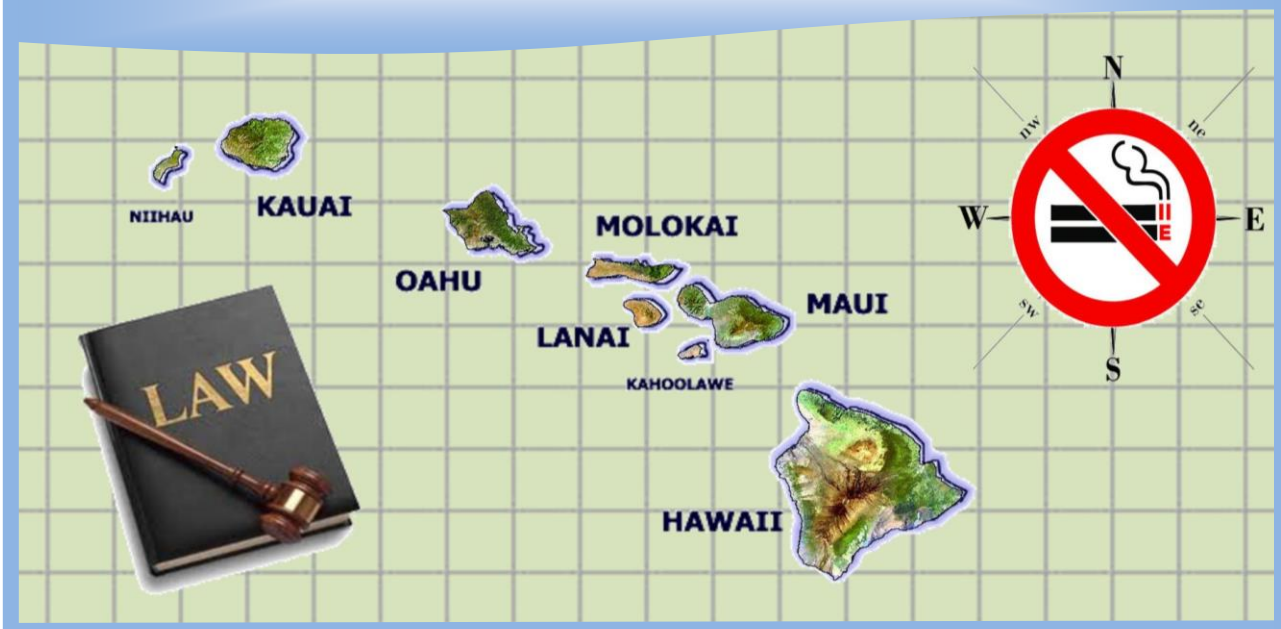
LAWS & POLICIES



Smoke Free Environment	Electronic Cigarettes	Sales to Youth / Distribution / Signage / Tax
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Hawaii Tobacco Facts

Smoke Free Environment

In 2006 the Hawai'i State Legislature passed sweeping laws under **HRS 328J** prohibiting smoking in various enclosed and partially enclosed areas in the following areas. Effective 2016 this prohibition will include electronic smoking devices also known as e-cigarettes:

1. **Work and education**
2. **Restaurants and retail**
3. **Hotels and multi-unit housing**
4. **Care and rehabilitation facilities**
5. **Indoor and outdoor recreation**
6. **Transportation**

Local counties have also passed laws calling for additional smoking restrictions in areas not covered by state laws.

Individual agencies and multi-unit buildings such as condominiums have also enacted their own smoke free policies for their respective properties. A growing number of agencies and private businesses have developed individual policies banning their use in settings such as the work place, restaurants and city operated buses. Current state law restricts sales of electronic smoking devices (ESD) including e-cigarettes by persons under 18.

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1. Work and Education

State Law	Penalties – listed at end of document
Work sites prohibit smoking in: ▪ All enclosed/partially enclosed areas of employment. The employer can be a person, business, partnership, associations, corporations, including the State or any of its political subdivisions, a trust, or nonprofit entity that employs the services of one or more individual persons. ▪ All enclosed or partially enclosed areas, including buildings and vehicles owned, leased, or operated by the State or any county. **Educational sites that prohibit smoking include:** ▪ Public school buildings under HRS 328J. In addition, HRS 302A-102 prohibits use of tobacco at all public school functions for grades K through 12.* ▪ Public and private educational facilities such as: ○ Libraries ○ Museums ○ Aquarium, ○ Convention halls. ▪ Licensed child and adult day care facilities.	**ST1**, **ST2** *applies to all below except public school buildings* **Penalty unspecified*
Agency Policy	**Penalties – listed at end of document**
▪ Smoking banned at state run universities and community colleges including outdoor dining patios and lanais. School chancellors may designate their entire campus as smoke free.	**Penalty unspecified*

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2. Restaurants and Retail

State Law	Penalties – listed at end of document
Smoking prohibited in restaurants including: ▪ Coffee shops ▪ Cafeterias ▪ Sandwich stands ▪ Kitchens and catering facilities in which food is prepared on the premises for serving elsewhere ▪ Bar area within the restaurant and outdoor areas of restaurants. **Smoking prohibited in retail settings such as**: ▪ Retail stores except tobacco shops ▪ Shopping malls that are fully or partially enclosed	**ST1**, **ST2** *applies to all*
County Law	**Penalties – listed at end of document**
Honolulu County laws are more restrictive **Retail stores:** ▪ Honolulu City Ordinances make no exceptions for tobacco shops thus restricting smoking in all retail stores. [Honolulu City Ordinance; 41-21.2f]	**HON**

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3. Hotels and Multi-Unit Housing

State Law	Penalties – listed at end of document
Smoking in hotels including ESD's: Smoking is prohibited in all enclosed or partially enclosed areas open to the public including but not limited to the following places: ▪ Lobbies ▪ Meeting rooms ▪ Banquet facilities ▪ Hotels may not designate more than 20% of their rooms for smoking by guests. NOTE: Hotels may establish their own policies making their entire building or franchise smoke free; i.e. *Marriott*.	
Smoking in multi-unit housing including ESD'S: Smoking is prohibited in common areas such as: ▪ Hallways ▪ Lobbies Other common areas fitting this description include: ▪ Mail rooms ▪ Laundry rooms ▪ Party rooms NOTE: Residential apartment building boards can establish their own policies to make their entire building and grounds smoke free. The Coalition for a Tobacco Free Hawaii has useful information for tenants and apartment owners who wish to go smoke free.	**ST1**, **ST2** *Applies to all except public housing*
Public Housing: All Hawaii Public Housing Authority public housing are smoke free [HRS 356D-6.5]	**ST11**

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4. Care and Rehabilitation

State Law	Penalties – listed at end of document
Unless otherwise noted HRS 328J-3 bans smoking including ESD's in enclosed or partially enclosed areas in: • Healthcare facilities Exceptions: Occupants in private/semi-private rooms in nursing homes & long term care facilities may request rooms where smoking is allowed. • Licensed child and adult day care facilities	**ST1**, **ST2**
Agency Policy	**Penalties – listed at end of document**
Hospitals: All state hospitals – those operated by the Hawaii Health Systems Corporation – now ban smoking including electronic smoking devices on their properties.	HRS 323F
Tripler Army Center is tobacco free including a ban on electronic smoking devices.	
Private hospital *tobacco free* policies vary from facility to facility.	Not specified in their administrative rules
State prisons: ▪ Not covered under HRS 328J but have adopted policies; [COR.01.22], making prisons and adjoining campuses smoke free.	

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5. Indoor and Outdoor Recreation

State Law	Penalties – listed at end of document
Indoor recreation: Unless otherwise noted HRS 328J-3 bans smoking including ESD's in enclosed or partially enclosed areas : ▪ Night clubs ▪ Movie theaters and concert halls ▪ Bowling alleys ▪ Restaurants and bars ▪ Fitness centers [1] ▪ Sports arenas **Outdoors:** ▪ State parks and stadiums.	**ST1**, **ST2**
County Law	**Penalties – listed at end of document**
Beaches and public parks: ▪ Hawaiʻi County (Big Island) parks and beaches went smoke free in 2008, [Hawaiʻi County Code, 14-21b] ▪ All Oahu County parks and beaches went smoke free on January 1, 2014. [ROH 41-21.3 amended by Bill 25 (2013) CD2 RD 1] Exceptions: Honolulu county golf courses are excluded. ▪ Maui county parks and beaches went tobacco free on April 22, 2014. [Maui County Code 13.040.20 amended [Ord 4120]	**HAW1** **HON** **MAUI1**

[1] Any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, bowling alley, and any other similar place where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events

6. Transportation

State Law	Penalties – listed at end of document
Smoking banned by state law; HRS 328J, in the following: ▪ All airports ▪ State and county operated public transportation and taxi cabs	ST1, ST2
County Law	**Penalties – listed at end of document**
Some counties have passed local laws banning smoking in areas not specified under HRS 328J: **Bus stops:** ▪ No smoking at all Oahu bus stops [ROH 41-21.1 amended by [Bill 28 (2013) CD2 FD1] ▪ No smoking including electronic smoking devices at all Maui County bus stops. **Private vehicles:** ▪ Hawaiʻi County (Big Island) law forbids smoking in vehicles with occupants under 18 years. [Hawaiʻi County Code, Sect 14-21 (12), Ord #10-33] ▪ Kauai County law bans smoking in vehicles with occupants under 12 years.	 HON MAU2 HAW2

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Electronic Smoking Devices (electronic cigarettes)

Electronic smoking devices (ESD or electronic cigarettes, are battery-powered devices, some designed to look like regular tobacco cigarettes, which provide doses of nicotine and other flavored additives to the user in an aerosol.

ESDs are not marketed for therapeutic purposes and currently unregulated by the Food and Drug Administration.

State Law	Penalties – listed at end of document
▪ Electronic smoking devices (ESD) cannot be sold to minors under 21 after 2015. [HRS 709-908 amended by HB1030 SD1 HD2]	**ST3**
▪ Retailers and anyone selling tobacco products including ESD must post a sign at the point of sale warning customers it is unlawful to sell these products to minors under 21 [HRS 709-908 amended by HB1030 SD1 HD2]	**ST3**
▪ It is unlawful for any minor to purchase tobacco products including electronic smoking devices [HRS 709-908 amended by HB1030 SD1 HD2]	
County Law	**Penalties – listed at end of document**
▪ Hawaiʻi County prohibits cigarette sales *including ESD* to anyone under 21 [Hawaiʻi County Code Chapter 14-138]	**HAW3**
▪ Hawaiʻi County prohibits ESD use at beaches, county parks, public buildings and anywhere else traditional tobacco cigarette smoking is banned.	
Agency Policy	**Penalties – listed at end of document**
▪ Vapor producing devices including electronic cigarettes are prohibited on Honolulu city buses [ROH 13-3.1-6].	**HON4**
▪ Possession and/or use of electronic cigarettes by public school students is contraband (Class D offense)	**DOE**
▪ Aloha Stadium, some restaurants and movie theatres ban ESD	
▪ State Department of Health prohibits ESD use [DOH directive 13-03]	**DOH**

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Sales to Youth / Distribution / Signage / Tax

Taxes | Signage | False ID | No youth purchase

State Law	Penalties – listed at end of document
Sales to Youth:	
▪ It is unlawful to sell or furnish tobacco in any shape or form including electronic smoking devices to a minor under 21 and, [HRS 709-908 amended by SB1030 SD1 HD2]	ST3
▪ It shall be unlawful for a minor under 21 to buy any tobacco product including ESD's and,	ST4
▪ Possession or consumption of a tobacco product by a minor under 21 in a public place is prohibited [HRS321b amended by SB1030 SD1 HD2]	ST5 ST7
▪ No sales of single cigarettes or packs with less than 20 cigarettes [HRS 712-1257]	
▪ No distribution of tobacco samples, products, coupons, or promotional ads in streets, sidewalks or parks within 1000 feet of any public, middle or high school [HRS 328J-17]	ST8
▪ No sales from vending machines unless the vending machine is in a bar, cabaret or establishment for which the minimum age for admission [HRS 328-J16]	ST8
▪ No sales from lunch wagons within 1000 feet of any public or private elementary or secondary school grounds [HRS 328J-16]	ST6
Retailer requirements:	
▪ It is unlawful to sell or distribute foreign cigarettes not intended for sale in the U.S. or which lack federal health warnings [HRS 245-51],	ST9
▪ Vendors of cigarettes and tobacco products must have a retail license. [HRS 245-2.6]	ST3
▪ Signs warning against the sale of tobacco products including electronic cigarettes must be posted at the point of sale. [HRS 709-908 (2)]	ST10
▪ **Tax rate** [HRS 245-1 to 63, see tax chart]:	
▪ 16¢ per cigarette and little cigars	
▪ 70% of wholesale price for tobacco products other than cigars	
▪ 50% of wholesale price for large cigars	

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County Laws	Penalties – Listed at end of document
Sales ▪ No sales or furnishing on Oahu of bidi cigarettes (tobacco wrapped in temburni or tendu leaf) [ROH 40-18], ▪ No herbal cigarette sales on Oahu to minors under 18 {ROH 40-20] ▪ Hawaiʻi County bans cigarette sales including electronic smoking devices (e-cigarettes), to anyone under 21 [Hawaiʻi County Code Chapter 14 amended by Bill 35] **Purchase:** ▪ On Oahu a person shall not use an unofficial ID card with a false birth date to buy an unallowable product (tobacco) [ROH 40.17.3]	**HON2** **HON3** **HAW3** **HON1**

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PENALTIES

State and county penalties for tobacco related offenses vary according to the particular incident.

Reference	Jurisdiction	Penalty
ST1	State	Violators may be fined no more than $50 [HRS 328J-12 (a)].
ST2	State	Anyone who owns or operates a facility that fails to comply with HRS 328J may be fined $100 for the 1st violation, $200 for the 2nd violation within a year's time [HRS 328J-12(f)]
ST3	State	$500 for the 1st offense, no less than $500 and no more than $2000 for subsequent offenses [HRS 709-908 (4)]
ST4	State	$10 for the 1ST offense. Subsequent offenses shall be fined $50, no part of which shall be suspended, or the shall be required to perform not less than 48-hrs nor more than 72-hrs of community service [HRS 709-908-4]
ST5	State	$2500 fine for 1st offense, no less than $100 and no more than $2500 for subsequent offenses. A class C felony [HRS 712-1257]
ST6	State	Fined not more than $10,000 and may be imprisoned for not less than 1 year and more than 5 years. [HRS 245-53]
ST7	State	No more than $1000 fine. [HRS 328J-17]
ST8	State	No more than $1000 fine. [HRS 328J-16]
ST9	State	Misdemeanor with potential for class C felony conviction [HRS 245-2.7]
ST10	State	Penalty for late tax payment; 10% of amount due plus interest [HRS 245-30]
ST11	State	Lease termination after the 3rd violation [HRS 356D-92]
HON	Oahu	Fine of not more than $100 for 1st offense, $200 for 2nd offense within a year. [Honolulu City Ordinance 41-21.5b]
HON1	Oahu	Maximum $2000 fine subject to family court jurisdiction [ROH 40.17.3]
HON2	Oahu	$500 fine for 1st offense, between $500 and $1000 for each subsequent offense [ROH 40-18.3]
HON3	Oahu	$500 fine for each offense, between $500 and $1000 for subsequent offense within 1st year of first offense. [ROH 40-20.4]
HON4	Oahu	$500 fine and/or prison up to 6 months [ROH 13-3.1-6]
HAW1	Big Island	$100 fine for each offense. [HCC 14-24b]
HAW2	Big Island	Fine not less than $25 and not more than $50. [HCC 14-24b]
HAW3	Big Island	$500 fine for 1st offense [HCC 14-138]]
MAU1	Maui	$500 fine [MCC 13.040.020]
MAU2	Maui	No less than $25 and no more than $50. [MCC8.20.040]
DOE	State public schools	Suspension depending on the intent, nature and impact of offense [HAR Title 8 Chapter 19-5]
DOH	State Dept of Health	Disciplinary action up to and including discharge [DOH directive 13-03]

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