

Resolution

No. 18-183

APPROVING FOR INCLUSION IN THE
2019 MAUI COUNTY LEGISLATIVE PACKAGE
A STATE BILL TO ADOPT AND ENFORCE
ADDITIONAL LOCAL LAWS REGULATING THE
SALE OR USE OF CIGARETTES, TOBACCO
PRODUCTS, AND ELECTRONIC SMOKING
DEVICES

WHEREAS, tobacco use continues to be a public health problem in Hawaii, causing approximately 1,400 deaths per year among adults and costing approximately \$526 million in direct healthcare expenditures and \$387 million in lost productivity in the state; and

WHEREAS, the state has enacted many tobacco-control policies including clean air ordinances and raising the age of sale of tobacco products from 18 to 21; and

WHEREAS, many of these initiatives were county-led, and later adopted at the state level, extending these protections statewide and saving the state \$1 billion in healthcare costs over 10 years; and

WHEREAS, solutions addressed at the county level enable legislation tailored to a county's unique needs and provides a targeted approach to reduce health disparities; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to adopt and enforce additional local laws regulating the sale or use of cigarettes, tobacco products, and electronic smoking devices, is approved for inclusion in the 2019 Maui County Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Governor of the State of Hawaii; the President of the State Senate; the Speaker of the State House of Representatives; the County's delegation to the State Legislature; the Mayor of the County of Maui; and the Corporation Counsel.

A BILL FOR AN ACT

RELATING TO COUNTY AUTHORITY ON THE SALE OF TOBACCO PRODUCTS

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that tobacco use
2 continues to be a public health problem in Hawaii, causing
3 approximately 1,400 deaths per year among adults and costs
4 approximately \$526,000,000 in direct health care expenditures
5 and \$387,300,000 in lost productivity in the State. In response
6 to the heavy burden of tobacco, Hawaii has enacted many tobacco
7 control policies including clean indoor air ordinances and
8 raising the age of sale of tobacco products from 18 to 21. Many
9 of these initiatives were led by the counties and were later
10 adopted at the state level, extending these protections
11 statewide and ultimately saving the state \$1 billion in
12 healthcare costs over 10 years.

13 The legislature further finds that different communities
14 need different solutions, which are most effectively addressed
15 at the local level, as local governments are best able to
16 respond to the needs of the people who live and work there.

17 The legislature additionally finds that while it is
18 important to establish minimum protections statewide, local

____.B. NO.____

1 level policies are integral to tobacco control because they
2 enable a targeted approach to reduce health disparities. The
3 2017 Youth Risk Behavior Survey found that while 25.3% of high
4 school students in Hawaii currently vape, both Maui and Hawaii
5 County exceed this, with rates of 31.8% and 32.4% respectively.

6 The legislature understands that for public health,
7 communities should not be prevented from working with their
8 local elected officials to pass laws tailored to their unique
9 needs. Reversing existing laws or preventing future enactment of
10 such laws negates the value of home rule.

11 The legislature finds that an enabling clause to explicitly
12 allow local jurisdictions to pass ordinances that are more
13 stringent than state law was enacted by the legislature in 2006
14 under HRS §328J-15, "County Ordinances." The legislature
15 additionally finds that over the years, communities have adopted
16 and put into action some of the strongest, most innovative, and
17 effective tobacco control policies that have served as catalysts
18 for changing social norms about tobacco use. These policies
19 discourage young people from initiating use and encourage adult
20 tobacco users to quit. A national Healthy People 2020 objective
21 calls to eliminate state laws that preempt stronger local
22 tobacco control laws.

.B. NO.

1 The purpose of this act is to repeal and amend provisions
2 relating to the preemption of local laws or ordinances that
3 regulate the sale of cigarettes, tobacco products, and
4 electronic smoking devices.

5 SECTION 2. Section 328J-XX, Hawaii Revised Statutes, is
6 repealed:

7 ~~["§328J—Statewide concern. (a) Sales of cigarettes,~~
8 ~~tobacco products, and electronic smoking devices are a statewide~~
9 ~~concern. It is the intent of the legislature to regulate the~~
10 ~~sale of cigarettes, tobacco products, and electronic smoking~~
11 ~~devices in a uniform and exclusive manner.~~

12 ~~—(b) All local ordinances or regulations that regulate the~~
13 ~~sale of cigarettes, tobacco products, and electronic smoking~~
14 ~~devices are preempted, and existing local laws and regulations~~
15 ~~conflicting with this chapter are null and void.~~

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

18 SECTION 3. Section 328J-15, Hawaii Revised Statutes, is
19 amended to read as follows:

20 1. By amending subsection (a) to read:

21 "**§328J-15 County ordinances.** (a) Nothing in this chapter
22 shall be construed to supersede or in any manner limit or

____.B. NO. _____

1 prohibit a county smoking ordinance or the ability of any county
2 to adopt and enforce additional local laws or ordinances that
3 regulate the sale or use of cigarettes, tobacco products, and
4 electronic smoking devices; provided that the local law or
5 ordinance is at least as protective of public health as this
6 chapter."

7 (b) Nothing in this chapter shall prohibit a county
8 from enacting ordinances more stringent than this chapter.

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 18-183** was adopted by the Council of the County of Maui, State of Hawaii, on the 2nd day of November, 2018, by the following vote:

MEMBERS	Michael B. WHITE Chair	Robert CARROLL Vice-Chair	Alika ATAY	Eleanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Excused	Aye	Aye



COUNTY CLERK