



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 9, 2019

**GOV. MSG. NO. 1385**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Thirtieth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Thirtieth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith SB1405 SD2 HD2 CD2, without my approval and with the statement of objections relating to the measure.

SB1405 SD2 HD2 CD2

RELATING TO ELECTRONIC SMOKING  
PRODUCTS.

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 9, 2019

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1405

Honorable Members  
Thirtieth Legislature  
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, Senate Bill No. 1405, entitled "A Bill for an Act Relating to Electronic Smoking Products."

The purposes of this bill are to require public school teachers or educators to confiscate e-cigarettes from students; require public schools to coordinate with the Department of Health for proper disposal of the confiscated e-cigarettes; require the Department of Health to create a safe harbor program for the disposal of e-cigarettes; and increase the fines from \$10 to \$100 for any person under age 21 who violates laws related to electronic smoking devices.

This bill is objectionable because there are considerable implementation concerns and unknown costs relating to certain provisions of this bill. This measure does not include a definition for an "electronic cigarette." A definition is necessary to provide teachers, educators, and students with an understanding of what items are subject to confiscation. Furthermore, confiscating and destroying evidence of a crime may hinder prosecution of those individuals responsible for selling or furnishing electronic cigarettes to persons under the age of 21. It should be noted that the costs to plan for and to create a safe harbor program and store and destroy electronic smoking devices, including the hazardous nicotine waste contained in these devices, are unknown and unfunded.

STATEMENT OF OBJECTIONS  
SENATE BILL NO. 1405  
Page 2

For the foregoing reasons, I am returning Senate Bill No. 1405 without my approval.

Respectfully,

A handwritten signature in black ink, reading "David Y. Ige". The signature is fluid and cursive, with a large, sweeping "Y" and a long, horizontal stroke at the end.

DAVID Y. IGE  
Governor of Hawai'i

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## A BILL FOR AN ACT

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RELATING TO ELECTRONIC SMOKING PRODUCTS.

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

1       SECTION 1. Chapter 302A, Hawaii Revised Statutes, is  
2       amended by adding a new section to be appropriately designated  
3       and to read as follows:

4       "§302A-       Confiscation of electronic cigarettes. (a) A  
5       teacher or educator at a public school shall confiscate an  
6       electronic cigarette that is in the possession of a student who  
7       is under the age of twenty-one.

8       (b) Each public school shall coordinate with the  
9       department of health for the proper disposal of electronic  
10      cigarettes confiscated pursuant to subsection (a).

11      (c) No teacher or educator, nor the public school that  
12      employs the teacher or educator, who acts or fails to act in  
13      accordance with this section shall be liable in any court of law  
14      for acting or failing to act in accordance with this section."

15      SECTION 2. Chapter 321, Hawaii Revised Statutes, is  
16      amended by adding a new section to be appropriately designated  
17      and to read as follows:



1        "§321-        Safe harbor for disposal electronic cigarettes.

2        (a) The department of health shall establish and administer a  
3        safe harbor program by which persons under the age of twenty-one  
4        may dispose of electronic cigarettes in their possession.

5        (b) Notwithstanding any law to the contrary, a person  
6        under the age of twenty-one who disposes of an electronic  
7        cigarette pursuant to a program established pursuant to this  
8        section shall not be subject to any penalty relating to the  
9        underage possession of electronic cigarettes."

10       SECTION 3. Section 245-17, Hawaii Revised Statutes, is  
11       amended by amending subsection (d) to read as follows:

12       "(d) Any person who violates this section shall be fined  
13       \$500 for the first offense. Any subsequent offenses shall  
14       subject the person to a fine of no less than \$500 but no more  
15       than \$2,000. Any person under twenty-one years of age who  
16       violates this section shall be fined [~~\$10 for the first offense,~~  
17       ~~provided that any subsequent offense shall subject the person to~~  
18       ~~a fine of \$50,~~] \$100, no part of which shall be suspended, or  
19       the person shall be required to perform no less than forty-eight  
20       hours but no more than seventy-two hours of community service



1 during hours when the person is not employed or attending  
2 school."

3 SECTION 4. Section 712-1258, Hawaii Revised Statutes, is  
4 amended by amending subsection (6) to read as follows:

5 "(6) Any person who violates subsection (1) or (4), or  
6 both, shall be fined \$500 for the first offense. Any subsequent  
7 offenses shall subject the person to a fine not less than \$500  
8 nor more than \$2,000. Any person under twenty-one years of age  
9 who violates subsection (5) shall be fined [~~\$10 for the first~~  
10 ~~offense. Any subsequent offense shall subject the violator to a~~  
11 ~~fine of \$50,~~ \$100, no part of which shall be suspended, or the  
12 person shall be required to perform not less than forty-eight  
13 hours nor more than seventy-two hours of community service  
14 during hours when the person is not employed and is not  
15 attending school. Any tobacco product or electronic smoking  
16 device, as those terms are defined in subsection (7), in the  
17 person's possession at the time of violation of subsection (5)  
18 shall be seized, summarily forfeited to the State, and destroyed  
19 by law enforcement following the conclusion of an administrative  
20 or judicial proceeding finding that a violation of subsection



1 (5) has been committed. The procedures set forth in chapter  
2 712A shall not apply to this subsection."

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

8 SECTION 7. This Act shall take effect on July 1, 2019.

APPROVED this                      day of                      , 2019

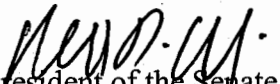
GOVERNOR OF THE STATE OF HAWAII

S.B. No. 1405, S.D. 2, H.D. 2, C.D. 2

**THE SENATE OF THE STATE OF HAWAI‘I**

Date: May 2, 2019  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Thirtieth Legislature of the State of Hawai‘i, Regular Session of 2019.

  
President of the Senate

  
Clerk of the Senate



SB No. 1405, SD 2, HD 2, CD 2

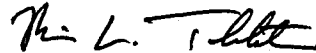
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2019  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.



Scott K. Saiki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives