e-liquid sold, possessed, or used; and
- 18 [~~(4)~~] (5) Any other information that the department may  
19 deem necessary, for the proper administration of this  
20 chapter."



1 SECTION 7. Section 245-8, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Each wholesaler or dealer shall keep a record of:

4 (1) Every sale or use of cigarettes [~~and~~], tobacco  
5 products, electronic smoking devices, and e-liquid by  
6 the wholesaler or dealer;

7 (2) The number and wholesale price of cigarettes;

8 (3) The wholesale price of tobacco products, electronic  
9 smoking devices, and e-liquid sold, possessed, or  
10 used;

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

14 (5) The amounts of stamps purchased and used,  
15 in a form as the department may prescribe. The records shall be  
16 offered for inspection and examination at any time upon demand  
17 by the department or the attorney general, and shall be  
18 preserved for a period of five years, except that the department  
19 and the attorney general, in writing, shall both consent to  
20 their destruction within the five-year period or either the  
21 department or the attorney general may require that they be kept



1 longer. The department, by rule, may require the wholesaler or  
2 dealer to keep other records as it may deem necessary for the  
3 proper enforcement of this chapter."

4 SECTION 8. Section 245-9, Hawaii Revised Statutes, is  
5 amended by amending subsections (a) and (b) to read as follows:

6 "(a) The department and the attorney general may examine  
7 all records, including tax returns and reports under section  
8 245-31, required to be kept or filed under this chapter, and  
9 books, papers, and records of any person engaged in the business  
10 of wholesaling or dealing cigarettes [~~and~~], tobacco products,  
11 electronic smoking devices, and e-liquid, to verify the accuracy  
12 of the payment of the taxes imposed by this chapter. Every  
13 person in possession of any books, papers, and records, and the  
14 person's agents and employees, are directed and required to give  
15 the department and the attorney general the means, facilities,  
16 and opportunities for the examinations.

17 (b) The department and the attorney general may inspect  
18 the operations, premises, and storage areas of any entity  
19 engaged in the sale of cigarettes, or the contents of a specific  
20 vending machine, during regular business hours. This inspection  
21 shall include inspection of all statements, books, papers, and



1 records in whatever format, including electronic format,  
2 pertaining to the acquisition, possession, transportation, sale,  
3 or use of packages of cigarettes [~~and~~], tobacco products other  
4 than cigarettes, electronic smoking devices, and e-liquid, to  
5 verify the accuracy of the payment of taxes imposed by this  
6 chapter, and of the contents of cartons and shipping or storage  
7 containers to ascertain that all individual packages of  
8 cigarettes have an affixed stamp of proper denomination as  
9 required by this chapter. This inspection may also verify that  
10 all stamps were produced under the authority of the department.  
11 Every entity in possession of any books, papers, and records,  
12 and the entity's agents and employees, are directed and required  
13 to give the department and the attorney general the means,  
14 facilities, and opportunities for the examinations. For  
15 purposes of this chapter "entity" means one or more individuals,  
16 a company, corporation, a partnership, an association, or any  
17 other type of legal entity."

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

20 1. By amending its title to read:



1           "§245-31 Monthly report on distributions of cigarettes  
2 [and], tobacco products, electronic smoking devices, e-liquid,  
3 and purchases of stamps."

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

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

7           (1) A report of the licensee's distributions of tobacco  
8 products and the wholesale costs of tobacco products  
9 during the preceding month; [and]

10          (2) A report of the licensee's distributions of electronic  
11 smoking devices and e-liquid and the wholesale costs  
12 of the electronic smoking devices and e-liquid during  
13 the preceding month; and

14          ~~(2)~~ (3) Any other information that the department may  
15 require to carry out this part."

16          SECTION 10. Section 245-32, Hawaii Revised Statutes, is  
17 amended to read as follows:

18          "~~§~~245-32~~§~~ Tax refund or credit for cigarettes [and],  
19 tobacco products, electronic smoking devices, and e-liquid

20 shipped for sale or use outside the State. (a) The department  
21 shall adopt rules to provide a tobacco tax refund or credit to a



1 licensee who has paid a tobacco tax on the distribution of  
2 cigarettes [~~or~~], tobacco products, electronic smoking devices,  
3 or e-liquid that [~~are~~] is shipped to a point outside the State  
4 for subsequent sale or use outside the State.

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

9 SECTION 11. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 12. This Act shall take effect on January 1, 2018.

12



**Report Title:**

Electronic Smoking Devices; E-liquid; Excise Tax; Retail Tobacco Permit; License; Retailers; Wholesalers and Dealers

**Description:**

Requires retailers engaged in the retail sale of cigarettes, tobacco products, electronic smoking devices, or e-liquid to obtain a retail tobacco permit. Increases the license fee for wholesalers or dealers of cigarettes, tobacco products, electronic smoking devices, and e-liquid. Increases the retail tobacco permit fee for retailers of cigarettes, tobacco products, electronic smoking devices, and e-liquid. Requires that license and permit fees collected be used to cover administrative expenses, merchant education, legal signage, and the enforcement of tobacco sales laws. Imposes an excise tax on electronic smoking devices and e-liquid sold by a wholesaler or dealer on and after 01/01/2018. Effective 1/1/2018. (SD1)

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

