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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1        SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended  
2 by adding a new section to part I to be appropriately designated  
3 and to read as follows:

4        **"S28- Electronic smoking device and e-liquid**  
5 **manufacturers; certification; directory; penalties.** (a) No  
6 later than October 1, 2026, and annually thereafter, every  
7 manufacturer of an electronic smoking device or e-liquid sold in  
8 the State, whether directly or through a dealer, a distributor,  
9 an importer, a retailer, a wholesaler, or similar intermediary  
10 or intermediaries, shall certify under penalty of perjury on a  
11 form and in the manner prescribed by the department, that:

12        (1) The manufacturer has received a marketing granted  
13 order for the electronic smoking device or e-liquid  
14 from the United States Food and Drug Administration  
15 pursuant to title 21 United States Code section 387j;



1                   (2) The manufacturer is in compliance with state laws,  
2                   including this chapter, chapter 245, and chapter 486P;  
3                   and  
4                   (3) The manufacturer is in compliance with federal laws,  
5                   including title 15 United States Code section 376,  
6                   title 15 United States Code section 376a, title 18  
7                   United States Code section 1716, and title 21 United  
8                   States Code section 331.

9                   (b) The certification form shall separately list each  
10                  brand name; product name; category, including disposable  
11                  electronic smoking device, power unit, device, and e-liquid; and  
12                  flavor for each electronic smoking device and e-liquid that is  
13                  sold in the State.

14                  (c) Each annual certification form shall be accompanied  
15                  by:

16                  (1) A copy of the marketing granted order issued by the  
17                  United States Food and Drug Administration pursuant to  
18                  title 21 United States Code section 387j; and  
19                  (2) A payment of \$1,000 for each electronic smoking device  
20                  and e-liquid each time a manufacturer submits a  
21                  certification form for that product.



1       (d) The information submitted by the manufacturer pursuant  
2       to subsection (c) (1) shall be considered confidential business  
3       or commercial information and shall not be disclosed pursuant to  
4       sections 92F-13 and 92F-19(b). The manufacturer may redact  
5       certain confidential commercial or financial information under  
6       subsection (c) (1).

7       (e) A manufacturer required to submit a certification form  
8       pursuant to this section shall notify the department within  
9       thirty days of any material change to the certification form,  
10       including the denial of a marketing authorization or other order  
11       by the United States Food and Drug Administration pursuant to  
12       title 21 United States Code section 387j, or any other order or  
13       action by the United States Food and Drug Administration or any  
14       court that affects the ability of the electronic smoking device  
15       or e-liquid to be introduced or delivered into interstate  
16       commerce for commercial distribution in the United States.

17       (f) Beginning January 1, 2027, the department shall  
18       maintain and make publicly available on the department's  
19       official website a directory that lists all manufacturers of  
20       electronic smoking devices and e-liquids and all electronic  
21       smoking devices and e-liquids, including brand names, product



1       names, categories, and flavors, for which certification forms  
2       have been submitted and approved by the department. The  
3       department shall update the directory to ensure accuracy, and  
4       shall establish a process to provide dealers, distributors,  
5       importers, retailers, wholesalers, and other relevant parties  
6       notice of the initial publication of the directory and changes  
7       made to the directory.

8               (g)   No manufacturer of electronic smoking devices or e-  
9       liquids shall be included or retained in the directory if the  
10      department determines that any of the following apply:

- 11               (1)   The manufacturer fails to provide a complete and  
12               accurate certification as required by subsection (a);
- 13               (2)   The manufacturer submits a certification that does not  
14               comply with the requirements of subsections (b) and  
15               (c) (1);
- 16               (3)   The manufacturer fails to include with its  
17               certification the payment required by subsection  
18               (c) (2);
- 19               (4)   The manufacturer sells products in the State required  
20               to be certified under this section during a period



1                   when either the manufacturer or the product has not  
2                   been certified and listed on the directory; or  
3                   (5) The information provided by the manufacturer in its  
4                   certification is determined by the department to  
5                   contain false information or contain material  
6                   misrepresentations or omissions.

7                   (h) Beginning January 1, 2027, or on the date that the  
8                   department makes the directory described in subsection (f)  
9                   available for public inspection on the department's official  
10                   website, whichever is later, electronic smoking devices and e-  
11                   liquids not included in the directory shall not be sold for  
12                   retail sale in the State or to a consumer in the State, either  
13                   directly or through a dealer, a distributor, an importer, a  
14                   retailer, a wholesaler, or similar intermediary or  
15                   intermediaries. After publication of the directory, electronic  
16                   smoking devices and e-liquids not listed in the directory and  
17                   intended for retail sale in the State or to a consumer in the  
18                   State shall be subject to seizure, forfeiture, and destruction  
19                   or disposal, and shall not be purchased or sold for retail sale  
20                   in the State or to a consumer in the State except as provided in  
21                   this subsection; provided that the cost of the seizure,



1 forfeiture, and destruction or disposal shall be borne by the  
2 person from whom the products are confiscated.

3 (i) The following penalties shall apply to violations of  
4 this section:

5 (1) A dealer, a distributor, an importer, a retailer, or a  
6 wholesaler who sells or offers for sale an electronic  
7 smoking device or e-liquid for retail sale in the  
8 State or to a consumer in the State that is not  
9 included in the directory described in subsection (f)  
10 shall be subject to a civil penalty of \$500 for each  
11 individual electronic smoking device or e-liquid  
12 offered for sale in violation of this section;  
13 provided that:

14 (A) For a second violation under this paragraph  
15 within a twelve-month period, the civil penalty  
16 shall be no less than \$750 and no more than  
17 \$1,000 per product;

18 (B) For a third violation under this paragraph within  
19 a twelve-month period, the civil penalty shall be  
20 no less than \$1,000 and no more than \$1,500 per  
21 product; and



1 (C) For a fourth violation under this paragraph  
2 within a twelve-month period, the civil penalty  
3 shall be no less than \$1,500 and no more than  
4 \$2,000 per product;

5 (2) A manufacturer whose electronic smoking devices or e-  
6 liquids are not listed in the directory and who causes  
7 the products that are not listed to be sold for retail  
8 sale in the State or to a consumer in the State,  
9 whether directly or through a dealer, a distributor,  
10 an importer, a retailer, a wholesaler, or similar  
11 intermediary or intermediaries, shall be subject to a  
12 civil penalty of \$10,000 for each individual  
13 electronic smoking device or e-liquid offered for sale  
14 in violation of this section. In addition, any  
15 manufacturer that falsely represents any information  
16 required by a certification form shall be guilty of a  
17 misdemeanor for each false representation;

18 (3) In an action to enforce this section, the State shall  
19 be entitled to recover costs, including the costs of  
20 investigation, seizure, forfeiture, destruction,



1                   disposal, expert witness fees, and reasonable  
2                   attorney's fees; and  
3                   (4) Any violation of this section shall constitute an  
4                   unfair method of competition and an unfair and  
5                   deceptive act or practice in the conduct of any trade  
6                   of commerce under section 480-2.  
7                   (j) Any nonresident manufacturer or foreign manufacturer  
8                   of electronic smoking devices or e-liquids that has not  
9                   registered to do business in the State as a foreign corporation  
10                   or business entity shall, as a condition precedent to having the  
11                   nonresident manufacturer's or foreign manufacturer's electronic  
12                   smoking devices or e-liquids listed or retained in the directory  
13                   described by subsection (f), appoint and continually engage  
14                   without interruption the services of an agent in the United  
15                   States to act as agent for the service of process upon whom all  
16                   process, and any action or proceeding against it concerning or  
17                   arising out of the enforcement of this section, may be served in  
18                   any manner authorized by law. Service under this section shall  
19                   constitute legal and valid service of process on the  
20                   manufacturer. The nonresident manufacturer or foreign  
21                   manufacturer shall provide the name, address, phone number, and



1 proof of the appointment and availability of the agent to, and  
2 to the satisfaction of, the department.

3       (k) The department may examine all records, including tax  
4 returns and reports under chapter 245, required to be kept or  
5 filed under this chapter and chapter 245, and books, papers, and  
6 records of any dealer, distributor, importer, retailer, or  
7 wholesaler of electronic smoking devices and e-liquids in the  
8 State for the purpose of determining compliance with this  
9 section. Every person in possession of any books, papers, and  
10 records, and the person's agents and employees, shall be  
11 directed and required to give the department the means,  
12 facilities, and opportunities for the examinations.

13       (l) The department may inspect the operations, premises,  
14 and storage areas of any entity engaged in the sale of  
15 electronic smoking devices or e-liquids, or the contents of a  
16 specific vending machine, during regular business hours. This  
17 inspection shall include inspection of all statements, books,  
18 papers, and records in whatever format, including electronic  
19 format, contents of cartons, and shipping or storage containers,  
20 pertaining to the acquisition, possession, transportation, sale,  
21 or use of electronic smoking devices or e-liquids, to verify



1 compliance with this section. Every entity in possession of any  
2 books, papers, and records, and the entity's agents and  
3 employees, shall be directed and required to give the department  
4 the means, facilities, and opportunities for the examinations.

5 (m) If the department has reasonable cause to believe and  
6 does believe that electronic smoking devices or e-liquids are  
7 being acquired, possessed, transported, kept, sold, or offered  
8 for sale in violation of this section, the department may  
9 investigate or search the vehicle or premises in which the  
10 electronic smoking devices or e-liquids are believed to be  
11 located. If electronic smoking devices or e-liquids are found  
12 in a vehicle, premises, or vending machine in violation of this  
13 section, the electronic smoking devices or e-liquids, vending  
14 machine, vehicle, or other tangible personal property containing  
15 those electronic smoking devices or e-liquids and any books and  
16 records in possession of the entity in control or possession of  
17 the electronic smoking devices or e-liquids may be seized by the  
18 department and shall be subject to forfeiture as provided in  
19 this section.

20 (n) The department may adopt rules pursuant to chapter 91  
21 necessary for the purpose of this section. Rules adopted to



1 implement this section shall be exempt from the public notice  
2 and public hearing requirements of chapter 91.

3 (o) All payments, fees, and penalties collected pursuant  
4 to this section shall be deposited to the credit of the tobacco  
5 enforcement special fund, established pursuant to section 28-15,  
6 for administration and enforcement of this section.

7 (p) As used in this section:

8 "Dealer" has the same meaning as in section 245-1.

9 "Department" means the department of the attorney general.

10 "Distribute", "distributes", or "distribution" has the same  
11 meaning as in section 245-1.

12 "Electronic smoking device" has the same meaning as in  
13 section 245-1.

14 "E-liquid" has the same meaning as in section 245-1.

15 "Entity" means one or more individuals, a company,  
16 corporation, a partnership, an association, or any other type of  
17 legal entity.

18 "Retailer" has the same meaning as in section 245-1.

19 "Sale" or "sold" has the same meaning as in section 245-1.

20 "Sell" has the same meaning as in section 245-1.



1        "Vehicle" means an automobile, airplane, motorcycle,  
2        motorboat, or other motor-propelled vehicle.

3        "Wholesaler" has the same meaning as in section 245-1."

4        SECTION 2. This Act does not affect rights and duties that  
5        matured, penalties that were incurred, and proceedings that were  
6        begun before its effective date.

7        SECTION 3. New statutory material is underscored.

8        SECTION 4. This Act shall take effect on July 1, 2026.

9

INTRODUCED BY:



JAN 16 2026



# H.B. NO. 1573

**Report Title:**

AG; Electronic Smoking Devices; E-Liquids; Marketing Granted Order; Directory; Penalties

**Description:**

Requires electronic smoking device and e-liquid manufacturers to certify to the Department of Attorney General annually that the manufacturer received a Marketing Granted Order from the federal Food and Drug Administration and that the manufacturer is in compliance with federal regulations and state laws. Requires the Department to compile and make public a directory of all electronic smoking device and e-liquid manufacturers and products duly certified. Establishes penalties for manufacturers that fail to comply with the certification requirements and for other parties that sell products that are not in the directory.

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

