

---

---

# A BILL FOR AN ACT

RELATING TO THE GENERAL EXCISE TAX.

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

1           SECTION 1. Section 237-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§237-2 "Business", "engaging" in business, defined.

4 "Business" as used in this chapter, includes all activities  
5 (personal, professional, or corporate), engaged in or caused to  
6 be engaged in with the object of gain or economic benefit either  
7 direct or indirect, but does not include casual sales.

8           The term "engaging" as used in this chapter with reference  
9 to engaging or continuing in business also includes [~~the~~]:

10           (1) The exercise of corporate or franchise powers[-]; and

11           (2) The sale of tangible personal property by a person

12           soliciting business through an independent contractor

13           or other representative if the person enters into an

14           agreement with a resident of this State under which

15           the resident, for a commission or other consideration,

16           directly or indirectly refers potential customers,

17           whether by a link on an Internet website or otherwise,

18           to the person, if the cumulative gross receipts from



1           sales by the person to customers in the State who are  
2           referred to the person by such a resident, is in  
3           excess of \$10,000 during the preceding four quarterly  
4           periods ending on the last day of February, May,  
5           August, and November. This presumption may be  
6           rebutted by proof that the resident with whom the  
7           person has an agreement did not engage in any  
8           solicitation in the State on behalf of the person that  
9           would satisfy the nexus requirement of the United  
10           States Constitution during the four quarterly periods  
11           in question."

12           SECTION 2. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14           SECTION 3. The department of taxation shall adopt rules  
15 implementing and providing guidance to taxpayers concerning  
16 section 237-2, Hawaii Revised Statutes, as amended by this Act.

17           SECTION 4. This Act shall take effect on July 1, 2009.



**Report Title:**

General Excise Tax; Definition of Engaging in Business

**Description:**

Amends the definition of engaging in business under section 237-2, HRS (general excise tax), to include persons who enter into an agreement with residents of the State where the person pays a commission for referral of potential customers. (HB1405 HD1)

