BILL NO. 135ORDINANCE NO. 13 124

AN ORDINANCE AMENDING CHAPTER 14 OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED), BY ADDING A NEW ARTICLE RELATING TO THE DISTRIBUTION OF TOBACCO PRODUCTS.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Chapter 14 of the Hawai'i County Code 1983 (2005 edition, as amended) is amended by adding a new article to be appropriately designated and to read as follows:

“Article ____ . Distribution of Tobacco Products.

Section 14-__ . Definitions

As used in this article:

“Department” means the Hawai'i police department.

“Distribute” means to give, deliver or sell, or cause or hire any person to give, deliver or sell, or offer to give, deliver or sell.

“Person” includes natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations or any officer, agent, employee, factor, or any other personal representative thereof, on any capacity, acting either for himself or for any other person, under personal appointment or pursuant to law.

“Proof of age” means a driver's license, license for identification only, or other generally accepted means of identification with a photograph of the individual affixed thereon that indicates that the individual is twenty one years of age or older or was born before or on June 30, 1996.

“Tobacco product” means any product that contains tobacco and is intended for human consumption or use, including, but not limited to, cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and electronic smoking devices as defined in section 709-908 of the Hawai'i Revised Statutes. Tobacco product does not include products that have been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and are marketed and sold solely for such an approved purpose.

Section 14-__ . Prohibition; verification of age; penalties.

- (a) It is unlawful for any person to distribute a tobacco product to any person under twenty one years of age, with the exception of any person who is eighteen years of age or older before or on June 30, 2014, and at such time could be a lawful recipient of a tobacco product.

- (b) A person who distributes tobacco products shall verify proof of age from a prospective recipient if an ordinary person would conclude on the basis of appearance that the prospective recipient may be less than twenty seven years of age.
- (c) Any person who violates this section shall be subject to a fine of \$500 for the first offense. Any subsequent offenses shall subject the person to a fine of not less than \$500 nor more than \$2,000.

Section 14-___. Posted signs required.

- (a) From July 1, 2014, through June 30, 2017, every person who sells or displays tobacco products shall post conspicuously and keep so posted at the place of business at each point of sale a sign which states, "The sale of tobacco products to persons born after June 30, 1996 is prohibited," in letters at least one-half inch high.
- (b) As of July 1, 2017, every person who sells or displays tobacco products shall post conspicuously and keep so posted at the place of business at each point of sale a sign which states, "The sale of tobacco products to persons under twenty-one years of age is prohibited," in letters at least one-half inch high.
- (c) Any person failing to post a notice in compliance with this section shall be subject to a fine of \$100 for the first offense, \$250 for the second offense, and \$500 for the third and all subsequent offenses.

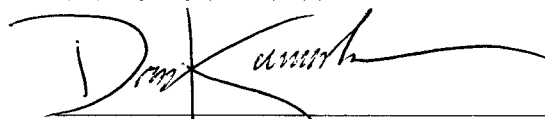
Section 14-___. Enforcement.

The department or its authorized delegates may conduct random, unannounced inspections at locations where tobacco products are distributed to test and ensure compliance with this article, and shall generally enforce the provisions of this article. This article shall not apply to controlled purchases as part of a law enforcement activity or a study authorized by the State department of health under the supervision of law enforcement."

SECTION 2. If any provision of this ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall take effect on July 1, 2014.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

 Kona , Hawai'i
 Date of Introduction: November 6, 2013
 Date of 1st Reading: November 6, 2013
 Date of 2nd Reading: November 20, 2013
 Effective Date: July 1, 2014

OFFICE OF THE COUNTY CLERK
 County of Hawai'i
Kona, Hawai'i

COUNTY CLERK
 COUNTY OF HAWAII

2013 DEC 13 PM 4: 24

Introduced By: Dru Mamo Kanuha
 Date Introduced: November 6, 2013
 First Reading: November 6, 2013
 Published: November 16, 2013

REMARKS: _____

Second Reading: November 20, 2013
 To Mayor: November 29, 2013
 Returned: December 13, 2013
 Effective: July 1, 2014
 Published: December 27, 2013

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Approved Disapproved this 13th day
 of December, 20 13.

Wan K. L.

 MAYOR, COUNTY OF HAWAII



COUNCIL CHAIRPERSON



COUNTY CLERK

Bill No.: 135

Reference: C-447/PSMTC-17

Ord No.: 13 124