
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", which
6 contain significantly higher levels of nicotine per inhalation
7 compared to conventional cigarettes. Electronic smoking devices
8 have played a major role in the increase in youth nicotine
9 addiction rates, which had previously been on the decline.

10 The legislature also finds that counties are uniquely
11 positioned to quickly address the health needs of their
12 communities 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 were 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 finds that the rate of tobacco use among
9 youth has increased to epidemic levels. According to the 2019
10 Hawaii State and Counties Youth Risk Behavior Surveys, 30.6 per
11 cent of public middle school students and 48.3 per cent of
12 public high school students have tried using electronic smoking
13 devices. The survey also revealed that 17.7 per cent of middle
14 school students and 30.6 per cent of high school students
15 currently vape.

16 The enactment of Act 206, Session Laws of Hawaii 2018,
17 codified as section 328J-11.5, Hawaii Revised Statutes, made the
18 sale of cigarettes, tobacco products, and electronic smoking
19 devices a matter of statewide concern, and preempted any
20 existing or future local ordinances that restricted the sale of
21 these products. The tobacco industry has historically used



1 preemption as a tactic to prevent local governments from
2 adopting stronger tobacco control measures, thereby protecting
3 its interests at the expense of public health and Hawaii's
4 youth.

5 The legislature acknowledges that the county of Hawaii,
6 city and county of Honolulu, and county of Maui, have introduced
7 local legislation to prohibit the sale of flavored tobacco
8 products to address the unique susceptibility of youths to the
9 marketing of such products. This prohibition is not in conflict
10 with and is more stringent than the restrictions of chapter
11 328J, Hawaii Revised Statutes. However, this legislation cannot
12 be enacted until existing state law preempting county ordinances
13 on the sale of tobacco products is repealed.

14 The legislature finds that a flexible regulation system is
15 needed to address the multibillion-dollar marketing campaigns of
16 tobacco companies focused on the State's youth. All levels of
17 government, including counties, need to collaborate with youth,
18 their parents, and educational institutions to quickly address
19 the tobacco companies' predatory practices through the
20 implementation of reasonable restrictions on the sale of and
21 access to these highly addictive products.



1 Accordingly, the purpose of this Act is to:

2 (1) Repeal the preemption on county ordinances that
3 regulate the sale of cigarettes, tobacco products, and
4 electronic smoking devices, thereby restoring
5 counties' authority to adopt more stringent ordinances
6 than state statutes found in the Hawaii Revised
7 Statutes; and

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

13 SECTION 2. Section 328J-11.5, Hawaii Revised Statutes, is
14 repealed.

15 ~~["**[§328J-11.5]** **Statewide concern.** (a) Sales of~~
16 ~~cigarettes, tobacco products, and electronic smoking devices are~~
17 ~~a statewide concern. It is the intent of the legislature to~~
18 ~~regulate the sale of cigarettes, tobacco products, and~~
19 ~~electronic smoking devices in a uniform and exclusive manner.~~

20 ~~(b) All local ordinances or regulations that regulate the~~
21 ~~sale of cigarettes, tobacco products, and electronic smoking~~



1 ~~devices are preempted, and existing local laws and regulations~~
2 ~~conflicting with this chapter are null and void.~~

3 ~~(c) Nothing in this chapter shall be construed to limit a~~
4 ~~county's authority under section 328J-15."]~~

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

7 "(b) Nothing in this chapter shall prohibit a county from
8 enacting ordinances that regulate the sale of cigarettes,
9 tobacco products, and electronic smoking devices within the
10 county; provided that the ordinances do not directly conflict
11 with and are more stringent than the provisions of this
12 chapter."

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

15 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Keiki Caucus; Cigarettes, Tobacco Products, and Electronic Smoking Devices; Sale; Regulation; County Authority

Description:

Repeals the preemption on county ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices. Allows counties to adopt ordinances that regulate the sale of cigarettes, tobacco products, and electronic smoking devices that do not conflict with and are more stringent than the state law that governs smoking. Effective 7/1/3000. (HD1)

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