



ELEVENTH OLBIL ERA KELULAU

TENTH SPECIAL SESSION

MARCH 2023

HOUSE BILL NO. 11-67-7S, HD2, SD2

AN ACT

SEE TITLE INSIDE

OFFERED BY DELEGATE(S) Delegate Kemeagng and All Delegates except
Floor Leader Kanai and Delegate Ongidohel ET AL.

DATE INTRODUCED July 06, 2022

HOUSE ACTION

FIRST READING: 07/06/2022
REFERRED TO: JGA & HR (Reporting Committee), HS&CA
STANDING COMMITTEE REPORT NO: 11-72
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REVIEW: 10/19/2022
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FINAL ACTION: 03/20/2023

SENATE ACTION

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STANDING COMMITTEE REPORT NO: 11-147
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FINAL ACTION:

CONFERENCE COMMITTEE ACTION

DATE:
COMMITTEE REPORT:
DATE PASSED:

Marcello Ngirkelau
HOUSE CLERK

Amy L. Pedro
SENATE CLERK

AN ACT

To amend Chapter 17, Title 11 of the Palau National Code to prohibit the importation, distribution, selling, possession, and use of electronic cigarettes within the Republic of Palau, and for other related purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA KELULAU DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The Olbil Era Kelulau finds that the use of e-
2 cigarettes is spreading widely, particularly among adolescent consumers. Most of these
3 products found in Palau come in flavors which are attractive to young people.
4 Acknowledging the constitutional responsibility of the national government to take
5 positive action for the “promotion of the health and social welfare of the citizens,” the
6 Olbil Era Kelulau recalls the policy purposes identified in Chapter 17 of Title 11 of the
7 Palau National Code. The Conference of the Parties for the WHO Framework
8 Convention on Tobacco Control agreed that Parties should ban or regulate e-cigarettes.
9 WHO emphasizes that even though e-cigarettes do not contain tobacco, they often
10 contain nicotine, additive and/or other toxic chemicals that can be toxic to people’s
11 health. Nicotine -whether derived from tobacco or synthetic- is highly addictive. Many
12 manufacturers use a highly concentrated form of nicotine called nicotine salt that is
13 engineered for vaping. Nicotine salts allow higher concentrations to be inhaled more
14 easily, and absorbed more quickly, than other forms of nicotine.

15 The Olbil Era Kelulau recognizes that from a regulatory perspective, e-cigarettes
16 with nicotine are indistinguishable from those without nicotine. Studies in several
17 countries including Australia, the United States, Korea, and Poland have found
18 discrepancies between actual nicotine concentration and the label (some e-liquids
19 claimed to be “nicotine-free” but contained nicotine). The aerosol from e-cigarettes
20 which a user inhales contains ultrafine particles that can be inhaled deep into the lungs.
21 Testing conducted by independent laboratories such as members of the WHO Tobacco
22 Laboratory Network has found several hazardous chemicals detrimental to human
23 health in these products, including propylene glycol, glycerol, menthol, benzene
24 derivatives, lead, nickel, and cadmium. The Food and Drug Administration of the United
25 States of America found that e-cigarettes contain cancer-causing ingredient such as

1 nitrosamines and even ethylene glycol which is used in antifreeze for cars. Furthermore,
2 e-cigarettes emit these harmful chemicals into the air thereby exposing and potentially
3 harming by-standers through second-hand emissions.

4 According to the WHO, recent studies suggest that e-cigarettes have negative
5 acute effects on cardiovascular health, including heart rate and blood pressure and daily
6 e-cigarette use has been shown to be associated with increased risk of myocardial
7 infarction (heart attack). Further, WHO concludes that evidence on the potential role
8 for e-cigarettes in cessation is inconclusive. Most studies used a single product type in a
9 controlled environment, and this is not considered comparable to the current real-world
10 context of e-cigarette use. Some studies only looked at quitting tobacco and not all
11 nicotine products.

12 Recent review of the evidence on behalf of the Australian government revealed
13 there is *strong evidence* that non-smokers who use e-cigarettes are around three (3) times
14 more likely to initiate cigarette smoking; and *strong evidence* that non-smokers who use
15 e-cigarettes are around three (3) times more likely to become current cigarette smokers.

16 In this context, the Olbiil Era Kelulau finds that it is imperative to protect the
17 health and well-being of our communities, especially our young people from the dangers
18 of emerging products such as e-cigarettes.

19 Section 2. Amendment. The Tobacco Control Act, 11 PNC § 1702, is hereby
20 amended by adding a new subsection (f) as follows, and renumbering subsequent
21 subsections:

22 “...

23 (f) “E-cigarette” means any product or product component (refill liquids,
24 cartridges, capsules, electronic devices, or other components exclusively of use for e-
25 cigarettes) designed to deliver nicotine and/or other chemicals to the user via an aerosol
26 or vapor by heating a solution that a user inhales, but does not include any device or
27 component with a legitimate medical or scientific purpose. For purposes of this
28 subsection, a medical or scientific purpose is legitimate if the device or component is to
29 be utilized by the Belau National Hospital or by a private medical clinic, dentistry office,
30 or other similar entity, or by a legitimate scientific enterprise or organization.

~~(f)(g)~~...”

Section 3. Amendment. The Tobacco Control Act, 11 PNC § 1711, is hereby amended as follows:

“§ 1711. Tobacco or e-cigarette advertising, promotion and sponsorship prohibited.

(a) No person shall advertise or otherwise promote any tobacco or e-cigarette, brand, manufacturer or seller by any means, directly or indirectly, that is intended to have or is likely to have the direct or indirect effect of promoting the purchase or use of tobacco or e-cigarettes or a tobacco brand, or of promoting a tobacco or e-cigarette manufacturer or seller. For purposes of this section, advertisements and promotions include words, messages, mottos, slogans, letters, numbers, pictures, images, graphics, sounds, or any other auditory, visual, or sensory matter, in whole or part, that are commonly identified or associated with a tobacco or e-cigarette, brand, manufacturer, or seller. This prohibition includes a total ban on any display and on the visibility of tobacco or e-cigarette products at points of sale, but does not include the broadcast of television, radio, or electronic streaming or similar programming generated from outside Palau.

(b) Notwithstanding the provisions of subsections (a), the exposure of tobacco or a tobacco package at the Palau National Airport in any store selling tobacco duty free shall be allowed.

(c) Brand-stretching prohibited.

(1) No person shall advertise, display for sale or distribution, or distribute any non- tobacco or e-cigarette item that contains any writing, picture, image, graphic, message, or other matter, in whole or part, that is commonly identified or associated with a tobacco or e-cigarette brand, manufacturer, or seller. For the purposes of this provision, non-tobacco items include but are not limited to such things as clothes, caps, bags, umbrellas, ashtrays, matches, lighters, coasters, dishes, display racks, clocks, or sales counter mats.

(2) No person shall display any name, writing, picture, image, graphic, message, or other matter, in whole or part, that is commonly identified or

1 associated with tobacco brand, manufacturer or seller on a building, such as a
2 club, restaurant, stadium or other place, which is not primarily a tobacco
3 business.

4 (3) No person shall manufacture or distribute any product designed for or
5 likely to appeal to children that evokes an association with a tobacco or e-
6 cigarette product, including but not limited to, candy or gum cigarettes or
7 other sweets or snacks in the form of tobacco or e-cigarette products.

8 (d) Tobacco or e-cigarette sponsorships prohibited. No person shall cause the
9 tobacco or e-cigarette sponsorship of any event. For purposes of this section sponsorship
10 means the public attribution, acknowledgment, association or identification, for
11 commercial purposes, of a tobacco or e-cigarette manufacturer, brand, or product with,
12 on, or in connection with:

13 (1) an entertainment, sporting, recreational, educational, cultural, or
14 other public event or work;

15 (2) a person or team participating in such an event or work, including his
16 or her equipment, clothing and accessories;

17 (3) a service provided or contribution made by a tobacco or e-cigarette
18 manufacturer or seller; or

19 (4) a building, institution, stadium, organization or other entity that is not
20 a tobacco or e-cigarette manufacturer or seller.

21 (e) Tobacco or e-cigarette sweepstakes, contests, rebates, prohibited. The
22 operator of a business or a distributor of tobacco or e-cigarette products may not:

23 (1) supply or distribute tobacco or e-cigarettes free of charge or furnish
24 tobacco or e-cigarettes for promotional purposes of any kind to consumers;

25 (2) reduce the retail price of tobacco or e-cigarettes on the basis of
26 quantity, than as part of regular marketing operations, or offer tobacco or e-
27 cigarettes as a gift, prize, or free of charge in exchange for a coupon or
28 otherwise without charge, or grant a rebate on the market price of tobacco or
29 e-cigarettes to consumers;

(3) offer consumers gifts, cash prizes, giveaways or a right to participate in a lottery, contest, sweepstakes or game or any other form of benefit, as consideration for a purchase of tobacco or e-cigarettes or on presentation of proof of purchase of tobacco or e-cigarettes."

Section 4. Amendment. The Tobacco Control Act, 11 PNC Chapter 17, is hereby amended to add a new Section 1722 and 1723 as follows:

"§ 1722. Prohibition on sale, distribution, importing, and manufacturing of e-cigarettes for commercial purposes:

(a) No person or commercial enterprise shall sell, distribute, import, or manufacture e-cigarettes for any commercial purpose.

(b) Any person who purposefully or knowingly violates this Section by importing e-cigarettes, or by purposefully, knowingly, or recklessly selling or distributing them to any minor, or to a person who he knows will supply them to a minor, shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for up to one (1) year, or fined not more than twenty thousand dollars (\$20,000), or both.

(c) Any person who purposefully or knowingly violates this Section, except as set forth in Subsection (b) of this Section, shall be guilty of a petty misdemeanor and upon conviction thereof shall be imprisoned for a period of up to one (1) month, or fined not more than one thousand dollars (\$1,000), or both.

(d) It shall be rebuttably presumed that any person found to be in possession of multiple e-cigarettes possesses them for commercial sale or distribution.

(e) The Minister shall cause to be posted at all entry ports to the Republic of Palau signage summarizing Section 1722 (a), (b), and (c), and informing all incoming persons that e-cigarettes may be surrendered by any incoming traveler. Any traveler who voluntarily surrenders any e-cigarettes at such points shall not be convicted for the import of such pursuant to this Section.

§ 1723. Purchase, possession or consumption of electronic cigarettes.

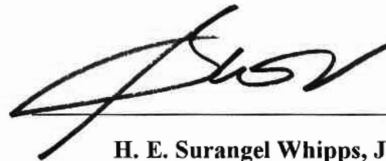
No person shall purchase, possess, or consume an electronic cigarette within the Republic of Palau. Any person who violates this section shall, upon conviction for the first time, be subject a civil fine of up to \$50. The maximum fine shall increase to \$200

1 upon the second conviction, and \$400 upon their third conviction. Any subsequent
2 convictions shall be a petty misdemeanor, punishable by a fine of up to \$500 or
3 incarceration for up to twenty-four hours. Upon any conviction, all electronic cigarettes
4 found to be in possession of such person shall be confiscated and destroyed."

5 Section 5. Effective date. This Act shall take effect sixty (60) days after its
6 approval by the President of the Republic of Palau, or upon its becoming law without
7 such approval.

PASSED: March 20, 2023

Approved this 29th day of March, 2023



H. E. Surangel Whipps, Jr.
President of the Republic of Palau