
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.

6 The purpose of this Act is to update tobacco enforcement
7 laws to:

- 8 (1) Clarify that untaxed tobacco products are subject to
9 forfeiture as contraband, without regard to the
10 procedures set forth in chapter 712A, Hawaii Revised
11 Statutes, in the same manner as untaxed cigarettes;
12 and
- 13 (2) Confirm the authority of the department of taxation
14 and the department of the attorney general to inspect
15 and seize tobacco products, including electronic
16 smoking devices and e-liquids.



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

4 "§245- Forfeiture. Any cigarette or tobacco product,
5 package of cigarettes or tobacco products, carton of cigarettes
6 or tobacco products, or container of cigarettes or tobacco
7 products unlawfully possessed, kept, stored, received, held,
8 owned, acquired, retained, transported, imported, or caused to
9 be imported, distributed, sold, or offered for sale, in
10 violation of this part, shall be forfeited as contraband
11 pursuant to chapter 712A. Any cigarette or tobacco product,
12 package of cigarettes or tobacco products, carton of cigarettes
13 or tobacco products, or container of cigarettes or tobacco
14 products forfeited as provided in this section shall be ordered
15 destroyed."

16 SECTION 3. Section 245-9, Hawaii Revised Statutes, is
17 amended by amending subsections (b) and (c) to read as follows:

18 "(b) The department and the attorney general may inspect
19 the operations, premises, and storage areas of any entity
20 engaged in the sale of cigarettes[7] or tobacco products, or the
21 contents of a specific vending machine, during regular business



1 hours. This inspection shall include inspection of all
2 statements, books, papers, and records in whatever format,
3 including electronic format, pertaining to the acquisition,
4 possession, transportation, sale, or use of packages of
5 cigarettes and tobacco products [~~other than cigarettes~~], to
6 verify the accuracy of the payment of taxes imposed by this
7 chapter, and of the contents of cartons and shipping or storage
8 containers to ascertain that all individual packages of
9 cigarettes have an affixed stamp of proper denomination as
10 required by this chapter. This inspection may also verify that
11 all stamps were produced under the authority of the department.
12 Every entity in possession of any books, papers, and records,
13 and the entity's agents and employees, are directed and required
14 to give the department and the attorney general the means,
15 facilities, and opportunities for the examinations.

16 (c) If the department or the attorney general has
17 reasonable cause to believe and does believe that cigarettes,
18 tobacco products, stamps, or counterfeit stamps are being
19 acquired, possessed, transported, kept, sold, or offered for
20 sale in violation of this chapter, the department or the
21 attorney general may investigate or search the vehicle or



1 premises in which the cigarettes, tobacco products, stamps, or
2 counterfeit stamps are believed to be located. If cigarettes,
3 tobacco products, stamps, or counterfeit stamps are found in a
4 vehicle, premises, or vending machine in violation of this
5 chapter the cigarettes, tobacco products, vending machine,
6 vehicle, stamps, counterfeit stamps, or other tangible personal
7 property containing those cigarettes, tobacco products, stamps,
8 or counterfeit stamps and any books and records in possession of
9 the entity in control or possession of the cigarettes, tobacco
10 products, stamps, or counterfeit stamps may be seized by the
11 department or the attorney general and [~~are~~] shall be subject to
12 forfeiture as provided in this chapter and chapter 712A."

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

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

16 (a) Property described in a statute authorizing
17 forfeiture;

18 (b) Property used or intended for use in the commission
19 of, attempt to commit, or conspiracy to commit a
20 covered offense, or that facilitated or assisted the
21 activity;



- 1 (c) Any firearm that is subject to forfeiture under any
- 2 other subsection of this section or that is carried
- 3 during, visible, or used in furtherance of the
- 4 commission, attempt to commit, or conspiracy to commit
- 5 a covered offense, or any firearm found in proximity
- 6 to contraband or to instrumentalities of an offense;
- 7 (d) Contraband [~~or untaxed cigarettes in violation of~~
- 8 ~~chapter 245~~], which shall be seized and summarily
- 9 forfeited to the State without regard to the
- 10 procedures set forth in this chapter;
- 11 (e) Any proceeds or other property acquired, maintained,
- 12 or produced by means of or as a result of the
- 13 commission of the covered offense;
- 14 (f) Any property derived from any proceeds that were
- 15 obtained directly or indirectly from the commission of
- 16 a covered offense;
- 17 (g) Any interest in, security of, claim against, or
- 18 property or contractual right of any kind affording a
- 19 source of influence over any enterprise that has been
- 20 established, participated in, operated, controlled, or
- 21 conducted in order to commit a covered offense; and



1 (h) All books, records, bank statements, accounting
2 records, microfilms, tapes, computer data, or other
3 data that are used, intended for use, or that
4 facilitated or assisted in the commission of a covered
5 offense, or that document the use of the proceeds of a
6 covered offense."

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

10 SECTION 6. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

Clarifies that untaxed tobacco products are subject to forfeiture as contraband, without regard to the procedures set forth in Hawaii's asset forfeiture law in the same manner as untaxed cigarettes. Confirms 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. Effective 7/1/3000. (HD1)

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

