

ACT 62:

Regarding electric smoking devices (ESDs) and e-liquids Information for Wholesalers, Dealers, and Retailers

What is the new law regarding ESDs and e-liquids?

On June 6, 2023, Senate Bill 975 was signed into law as Act 62, and Gov. Msg. No. 1162 (Relating to Health). One of the purposes of this law is to include ESDs (also called e-cigarettes and vapes) and e-liquids in the Cigarette Tax and Tobacco Tax Law, found in chapter 245 of the Hawai'i Revised Statutes (HRS 245).

What are the main changes of Act 62 and when do they take effect?

Starting July 1, 2023:

- Under HRS 245, “tobacco product” will include ESDs and e-liquids.
- Wholesalers and dealers of ESDs and e-liquids are required to have a tobacco license issued by the Hawai'i Department of Taxation (DOTAX).
- Fees will increase to:
 - Tobacco license fee: \$250
 - Tobacco retail permit fee: \$50
- New criminal offenses will be in effect relating to the shipment of tobacco products, including ESDs and e-liquids, to a person or entity in Hawai'i that does not hold a tobacco license issued by DOTAX.
- The Department of Attorney General's Electronic Smoking Device Retailer Registration Unit will cease operations. Retailers of ESDs and e-liquids will no longer be required to obtain a Certificate of Registration from the Department of Attorney General.

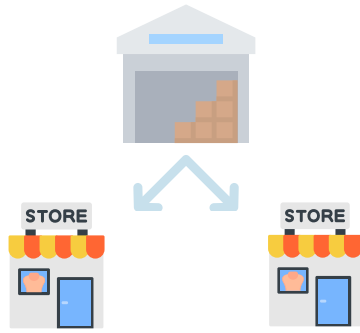
Starting January 1, 2024:

- ESDs and e-liquids are subject to an excise tax of 70% of the wholesale price of the item. Wholesalers and dealers are responsible for paying this excise tax.
- Retailers of ESDs and e-liquids will be required to have a retail tobacco permit issued by DOTAX.
- Retailers of ESDs and e-liquids must have a retail tobacco permit by **January 1, 2024**, when the new excise tax rate will apply.



Who needs to comply with Act 62?

This law applies to ESD and e-liquid wholesalers, dealers, and retailers.



Wholesalers and Dealers

Wholesalers and dealers of ESDs and e-liquids must obtain a tobacco license from DOTAX and become a **“licensee.”**

Forms and instructions to register:

<https://tax.hawaii.gov/forms/>

“Licensees” are required to:

1) File a monthly tax return (Form M-19) by the 20th of the month to DOTAX.

Instructions for Form M-19 submission:

<https://files.hawaii.gov/tax/forms/2022/m19ins.pdf>

2) Report monthly shipments (Form TEU 5) to the Department of the Attorney General.

Forms and more information:

<https://ag.hawaii.gov/cjd/tobacco-enforcement-unit/>

Retailers

Retailers of ESDs and e-liquids must obtain a retail tobacco permit from DOTAX and become a **“permittee.”**

Forms and instructions to register:

<https://tax.hawaii.gov/forms/>

Each retail location requires a separate retail tobacco permit.

Retailers who obtain ESDs and e-liquid products from a tobacco wholesaler and dealer who has not met their tax obligations may be liable for those taxes.

For additional information or questions:

Act 62: https://www.capitol.hawaii.gov/sessions/session2023/bills/GM1162_.PDF

Department of Attorney General,

Electronic Smoking Device

Retailer Registration Unit

Email: ATG.ESD.Reg.Unit@hawaii.gov

Phone: (808) 586-1203

Website: <https://ag.hawaii.gov/cjd/esd-retailer-registration-unit/>

Department of Taxation

Email: tax.licensing.section@hawaii.gov

Phone: (808) 587-4242, option #4

Website: <https://hitax.hawaii.gov>

