

JAN 23 2026

A BILL FOR AN ACT

RELATING TO TOBACCO PRODUCTS.

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

1 SECTION 1. The legislature finds that tobacco use remains
2 the leading cause of preventable death in the United States,
3 including Hawaii. The legislature further finds that there has
4 been a precipitous increase in recent consumer sales of
5 electronic smoking devices, sometimes called "vapes" or "e-
6 cigarettes," which contain significantly higher levels of
7 nicotine per inhalation compared to conventional cigarettes.
8 These devices have been linked to severe lung disease, potential
9 harm to brain development, and acute nicotine poisoning.

10 The legislature finds that counties are uniquely positioned
11 to quickly address the health habits of their communities, such
12 as youth vaping, and have been utilizing that ability to great
13 success. Historically, Hawaii has passed forward-thinking
14 legislation to address the high usage of tobacco products.
15 These policies were first adopted at the county level to quickly
16 address the counties' need to protect their communities from the
17 relentless promotional targeting by tobacco companies.



1 Regulations to raise the minimum age for the purchase of tobacco
2 products to twenty-one years of age was first passed in the
3 county of Hawaii, followed by other counties, and finally by the
4 State to create uniformity. Likewise, laws that prohibit
5 smoking in certain locations, as well as in motor vehicles when
6 a keiki is present, were also initially adopted at the county
7 level before the State took action.

8 The legislature acknowledges that section 328J-11.5(a),
9 Hawaii Revised Statutes, provides that "[s]ales of cigarettes,
10 tobacco products, and electronic smoking devices are a statewide
11 concern" and that it is "the intent of the legislature to
12 regulate the sale of cigarettes, tobacco products, and
13 electronic smoking devices in a uniform and exclusive manner."
14 Section 328J-11.5(b), Hawaii Revised Statutes, preempts "[a]ll
15 local ordinances or regulations that regulate the sale of
16 cigarettes, tobacco products, and electronic smoking devices"
17 and voids "existing local laws and regulations conflicting with"
18 chapter 328J, Hawaii Revised Statutes, which is the state law
19 that regulates smoking. The tobacco industry has historically
20 used preemption as a tactic to prevent local governments from



1 adopting stronger tobacco control measures, thereby protecting
2 its interests at the expense of public health.

3 Section 328J-11.5(c), Hawaii Revised Statutes, carves out
4 an exception to the exclusivity of state regulations by setting
5 forth that nothing in chapter 328J, Hawaii Revised Statutes,
6 "shall be construed to limit a county's authority" to adopt
7 ordinances; provided that the ordinance is more stringent than
8 state law. The legislature acknowledges that the language in
9 section 328J-11.5, Hawaii Revised Statutes, read together with
10 section 328J-15, Hawaii Revised Statutes, may create an
11 ambiguity in the effectiveness of county ordinances that are not
12 in conflict with chapter 328J, Hawaii Revised Statutes, and the
13 authority given to the counties in adopting ordinances that
14 regulate the sale of cigarettes, tobacco products, and
15 electronic smoking devices in their communities.

16 The legislature finds that an adaptive regulation system is
17 needed to address the multibillion-dollar marketing campaigns of
18 tobacco companies focused on our youth. All levels of
19 government, including counties, need to collaborate to quickly
20 address the tobacco companies' predatory practices through the



1 implementation of reasonable restrictions on the sale of and
2 access to these addictive products.

3 Accordingly, the purpose of this Act is to:

4 (1) Repeal the law that provides that all local ordinances
5 or regulations that regulate the sale of cigarettes,
6 tobacco products, and electronic smoking devices are
7 preempted and that existing local laws and regulations
8 conflicting with the state law on smoking are null and
9 void; and

10 (2) Clarify that counties retain the authority to adopt
11 ordinances that regulate the sale of cigarettes,
12 tobacco products, and electronic smoking devices, as
13 long as the ordinances do not conflict with and are
14 more stringent than the state law on smoking.

15 SECTION 2. Section 328J-11.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 " [+] §328J-11.5 [+] Statewide concern. (a) Sales of
18 cigarettes, tobacco products, and electronic smoking devices are
19 a statewide concern. It is the intent of the legislature to
20 regulate the sale of cigarettes, tobacco products, and

1 electronic smoking devices in a uniform [and exclusive]
2 manner [–] to the extent reasonably possible.

3 [(b) All local ordinances or regulations that regulate the
4 sale of cigarettes, tobacco products, and electronic smoking
5 devices are preempted, and existing local laws and regulations
6 conflicting with this chapter are null and void.]

7 [(e)] (b) Nothing in this chapter shall be construed to
8 limit a county's authority [under] to enact ordinances that
9 regulate the sale of cigarettes, tobacco products, and
10 electronic smoking devices within the county in accordance with
11 section 328J-15."

12 SECTION 3. Section 328J-15, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 " (b) Nothing in this chapter shall prohibit a county from
15 enacting ordinances that regulate the sale of cigarettes,
16 tobacco products, and electronic smoking devices within the
17 county; provided that the ordinances do not directly conflict
18 with and are more stringent than the provisions of this
19 chapter."

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

4 SECTION 5. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect upon its approval.

7

INTRODUCED BY:


By Request



Report Title:

Package; Hawaii State Association of Counties; Tobacco Products

Description:

Repeals law that provides that all local ordinances or regulations that regulate the sale of cigarettes, tobacco products, and electronic smoking devices are preempted and that existing local laws and regulations conflicting with the state law on smoking are null and void. Clarifies that counties retain the authority to adopt ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices, as long as the ordinances do not conflict with and are more stringent than the state law on smoking.

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

