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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. The legislature finds that tobacco use remains  
2        the leading cause of preventable disease and death in the United  
3        States. In Hawaii, tobacco use accounts for one thousand four  
4        hundred annual deaths and \$526,000,000 in annual health care  
5        costs directly attributed to smoking related diseases, according  
6        to the Centers for Disease Control and Prevention's 2014 "Best  
7        Practices for Comprehensive Tobacco Control Programs" guide.  
8        Tobacco use is a serious public health problem in terms of the  
9        human suffering and loss of life it causes and is a financial  
10      burden on society and the State's health care system.

11       The legislature further finds that eighty-one per cent of  
12      youth who have ever used a tobacco product report that the first  
13      tobacco product they used was flavored. Flavored tobacco  
14      products promote youth initiation of tobacco use and help young  
15      occasional smokers become daily smokers by reducing or masking  
16      the natural harshness and taste of tobacco smoke, thereby  
17      increasing the appeal of tobacco products.



1       The legislature additionally finds that menthol in  
2 particular is used by the tobacco industry because it has a  
3 cooling and numbing effect and can reduce the throat irritation  
4 from smoking, thus making menthol cigarettes an appealing option  
5 for youth who are initiating tobacco use. Candy and fruit  
6 flavors improve the taste and reduce the harshness of tobacco  
7 products, making them more appealing and easier for beginners to  
8 try tobacco products and ultimately become addicted. The United  
9 States Surgeon General noted in the 2016 report titled "E-  
10 Cigarette Use Among Youth and Youth Adults" that "[b]ecause the  
11 adolescent brain is still developing, nicotine use during  
12 adolescence can disrupt the formation of brain circuits that  
13 control attention, learning, and susceptibility to addiction."

14       Furthermore, delays in the United States Food and Drug  
15 Administration regulatory process of e-cigarettes have allowed  
16 the tobacco and electronic smoking device industries to  
17 significantly increase the marketing and production of  
18 electronic vaping devices. According to a 2018 study published  
19 in the Journal of Medical Internet Research, the count of  
20 flavored tobacco products went from 7,764 in 2014 to 15,586 in  
21 2017, a one hundred per cent increase. Every year that passes



1 youth become more exposed to the predatory practices of tobacco  
2 companies seeking a market for nicotine addiction. Hawaii has  
3 experienced the heightened promotion of vape products that offer  
4 candy and local flavors designed to appeal to the State's youth,  
5 such as POG, apple mui, luau punch, rainbow candy, lava burst  
6 ice, Shaka strawberry, lychee ice, Molokai Hot Bread, and  
7 lilikoi lychee. Additionally, many of the packages are designed  
8 to look like candies popular with children, such as Jolly  
9 Ranchers and Sour Patch Kids.

10 The legislature also finds that young people and people of  
11 color have high rates of use of flavored tobacco products,  
12 including menthol. According to the 2023 Hawaii Youth Risk  
13 Behavior Surveillance System, among public high school students  
14 who are current cigarette smokers, an average of 14.1 per cent  
15 smoke menthol, and among public middle school students who are  
16 current cigarette smokers, an average of 7.1 smoke menthol.  
17 According to the 2022 Behavioral Risk Factor Surveillance  
18 System, 63.7 per cent of adult smokers in Hawaii usually smoke  
19 menthol cigarettes.

20 Furthermore, the 2022 Behavioral Risk Factor Surveillance  
21 System shows that prevalence is high among specific ethnic



1 groups, with 70.8 per cent of Filipinos, 80.7 per cent of Native  
2 Hawaiians, and 66.9 per cent of Japanese usually smoking menthol  
3 cigarettes. The 2021 National Youth Tobacco Survey report  
4 estimates that ending the sale of flavored tobacco in Hawaii  
5 would save the State at least \$48,000,000 in long-term health  
6 care costs, prevent seven hundred premature smoking-related  
7 deaths, prompt over three thousand menthol cigarette smokers to  
8 quit, and prevent youth from initiating smoking with menthol  
9 cigarettes.

10 Given the significant threat to public health posed by  
11 flavored tobacco products, including those with menthol, seven  
12 states – California, Maryland, Massachusetts, New Jersey, New  
13 York, Rhode Island, and Utah – and over three hundred ninety  
14 localities have enacted policies to end the sale of flavored  
15 tobacco products to some extent. These laws now protect over  
16 twenty-five per cent of the United States' population. Hawaii  
17 must also take steps to regulate these products to address the  
18 youth vaping epidemic and reduce tobacco-related health  
19 disparities.

20 Of additional concern is the increased use of tobacco- and  
21 smoke-free oral nicotine pouches that come in different flavors



1 and strengths. These products are easier to conceal than  
2 cigarettes or vape products and may be used by youth who  
3 mistakenly believe that the lack of tobacco and smoke makes the  
4 product safer for consumption. Furthermore, because these  
5 products do not contain tobacco, they can fall through the  
6 regulatory cracks, requiring a broader approach to addressing  
7 youth nicotine addiction.

8 Accordingly, the purpose of this Act is to prohibit the  
9 sale of, offer for sale, or possession with the intent to sell  
10 or offer to sell, all flavored nicotine products and nicotine  
11 product flavor enhancers, including products with menthol, and  
12 prohibit the mislabeling of e-liquid products as nicotine-free.

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

16 **"PART . SALE OF FLAVORED NICOTINE PRODUCTS PROHIBITED**

17 **§321-A Definitions.** As used in this part, unless the  
18 context otherwise requires:

19 "Cigarette" has the same meaning as in section 245-1.

20 "Department" means the department of health.

21 "Director" means the director of health.



1        "Distinguishable" means perceptible to the sense of smell,  
2        taste, or touch, or more than one or all of these.

3        "Electronic smoking device" means any device that may be  
4        used to deliver any aerosolized or vaporized substance to the  
5        person inhaling from the device, including but not limited to an  
6        electronic cigar, electronic cigarette, electronic hookah,  
7        electronic pipe, or vape pen. "Electronic smoking device"  
8        includes any component, part, or accessory of the device, and  
9        any substance that may be aerosolized or vaporized by the  
10      device, whether or not the substance contains nicotine.

11      "Electronic smoking device" does not include drugs, devices, or  
12      combination products authorized for sale by the United States  
13      Food and Drug Administration, as those terms are defined in the  
14      Federal Food, Drug, and Cosmetic Act, or medical devices used to  
15      aerosolize, inhale, or ingest prescription drugs, including  
16      manufactured cannabis products manufactured or distributed in  
17      accordance with section 329D-10(a).

18        "E-liquid" means any liquid or like substance, which may or  
19        may not contain nicotine, that is designed or intended to be  
20        used in an electronic smoking device, whether or not packaged in  
21        a cartridge or other container. "E-liquid" does not include



1 prescription drugs, cannabis for medical use pursuant to chapter  
2 329, or manufactured cannabis products pursuant to chapter 329D.

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

4 "Flavored nicotine product" means any nicotine product that  
5 imparts:

6 (1) A taste or odor distinguishable by an average  
7 consumer, other than the taste or odor of tobacco,  
8 before, during, or after the consumption of the  
9 nicotine product, or more than one or all of these,  
10 including but not limited to any tastes or odors  
11 relating to alcoholic beverages, candy, chocolate,  
12 cocoa, dessert, fruit, herb, honey, menthol, mint,  
13 spice, vanilla, or wintergreen; or

14 (2) A cooling or numbing sensation distinguishable by an  
15 average consumer before, during, or after the  
16 consumption of the nicotine product, or more than one  
17 or all of these.

18 "Inspector" means a person appointed, commissioned, or  
19 contracted by the department for the enforcement of this part  
20 pursuant to section 321-C.



1        "Labeling" means written, printed, pictorial, or graphic  
2        matter upon a nicotine product or any of its packaging.

3        "Nicotine" means any form of the chemical nicotine,  
4        including any salt or complex, regardless of whether the  
5        chemical is naturally or synthetically derived, and includes  
6        nicotinic alkaloids and nicotine analogs.

7        "Nicotine product" means:

- 8            (1) Any product containing, made of, or derived from  
9            nicotine that is intended for human consumption or is  
10          likely to be consumed, whether inhaled, absorbed, or  
11          ingested by any other means, including but not limited  
12          to a cigarette, a cigar, pipe tobacco, chewing  
13          tobacco, snuff, a pouch, lozenges, or snus;
- 14          (2) Any electronic smoking device and any substances that  
15          may be aerosolized or vaporized by the electronic  
16          smoking device, whether or not the substance contains  
17          nicotine; or
- 18          (3) Any component, part, or accessory of any item  
19          described in paragraph (1) or (2), whether or not any  
20          of these contains tobacco or nicotine, including but



1 not limited to filters, hookahs, mouthpieces, pipes,  
2 rolling papers, and blunt or hemp wraps.

3 "Nicotine product" does not include drugs, devices, or  
4 combination products authorized for sale by the United States  
5 Food and Drug Administration, as those terms are defined in the  
6 Federal Food, Drug, and Cosmetic Act.

7        "Nicotine product flavor enhancer" means a product  
8    designed, manufactured, produced, marketed, or sold to produce a  
9    distinguishable flavor other than that of tobacco or to impart a  
10   cooling, tingling, or numbing sensation when added to a nicotine  
11   product.

12 "Nicotine product retail location" means any premises where  
13 nicotine products are sold or distributed to a consumer,  
14 including but not limited to any bar, cafe, cart, location,  
15 lounge, outlet, stand, store, vehicle, vending machine, or  
16 structure.

17 "Packaging" means a box, carton, pack, or container of any  
18 kind, or if no other container, any wrapping, including  
19 cellophane, in which a nicotine product is sold or offered for  
20 sale to a consumer.



1        "Retailer" means an entity that sells, offers for sale, or  
2    exchanges or offers to exchange nicotine products to consumers  
3    for any form of consideration. "Retailer" includes an owner or  
4    agent of a nicotine product retail location.

5            **§321-B   Sale of flavored nicotine products and nicotine**  
6    **product flavor enhancers; mislabeling as nicotine-free.** (a)  
7    Beginning January 1, 2027, it shall be unlawful for any retailer  
8    to:

9            (1)   Sell, offer for sale, or possess with the intent to  
10            sell or offer for sale, a flavored nicotine product or  
11            nicotine product flavor enhancer; or  
12            (2)   Mislabeled as nicotine-free, or sell or market for sale  
13            as nicotine-free, any e-liquid product that contains  
14            nicotine.

15            (b)   A statement or claim, including but not limited to  
16            text, color, or images, on the nicotine product's labeling or  
17            packaging that is used to explicitly or implicitly communicate  
18            that the nicotine product has a flavor other than tobacco, or  
19            that the nicotine product imparts a cooling or numbing  
20            sensation, made by a manufacturer, importer, or retailer, or an  
21            agent or employee of a manufacturer, importer, or retailer, and



1 directed to consumers or the public shall be *prima facie*  
2 evidence that the nicotine product is a flavored nicotine  
3 product. This includes but is not limited to public statements  
4 that a product has a minty or cooling effect, such as describing  
5 the product as "chill", "ice", "fresh", "arctic", or "frost".

6 (c) Any flavored nicotine product found in a retailer's  
7 possession that is in violation of this part may be considered  
8 contraband, be seized by an inspector, or be subject to  
9 immediate destruction or disposal by the retailer in accordance  
10 with rules adopted by the department pursuant to section 321-D.  
11 The cost of proper disposal of electronic smoking devices and e-  
12 liquids as hazardous waste pursuant to rules adopted in  
13 accordance with section 342J-4 shall be borne by the retailer.

14 (d) Any retailer that violates this part shall be subject  
15 to a fine no less than \$100 and no more than \$1,000 for each  
16 separate offense. Each day of each violation shall constitute a  
17 separate offense. Any fines collected by the department shall  
18 be deposited to the credit of the general fund.

19 (e) Notwithstanding any other law to the contrary, any  
20 county may adopt a rule or an ordinance that places greater  
21 restrictions on the access to flavored nicotine products than



1 the restrictions provided in this part. In the case of a  
2 conflict between the restrictions in this part and any county  
3 rule or ordinance regarding access to flavored nicotine  
4 products, the more stringent restrictions shall prevail.

5 **§321-C Inspectors; authority and access to records.** (a)  
6 The director may appoint, commission, or contract for services  
7 of a third party one or more inspectors as the exigencies of the  
8 enforcement of this part may require. Persons appointed,  
9 commissioned, or contracted for services under this part shall  
10 have and may exercise all the powers and authority outlined in  
11 the rules adopted pursuant to section 321-D.

12 (b) Information necessary to investigate violations of  
13 this part shall be made available to the department and any  
14 appointed, commissioned, or contracted inspectors of the  
15 department.

16 **§321-D Administrative rules.** (a) The department may  
17 adopt rules pursuant to chapter 91 to effectuate the purposes of  
18 this part.

19 (b) No later than June 30, 2027, the department shall  
20 adopt interim rules, which shall be exempt from chapters 91 and  
21 201M, to effectuate the purposes of this part; provided that the



1 interim rules shall remain in effect until January 1, 2033, or  
2 until rules are adopted pursuant to subsection (a), whichever  
3 occurs sooner.

4 (c) The department may amend the interim rules adopted  
5 pursuant to subsection (b), exempt from chapter 201M and the  
6 public notice and public hearing requirements of chapter 91;  
7 provided that any amended interim rules shall remain in effect  
8 until January 1, 2033, or until rules are adopted pursuant to  
9 subsection (a), whichever occurs sooner.

10 **S321-E Contract for services.** Subject to section 26-38,  
11 the department may contract the services of a third party in  
12 accordance with chapter 103D for enforcement, inspections, or  
13 any other services needed to administer this part."

14 SECTION 3. There is established full-time equivalent  
15 ( FTE) program specialist positions to review, process, and  
16 initiate inspections under the authority of the department of  
17 health and full-time equivalent ( FTE) hearings officer  
18 position to preside over administrative hearings and other  
19 related hearings duties as required under section 2 of this Act.

20 SECTION 4. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$ or so



1 much thereof as may be necessary for fiscal year 2026-2027 to  
2 carry out the purposes of this Act, including the hiring of  
3 necessary staff, including full-time equivalent ( FTE)  
4 program specialist positions and full-time equivalent  
5 ( FTE) hearings officer position.

6 The sum appropriated shall be expended by the department of  
7 health for the purposes of this Act.

8 SECTION 5. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 6. If any provision of this Act, or the  
12 application thereof to any person or circumstance, is held  
13 invalid, the invalidity does not affect other provisions or  
14 applications of the Act that can be given effect without the  
15 invalid provision or application, and to this end the provisions  
16 of this Act are severable.

17 SECTION 7. In codifying the new sections added by section  
18 2 of this Act, the revisor of statutes shall substitute  
19 appropriate section numbers for the letters used in designating  
20 the new sections in this Act.

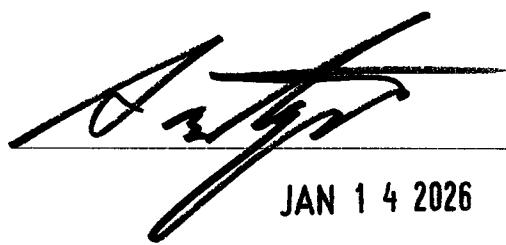
21 SECTION 8. This Act shall take effect on July 1, 2026.



H.B. NO. 1512

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INTRODUCED BY:



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JAN 14 2026



# H.B. NO. 1512

**Report Title:**

Prohibition; Sale; Labeling; Flavored Nicotine Products; Nicotine Product Flavor Enhancers; E-Liquids; Penalties; Appropriation

**Description:**

Beginning 1/1/2027, prohibits the sale of flavored nicotine products and nicotine product flavor enhancers and the mislabeling of e-liquids as nicotine free. Establishes penalties for violations. Authorizes the Department of Health to appoint, commission, or contract for services of inspectors. Establishes positions. Appropriates funds.

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

