

H.B. NO. 2256

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# A BILL FOR AN ACT

RELATING TO TOBACCO ENFORCEMENT.

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

1 SECTION 1. The legislature finds that Act 62, Session Laws  
2 of Hawaii 2023, established a new excise tax on electronic  
3 smoking devices and e-liquids, requiring updates to tobacco  
4 enforcement laws to ensure the State's enforcement authority  
5 extends to these products. The purpose of this Act is to update  
6 tobacco enforcement laws to confirm the authority of the  
7 department of taxation and the department of the attorney  
8 general to inspect and seize tobacco products, including  
9 electronic smoking devices and e-liquids, and clarify that  
10 untaxed tobacco products are subject to forfeiture as  
11 contraband, without regard to the procedures set forth in  
12 chapter 712A, Hawaii Revised Statutes, in the same manner as  
13 untaxed cigarettes.

14 SECTION 2. Chapter 245, Hawaii Revised Statutes, is  
15 amended by adding to part I a new section to be appropriately  
16 designated and to read as follows:

17 "§245- Forfeiture. Any cigarette or tobacco product,  
18 package of cigarettes or tobacco products, carton of cigarettes

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1       or tobacco products, or container of cigarettes or tobacco  
2       products unlawfully possessed, kept, stored, received, held,  
3       owned, acquired, retained, transported, imported, or caused to  
4       be imported, distributed, sold, or offered for sale, in  
5       violation of this part, shall be forfeited as contraband  
6       pursuant to chapter 712A. Any cigarette or tobacco product,  
7       package of cigarettes or tobacco products, carton of cigarettes  
8       or tobacco products, or container of cigarettes or tobacco  
9       products forfeited as provided in this section shall be ordered  
10      destroyed."

11           SECTION 3. Section 245-9, Hawaii Revised Statutes, is  
12       amended by amending subsections (b) and (c) to read as follows:  
13           "(b) The department and the attorney general may inspect  
14       the operations, premises, and storage areas of any entity  
15       engaged in the sale of cigarettes [or] or tobacco products, or the  
16       contents of a specific vending machine, during regular business  
17       hours. This inspection shall include inspection of all  
18       statements, books, papers, and records in whatever format,  
19       including electronic format, pertaining to the acquisition,  
20       possession, transportation, sale, or use of packages of  
21       cigarettes and tobacco products [other than cigarettes], to  
22       verify the accuracy of the payment of taxes imposed by this

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1 chapter, and of the contents of cartons and shipping or storage  
2 containers to ascertain that all individual packages of  
3 cigarettes have an affixed stamp of proper denomination as  
4 required by this chapter. This inspection may also verify that  
5 all stamps were produced under the authority of the department.  
6 Every entity in possession of any books, papers, and records,  
7 and the entity's agents and employees, are directed and required  
8 to give the department and the attorney general the means,  
9 facilities, and opportunities for the examinations.

10 (c) If the department or the attorney general has  
11 reasonable cause to believe and does believe that cigarettes,  
12 tobacco products, stamps, or counterfeit stamps are being  
13 acquired, possessed, transported, kept, sold, or offered for  
14 sale in violation of this chapter, the department or the  
15 attorney general may investigate or search the vehicle or  
16 premises in which the cigarettes, tobacco products, stamps, or  
17 counterfeit stamps are believed to be located. If cigarettes,  
18 tobacco products, stamps, or counterfeit stamps are found in a  
19 vehicle, premises, or vending machine in violation of this  
20 chapter the cigarettes, tobacco products, vending machine,  
21 vehicle, stamps, counterfeit stamps, or other tangible personal  
22 property containing those cigarettes, tobacco products, stamps,

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1 or counterfeit stamps and any books and records in possession of  
2 the entity in control or possession of the cigarettes, tobacco  
3 products, stamps, or counterfeit stamps may be seized by the  
4 department or the attorney general and [are] shall be subject to  
5 forfeiture as provided in this chapter and chapter 712A."

6 SECTION 4. Section 712A-5, Hawaii Revised Statutes, is  
7 amended by amending subsection (1) to read as follows:

8 "(1) The following shall be subject to forfeiture:

9 (a) Property described in a statute authorizing  
10 forfeiture;

11 (b) Property used or intended for use in the commission  
12 of, attempt to commit, or conspiracy to commit a  
13 covered offense, or that facilitated or assisted the  
14 activity;

15 (c) Any firearm that is subject to forfeiture under any  
16 other subsection of this section or that is carried  
17 during, visible, or used in furtherance of the  
18 commission, attempt to commit, or conspiracy to commit  
19 a covered offense, or any firearm found in proximity  
20 to contraband or to instrumentalities of an offense;

21 (d) Contraband [~~or untaxed cigarettes in violation of~~  
22 ~~chapter 245~~], which shall be seized and summarily

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1 forfeited to the State without regard to the  
2 procedures set forth in this chapter;

3 (e) Any proceeds or other property acquired, maintained,  
4 or produced by means of or as a result of the  
5 commission of the covered offense;

6 (f) Any property derived from any proceeds that were  
7 obtained directly or indirectly from the commission of  
8 a covered offense;

9 (g) Any interest in, security of, claim against, or  
10 property or contractual right of any kind affording a  
11 source of influence over any enterprise that has been  
12 established, participated in, operated, controlled, or  
13 conducted in order to commit a covered offense; and

14 (h) All books, records, bank statements, accounting  
15 records, microfilms, tapes, computer data, or other  
16 data that are used, intended for use, or that  
17 facilitated or assisted in the commission of a covered  
18 offense, or that document the use of the proceeds of a  
19 covered offense."

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

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1 SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval.

4

5 INTRODUCED BY: Madie K. Nehm

6

BY REQUEST

JAN 26 2026

# H.B. NO. 2256

**Report Title:**

DoTAX; ATG; Tobacco Products; Inspections; Seizures; Asset Forfeiture

**Description:**

Updates tobacco enforcement laws to confirm the authority of the Department of Taxation and the Department of the Attorney General to inspect and seize tobacco products, including electronic smoking devices and e-liquids, and clarify that untaxed tobacco products are subject to forfeiture as contraband, without regard to the procedures set forth in chapter 712A, HRS, in the same manner as untaxed cigarettes.

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

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## JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO TOBACCO ENFORCEMENT.

PURPOSE: To update tobacco enforcement laws to confirm the authority of the Department of Taxation and the Department of the Attorney General to inspect and seize tobacco products, including electronic smoking devices and e-liquids, and clarify that untaxed tobacco products are subject to forfeiture as contraband, without regard to the procedures set forth in chapter 712A, Hawaii Revised Statutes (HRS), in the same manner as untaxed cigarettes.

MEANS: Add a new section to part I of chapter 245, HRS; and amend section 245-9(b) and (c), HRS, and section 712A-5(1), HRS.

JUSTIFICATION: Act 62, Session Laws of 2023, amended the definition of tobacco products in chapter 245, HRS, to include electronic smoking devices and e-liquids, which have been taxed as tobacco products since January 1, 2024. Section 245-9, HRS, currently authorizes agents of the Department of the Attorney General and the Department of Taxation to investigate cigarettes. This bill is needed to strengthen and expand the enforcement authority of the Department of the Attorney General and the Department of Taxation to enforce Hawaii's tax laws and to protect the public from illegal tobacco products, especially Hawaii's youth who are disproportionately impacted by the vaping epidemic. This bill provides that authority by clarifying that the same authority applies to all tobacco products, including electronic smoking devices and e-liquids. It further clarifies that untaxed tobacco products are subject to forfeiture as contraband, without regard to the procedures

in chapter 712A, HRS, in the same manner as untaxed cigarettes.

Impact on the public: This bill ensures enforcement authority over electronic smoking devices, e-liquids, and other tobacco products is the same as the authority over cigarettes. Strengthening enforcement will help protect public health, particularly Hawaii's youth who have been disproportionately impacted by the vaping epidemic.

Impact on the department and other agencies: This bill confirms that the Department of the Attorney General and the Department of Taxation hold the same enforcement authority for all tobacco products as they currently have for cigarettes, and clarifying this authority will strengthen and streamline enforcement.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: Department of Taxation.

EFFECTIVE DATE: Upon approval.