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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Chapter 243, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:  
4           "§243- Chapter 235 and chapter 237 applicable. All of  
5 the provisions of chapters 235 and 237 not inconsistent with  
6 this chapter and that may appropriately be applied to the taxes,  
7 persons, circumstances, and situations involved in this chapter,  
8 including (without prejudice to the generality of the foregoing)  
9 provisions as to penalties and interest, and provisions granting  
10 administrative powers to the director of taxation, and  
11 provisions for the assessment, levy, and collection of taxes,  
12 shall be applicable to the taxes imposed by this chapter, and to  
13 the assessment, levy, and collection thereof."

14           SECTION 2. Section 231-1, Hawaii Revised Statutes, is  
15 amended by adding a new definition to be appropriately inserted  
16 and to read as follows:



1        "Director" means the director of taxation, unless the  
2 context clearly indicates otherwise."

3        SECTION 3. Section 243-1, Hawaii Revised Statutes, is  
4 amended as follows:

5        1. By repealing the definition of "director":

6        [~~"Director" means the director of finance of the State."~~]

7        2. By repealing the definition of "month" or "calendar  
8 month":

9        [~~"Month" or "calendar month" means each full month of the  
10 calendar year; provided that whenever the books of any  
11 distributor in any county are kept on such a basis that its  
12 monthly records are made up on a basis other than a calendar  
13 month so that each business month of the distributor ends on  
14 some other day than the last day of the calendar month, and the  
15 distributor presents a sworn application to the department of  
16 taxation setting forth such facts and requesting that it be  
17 granted the privilege of making returns and paying the taxes and  
18 performing other duties required of it under this chapter upon  
19 the basis of such business month rather than a calendar month,  
20 the department shall in writing grant such privilege and  
21 thereupon, as to such distributor, the terms "month" or~~



1 ~~"calendar month" shall be deemed to mean and refer to such~~  
2 ~~business month, and all returns and payments under this chapter~~  
3 ~~shall be made upon the basis of such business month and all~~  
4 ~~delinquencies and penalties shall attach and be calculated as of~~  
5 ~~the last day of such business month." ]~~

6 SECTION 4. Section 243-2, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§243-2 Distributors to register and be licensed. (a)**

9 Every distributor, and any person before becoming a distributor,  
10 shall register as such with the department of taxation on forms  
11 to be prescribed, prepared, and furnished by the department and  
12 the department shall issue to such distributor a license which  
13 shall be valid until revoked by the department as hereinafter  
14 provided. ~~[However, distributors who cannot legally be required~~  
15 ~~by the State to so register and be licensed, or to perform the~~  
16 ~~duties required of distributors by any other provisions of this~~  
17 ~~chapter, shall be deemed to be excluded from the operation of~~  
18 ~~such provisions.]~~

19 (b) Any license issued under this chapter shall not be  
20 assignable and shall be conspicuously displayed on the licensed  
21 premises of the licensee. Whenever a license is defaced,



1 destroyed, or lost, or the licensed premises are relocated, the  
2 department may issue a duplicate license to the licensee upon  
3 the payment of a fee of 50 cents.

4 (c) The department may suspend or revoke any license  
5 issued under this chapter whenever the department finds that the  
6 licensee has failed to comply with this chapter or any rule  
7 adopted under this chapter, or for any other good cause. Good  
8 cause includes, but is not limited to, instances where an  
9 applicant or licensee has:

- 10 (1) Submitted a false or fraudulent application or  
11 provided a false statement in an application;  
12 (2) Possessed or displayed a false or fraudulent license;  
13 (3) Failed to comply with, violated, or been convicted of  
14 violating any county, state, or federal law directly  
15 pertaining to the sale, importation, acquisition,  
16 possession, distribution, transportation, or smuggling  
17 of fuel, including but not limited to petroleum  
18 products and alternative fuels; or  
19 (4) Maintained incomplete or inaccurate records when and  
20 if required to be kept.



1 Upon suspending or revoking any license, the department may  
2 request that the licensee surrender the license or any duplicate  
3 issued to, or printed by, the licensee and the licensee shall  
4 surrender the license or duplicate promptly to the department as  
5 requested.

6 (d) When the department suspends or revokes a license, the  
7 department shall immediately notify the licensee and afford the  
8 licensee a hearing, if requested; provided that a hearing has  
9 not already been afforded. The department shall provide no less  
10 than thirty days notice to the licensee of a hearing afforded  
11 under this subsection. After the hearing, the department shall:

- 12 (1) Rescind its order of suspension;
- 13 (2) Continue the suspension;
- 14 (3) Revoke the license; or
- 15 (4) Rescind its order of revocation."

16 SECTION 5. Section 243-3, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§243-3 Retail dealers, permits; certificates.** (a) The  
19 certificate of a retail dealer as to the amount of the retail  
20 dealer's retail sales during the month, referred to in section  
21 243-10, is of no validity unless at the time of making the



1 certificate the retail dealer holds a permit from the department  
2 of taxation, which is then in effect. In order to obtain a  
3 permit, a retail dealer shall make an application to the  
4 department therefor, in such form as the department prescribes,  
5 and containing such information as the department requires.

6 (b) Any person who makes a false or fraudulent application  
7 or certificate or false statement in an application or  
8 certificate provided for by this chapter, with intent to defraud  
9 the State or to obtain, for a licensed distributor, an  
10 unauthorized credit, or who in any manner intentionally deceives  
11 or attempts to deceive the department in relation to an  
12 application or certificate provided for by this chapter, shall  
13 be fined not more than \$5,000 or imprisoned not more than one  
14 year, or both.

15 (c) No permit shall be issued to a retail dealer unless  
16 the department is satisfied that:

17 (1) The retail dealer, as to all of the liquid fuel  
18 purchased by the retail dealer from licensed  
19 distributors, is engaged exclusively in selling the  
20 same at retail, and is not using the liquid fuel for  
21 any other purpose; or



- 1           (2) The retail dealer maintains on the premises a pump or  
2           pumps drawing on tanks into which fuel is delivered by  
3           licensed distributors and from which no liquid fuel is  
4           drawn by the retailer for any purpose other than the  
5           sale thereof at retail, and the retail dealer further  
6           maintains records showing the quantity of liquid fuel  
7           on hand in those tanks at the beginning and end of  
8           each month and the deliveries into those tanks made by  
9           licensed distributors during the month; or
- 10          (3) The retail dealer maintains records by which retail  
11          sales of liquid fuel purchased from licensed  
12          distributors are segregated from all other sales or  
13          uses of liquid fuel, and further showing the quantity  
14          of liquid fuel on hand at the beginning and end of  
15          each month and the purchases of liquid fuel from  
16          licensed distributors during the month.
- 17          (d) Permits to retail dealers shall be issued on an annual  
18          basis and shall expire at the end of each calendar year. A fee  
19          of \$5 shall be charged for each permit or renewal thereof.  
20          Permits shall be numbered and each certificate made by a retail



1 dealer holding a permit shall bear the same identifying number  
2 as the permit which the retail dealer holds.

3 ~~[(e) The department may revoke a permit upon the grounds~~  
4 ~~hereinafter stated, after notice to the retail dealer holding~~  
5 ~~the permit informing the retail dealer of the grounds of the~~  
6 ~~proposed revocation and of the time and place at which a hearing~~  
7 ~~will be held thereon. If the department finds, after the~~  
8 ~~hearing, that there is good cause therefor it may revoke the~~  
9 ~~permit. The permit may be revoked upon any of the following~~  
10 ~~grounds:~~

- 11 ~~(1) A false or fraudulent application or false statement~~  
12 ~~in an application;~~
- 13 ~~(2) The giving of a false or fraudulent certificate or a~~  
14 ~~false statement in a certificate;~~
- 15 ~~(3) Failure to maintain the practices or records required~~  
16 ~~by paragraphs (1), (2), or (3) of subsection (c),~~  
17 ~~whichever is applicable as shown by the retail~~  
18 ~~dealer's application for the permit;~~
- 19 ~~(4) Incomplete or inaccurate records when and if required~~  
20 ~~to be kept.]~~





1       (e) Any entity that operates as a distributor and also  
2 sells fuel to consumers at retail shall acquire a separate  
3 retail dealer permit.

4       (f) Each retail dealer who holds a permit issued by the  
5 department which remains in effect, may make a certificate  
6 showing the amount of retail sales, made by the retail dealer  
7 during the month, of liquid fuel purchased from a licensed  
8 distributor, and further may furnish such certificate to the  
9 licensed distributor from whom the retail dealer purchased the  
10 liquid fuel, for the retail dealer's use as provided, in section  
11 243-10.

12       (g) A retail dealer permit shall be nonassignable and  
13 nontransferable from one entity to another entity. A retail  
14 dealer permit may be transferred from one business location to  
15 another business location after an application has been filed  
16 with the department requesting that transfer and approval has  
17 been obtained from the department.

18       (h) A retail dealer permit issued under this section shall  
19 be displayed at all times in a conspicuous place at the place of  
20 business requiring the permit.



1       (i) The department may suspend, revoke, or decline to  
2 renew any permit issued under this chapter whenever the  
3 department finds that the applicant has failed to comply with  
4 this chapter or any rule adopted under this chapter, or for any  
5 other good cause. Good cause includes, but is not limited to,  
6 instances where an applicant or permittee has:

- 7       (1) Submitted a false or fraudulent application or  
8       provided a false statement in an application;
- 9       (2) Possessed or displayed a false or fraudulent permit;
- 10      (3) Provided a false or fraudulent certificate or made a  
11      false statement in a certificate;
- 12      (4) Failed to comply with, violated, or been convicted of  
13      violating any county, state, or federal law directly  
14      pertaining to the sale, importation, acquisition,  
15      possession, distribution, transportation, or smuggling  
16      of fuel, including but not limited to petroleum  
17      products and alternative fuels; or
- 18      (5) Maintained incomplete or inaccurate records when and  
19      if required to be kept.

20 Upon suspending or revoking any permit, the department may  
21 request that the permittee surrender the permit or any duplicate



1 issued to, or printed by, the permittee and the permittee shall  
2 surrender the permit or duplicate promptly to the department as  
3 requested.

4 (j) When the department suspends, revokes, or declines to  
5 renew a permit, the department shall immediately notify the  
6 applicant or permittee and afford the applicant or permittee a  
7 hearing, if requested; provided that a hearing has not already  
8 been afforded. The department shall provide no less than thirty  
9 days notice to the applicant or permittee of a hearing afforded  
10 under this subsection. After the hearing, the department shall:

- 11 (1) Rescind its order of suspension;
- 12 (2) Continue the suspension;
- 13 (3) Revoke the permit;
- 14 (4) Rescind its order of revocation;
- 15 (5) Decline to renew the permit; or
- 16 (6) Renew the permit."

17 SECTION 6. Section 243-3.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (e) to read as follows:

19 "(e) Each distributor subject to the tax imposed by  
20 subsection (a) or (b), on or before the [~~last~~] twentieth day of  
21 each calendar month, shall file with the [~~director,~~] department,



1 on forms prescribed[~~, prepared, and furnished~~] by the  
2 [~~director,~~] department, a return statement of the tax under this  
3 section for which the distributor is liable for the preceding  
4 month. The form and payment of the tax shall be transmitted to  
5 the department [~~of taxation in the appropriate district~~]."

6 SECTION 7. Section 243-10, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§243-10 Statements and payments.** Each distributor and  
9 each person subject to section [~~243-4(b),~~] 243-4, on or before  
10 the twentieth day of each calendar month, shall file with the  
11 [~~director of taxation,~~] department, on forms prescribed[~~-~~  
12 ~~prepared, and furnished~~] by the [~~director,~~] department, a  
13 statement, authenticated as provided in section 231-15, showing  
14 separately for each county and for the island of Lanai and the  
15 island of Molokai within which and whereon fuel is sold or used  
16 during each preceding month of the calendar year, the following:

- 17 (1) The total number of gallons of fuel refined,  
18 manufactured, or compounded by the distributor or  
19 person within the State and sold or used by the  
20 distributor or person, and if for ultimate use in



1 another county or on either island, the name of that  
2 county or island;

3 (2) The total number of gallons of fuel acquired by the  
4 distributor or person during the month from persons  
5 not subject to the tax on the transaction or only  
6 subject to tax thereon at the rate of 1 cent per  
7 gallon, as the case may be, and sold or used by the  
8 distributor or person, and if for ultimate use in  
9 another county or on either island, the name of that  
10 county or island;

11 (3) The total number of gallons of fuel sold by the  
12 distributor or person to the United States or any  
13 department or agency thereof, or to any other person  
14 or entity, or used in any manner, the effect of which  
15 sale or use is to exempt the fuel from the tax imposed  
16 by this chapter; and

17 (4) Additional information relative to the acquisition,  
18 purchase, manufacture, or importation into the State,  
19 and the sale, use, or other disposition, of diesel oil  
20 by the distributor or person during the month, as the  
21 department of taxation by rule shall prescribe.



1           At the time of submitting the foregoing report to the  
2 department, each distributor and person shall pay the tax on  
3 each gallon of fuel (including diesel oil) sold or used by the  
4 distributor or person in each county and on the island of Lanai  
5 and the island of Molokai during the preceding month, as shown  
6 by the statement and required by this chapter; provided that the  
7 tax shall not apply to any fuel exempted and so long as the same  
8 is exempted from the imposition of the tax by the Constitution  
9 or laws of the United States; and the tax shall be paid only  
10 once upon the same fuel; provided further that a licensed  
11 distributor shall be entitled, in computing the tax the licensed  
12 distributor is required to pay, to deduct from the gallons of  
13 fuel reported for the month for each county or for the island of  
14 Lanai or the island of Molokai, as the case may be, one gallon  
15 for each ninety-nine gallons of like liquid fuel sold by retail  
16 dealers in that county or on that island during the month, as  
17 shown by certificates furnished by the retail dealers to the  
18 distributor and attached to the distributor's report. All taxes  
19 payable for any month shall be delinquent after the expiration  
20 of the twentieth day of the following month.



1           Statements filed under this section concerning the number  
 2 of gallons of fuel refined, manufactured, compounded, imported,  
 3 sold or used by the distributor or person are public records.  
 4 All other information filed under this chapter and not expressly  
 5 made public record under this section shall not be public  
 6 records."

7           SECTION 8. Section 244D-1, Hawaii Revised Statutes, is  
 8 amended by amending the definition of "dealer" to read as  
 9 follows:

10           "Dealer" means the holder of a manufacturer's license, a  
 11 wholesaler's license, ~~[or]~~ a brewpub's license, a winery's  
 12 license, or a small craft producer's license under the liquor  
 13 law."

14           SECTION 9. Section 244D-2, Hawaii Revised Statutes, is  
 15 amended to read as follows:

16           "~~[§]~~**§244D-2**~~[§]~~ **Permit.** (a) It shall be unlawful for any  
 17 dealer to sell liquor unless a permit has been issued to the  
 18 dealer as hereinafter prescribed, and such permit is in full  
 19 force and effect.

20           (b) The liquor commission shall certify to the department  
 21 of taxation ~~[from time to time and within forty eight hours~~



1 ~~after such license is issued]~~ the name of every dealer, together  
2 with the dealer's place of business and the period covered by  
3 the dealer's license. The department [~~thereupon~~] shall issue  
4 its permit to such person for the period covered by the person's  
5 license upon the payment of a permit fee of \$2.50. The permit  
6 shall be issued by the department as of the date when the liquor  
7 commission issued the license.

8 (c) Any permit issued under this chapter shall be for the  
9 period covered by the dealer's license and shall not be  
10 assignable; it shall be conspicuously displayed on the licensed  
11 premises of the permittee; it shall expire upon the expiration  
12 of the period covered by the permittee's license, or on June 30  
13 next succeeding the date upon which it is issued, whichever is  
14 earlier, unless sooner suspended, surrendered, or revoked for  
15 cause by the department; and it shall be renewed annually before  
16 July 1, upon fulfillment of all requirements as in the case of  
17 an original permit and the payment of a renewal fee of \$2.50.  
18 Whenever a permit is defaced, destroyed, or lost, or the  
19 licensed premises are relocated, the department may issue a  
20 duplicate permit to the permittee upon the payment of a fee of  
21 50 cents.





1           (d) ~~[The department may suspend, or, after hearing,~~  
2 ~~revoke, any permit issued under this chapter whenever it finds~~  
3 ~~that the permittee has failed to comply with this chapter, or~~  
4 ~~any rule or regulation of the department prescribed, adopted,~~  
5 ~~and promulgated under this chapter. Upon suspending or revoking~~  
6 ~~any permit the department shall request the permittee to~~  
7 ~~surrender to it immediately the permit, or any duplicate thereof~~  
8 ~~issued to the permittee, and the permittee shall surrender the~~  
9 ~~same promptly to the department as requested.] The department~~  
10 may suspend, revoke, or decline to renew any permit issued under  
11 this chapter whenever the department finds that the applicant  
12 has failed to comply with this chapter or any rule adopted under  
13 this chapter, or for any other good cause. Good cause includes,  
14 but is not limited to, instances where an applicant or permittee  
15 has:

- 16           (1) Submitted a false or fraudulent application or  
17                 provided a false statement in an application;  
18           (2) Possessed or displayed a false or fraudulent permit;  
19           (3) Failed to comply with, violated, or been convicted of  
20                 violating any county, state, or federal law directly  
21                 pertaining to the sale, importation, acquisition,



1           possession, distribution, transportation, or smuggling  
2           of liquor; or  
3           (4) Maintained incomplete or inaccurate records when and  
4           if required to be kept.

5 Upon suspending or revoking any permit, the department may  
6 request that the permittee surrender the permit or any duplicate  
7 issued to, or printed by, the permittee and the permittee shall  
8 surrender the permit or duplicate promptly to the department as  
9 requested.

10           (e) Whenever the department suspends, revokes, or declines  
11 to renew a permit, it shall notify the applicant or permittee  
12 immediately and afford the applicant or permittee a hearing, if  
13 desired, and if a hearing has not already been afforded. The  
14 department shall provide no less than thirty days notice to the  
15 applicant or permittee of a hearing afforded under this  
16 subsection. After the hearing the department shall [either  
17 rescind its order of suspension, or good cause appearing  
18 therefor, shall continue the suspension or revoke the permit.]:

19           (1) Rescind its order of suspension;

20           (2) Continue the suspension;

21           (3) Revoke the permit;



1        (4) Rescind its order of revocation;

2        (5) Decline to renew the permit; or

3        (6) Renew the permit."

4        SECTION 10. Section 244D-4, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6        "(a) Every person who sells or uses any liquor in the  
7 State not taxable under this chapter, in respect of the  
8 transaction by which the person or the person's vendor acquired  
9 the liquor, shall pay a gallonage tax [~~which~~] that is hereby  
10 imposed at the following rates for the various liquor categories  
11 defined in section 244D-1:

12        [~~For the period July 1, 1997, to June 30, 1998, the tax~~  
13 ~~rate shall be:~~

14        ~~(1) \$5.92 per wine gallon on distilled spirits;~~

15        ~~(2) \$2.09 per wine gallon on sparkling wine;~~

16        ~~(3) \$1.36 per wine gallon on still wine;~~

17        ~~(4) \$0.84 per wine gallon on cooler beverages;~~

18        ~~(5) \$0.92 per wine gallon on beer other than draft beer;~~

19        ~~(6) \$0.53 per wine gallon on draft beer;~~

20        ~~On July 1, 1998, and thereafter, the tax rate shall be:]~~

21        (1) \$5.98 per wine gallon on distilled spirits;



- 1 (2) \$2.12 per wine gallon on sparkling wine;
- 2 (3) \$1.38 per wine gallon on still wine;
- 3 (4) \$0.85 per wine gallon on cooler beverages;
- 4 (5) \$0.93 per wine gallon on beer other than draft beer;
- 5 (6) \$0.54 per wine gallon on draft beer;

6 and at a proportionate rate for any other quantity so sold or  
7 used."

8 SECTION 11. Section 244D-6, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§244D-6 Return, form, contents.** Every taxpayer [~~shall~~],  
 11 on or before the twentieth day of each month, shall file with  
 12 the department [~~of taxation in the taxation district in which~~  
 13 ~~the taxpayer's business premises are located, or with the~~  
 14 ~~department in Honolulu,~~] a return showing all sales of liquor by  
 15 gallonage and dollar volume in each liquor category defined in  
 16 section 244D-1 and taxed under section 244D-4(a) made by the  
 17 taxpayer during the preceding month, showing separately the  
 18 amount of the nontaxable sales, and the amount of the taxable  
 19 sales, and the tax payable thereon. [~~The return shall also show~~  
 20 ~~the amount of liquor by gallonage and dollar volume in each~~  
 21 ~~liquor category defined in section 244D-1 and taxed under~~



1 ~~section 244D-4(a) used during the preceding month which is~~  
2 ~~subject to tax, and the tax payable thereon.]~~ The form of  
3 return shall be prescribed by the department and shall contain  
4 such information as it may deem necessary for the proper  
5 administration of this chapter."

6 SECTION 12. Section 245-2, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§245-2 License.** (a) It shall be unlawful for any person  
9 to engage in the business of a wholesaler or dealer in the State  
10 without having received first a license therefor issued by the  
11 department of taxation under this chapter; provided that this  
12 section shall not be construed to supersede any other law  
13 relating to licensing of persons in the same business.

14 (b) The license shall be issued by the department upon  
15 application therefor, in such form and manner as shall be  
16 required by rule of the department, and the payment of a fee of  
17 \$2.50, and shall be renewable annually on July 1 for the twelve  
18 months ending the succeeding June 30.

19 (c) Any license issued under this chapter shall not be  
20 assignable and shall be conspicuously displayed on the licensed  
21 premises of the licensee. Whenever a license is defaced,



1 destroyed, or lost, or the licensed premises are relocated, the  
2 department may issue a duplicate license to the licensee upon  
3 the payment of a fee of 50 cents.

4 [~~e~~] (d) The department may suspend [~~or, after hearing~~],  
5 revoke, or decline to renew any license issued under this  
6 chapter whenever the department finds that the applicant or  
7 licensee has failed to comply with this chapter or any rule  
8 adopted under this chapter, or for any other good cause. Good  
9 cause includes but is not limited to instances where an  
10 applicant or licensee has:

11 (1) Submitted a false or fraudulent application or  
12 provided a false statement in an application; [~~e~~]

13 (2) Possessed or displayed a false or fraudulent  
14 license[~~+~~];

15 (3) Failed to comply with, violated, or been convicted of  
16 violating any county, state, or federal law directly  
17 pertaining to the sale, importation, acquisition,  
18 possession, stamping, distribution, transportation, or  
19 smuggling of cigarettes, counterfeit cigarettes,  
20 counterfeit tax stamps, or other tobacco products; or



1        (4) Maintained incomplete or inaccurate records when and  
2                if required to be kept.

3 Upon suspending or revoking any license, the department [~~shall~~]  
4 may request that the licensee immediately surrender the license  
5 or any duplicate issued to, or printed by, the licensee and the  
6 licensee shall surrender the license or duplicate promptly to  
7 the department as requested.

8        [~~(d)~~] (e) Whenever the department suspends, revokes, or  
9 declines to renew a license, the department shall notify the  
10 applicant or licensee immediately and afford the applicant or  
11 licensee a hearing, if requested and if a hearing has not  
12 already been afforded. The department shall provide no less  
13 than thirty days notice to the applicant or licensee of a  
14 hearing afforded under this subsection. After the hearing, the  
15 department shall:

- 16        (1) Rescind its order of suspension;  
17        (2) Continue the suspension;  
18        (3) Revoke the license;  
19        (4) Rescind its order of revocation;  
20        (5) Decline to renew the license; or  
21        (6) Renew the license."



1 SECTION 13. Section 245-2.5, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsections (a) and (b) to read:

4 "(a) [~~Beginning December 1, 2006, every~~] Every retailer  
5 engaged in the retail sale of cigarettes and other tobacco  
6 products upon which a tax is required to be paid under this  
7 chapter shall obtain a retail tobacco permit.

8 (b) [~~Beginning March 1, 2007, it~~] It shall be unlawful for  
9 any retailer engaged in the retail sale of cigarettes and other  
10 tobacco products upon which a tax is required to be paid under  
11 this chapter to sell, possess, keep, acquire, distribute, or  
12 transport cigarettes or other tobacco products for retail sale  
13 unless a retail tobacco permit has been issued to the retailer  
14 under this section and the retail tobacco permit is in full  
15 force and effect."

16 2. By amending subsections (l), (m), and (n) to read:

17 "(1) A permittee shall keep a complete and accurate record  
18 of the permittee's cigarette or tobacco product inventory. The  
19 records shall:

20 (1) Include:





- 1 (A) A written statement containing the name and
- 2 address of the permittee's source of its
- 3 cigarettes and tobacco products;
- 4 (B) The date of delivery, quantity, trade name or
- 5 brand, and price of the cigarettes and tobacco
- 6 products; and
- 7 (C) Documentation in the form of any purchase orders,
- 8 invoices, bills of lading, other written
- 9 statements, books, papers, or records in whatever
- 10 format, including electronic format, which
- 11 substantiate the purchase or acquisition of the
- 12 cigarettes and tobacco products stored or offered
- 13 for sale; and
- 14 (2) Be offered for inspection and examination within
- 15 twenty-four hours of demand by the department or the
- 16 attorney general, and shall be preserved for a period
- 17 of [~~three~~] five years; provided that:
- 18 (A) Specified records may be destroyed if the
- 19 department and the attorney general both consent
- 20 to their destruction within the [~~three-year~~]
- 21 five-year period; and



1 (B) Either the department or the attorney general may  
2 adopt rules pursuant to chapter 91 that require  
3 specified records to be kept longer than a period  
4 of [~~three~~] five years.

5 (m) The department may suspend [~~or, after hearing~~],  
6 revoke, or decline to renew any retail tobacco permit issued  
7 under this chapter whenever the department finds that the  
8 applicant or permittee has failed to comply with this chapter or  
9 any rule adopted under this chapter, or for any other good  
10 cause. Good cause includes but is not limited to instances  
11 where an applicant or permittee has:

12 (1) Submitted a false or fraudulent application or  
13 provided a false statement in an application; [~~or~~]

14 (2) Possessed or displayed a false or fraudulent retail  
15 tobacco permit[~~or~~];

16 (3) Failed to comply with, violated, or been convicted of  
17 violating any county, state, or federal law directly  
18 pertaining to the sale, importation, acquisition,  
19 possession, stamping, distribution, transportation, or  
20 smuggling of cigarettes, counterfeit cigarettes,  
21 counterfeit tax stamps, or other tobacco products; or



1       (4) Maintained incomplete or inaccurate records when and  
2           if required to be kept.

3       Upon suspending or revoking any retail tobacco permit, the  
4       department [~~shall~~] may request that the permittee immediately  
5       surrender any retail tobacco permit or duplicate issued to, or  
6       printed by, the permittee, and the permittee shall surrender the  
7       permit or duplicate promptly to the department as requested.

8       (n) Whenever the department suspends, revokes, or declines  
9       to renew a retail tobacco permit, the department shall notify  
10      the applicant or permittee immediately and afford the applicant  
11      or permittee a hearing, if requested and if a hearing has not  
12      already been afforded. The department shall provide no less  
13      than thirty days notice to the applicant or permittee of a  
14      hearing afforded under this subsection. After the hearing, the  
15      department shall:

- 16           (1) Rescind its order of suspension;  
17           (2) Continue the suspension;  
18           (3) Revoke the retail tobacco permit;  
19           (4) Rescind its order of revocation;  
20           (5) Decline to renew the retail tobacco permit; or  
21           (6) Renew the retail tobacco permit."



1 SECTION 14. Section 245-9, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) The department and the attorney general may examine  
4 all records, including tax returns [~~and reports under section~~  
5 ~~245-31~~], required to be kept or filed under this chapter, and  
6 books, papers, and records of any person engaged in the business  
7 of wholesaling or dealing cigarettes and tobacco products, to  
8 verify the accuracy of the payment of the taxes imposed by this  
9 chapter. Every person in possession of any books, papers, and  
10 records, and the person's agents and employees, are directed and  
11 required to give the department and the attorney general the  
12 means, facilities, and opportunities for the examinations.

13 (b) The department and the attorney general may inspect  
14 the operations, premises, and storage areas of any entity  
15 engaged in the sale of cigarettes, or the contents of a specific  
16 vending machine, during regular business hours. This inspection  
17 shall include inspection of all statements, books, papers, and  
18 records in whatever format, including electronic format,  
19 pertaining to the acquisition, possession, transportation, sale,  
20 or use of packages of cigarettes and tobacco products other than  
21 cigarettes, to verify the accuracy of the payment of taxes



1 imposed by this chapter, and of the contents of cartons and  
 2 shipping or storage containers to ascertain that all individual  
 3 packages of cigarettes have an affixed stamp of proper  
 4 denomination as required by this chapter. This inspection may  
 5 also verify that all stamps were produced under the authority of  
 6 the department. Every entity in possession of any books,  
 7 papers, and records, and the entity's agents and employees, are  
 8 directed and required to give the department and the attorney  
 9 general the means, facilities, and opportunities for the  
 10 examinations. [~~For purposes of this chapter "entity" means one~~  
 11 ~~or more individuals, a company, corporation, a partnership, an~~  
 12 ~~association, or any other type of legal entity.]"~~

13 SECTION 15. Section 245-33, Hawaii Revised Statutes, is  
 14 amended to read as follows:

15 "**[+]{§245-33[+]} Unused stamps; cancellation of stamps.** The  
 16 department shall adopt rules for a refund or credit to a  
 17 licensee in the amount of the denominated values less any  
 18 discount applied pursuant to section 245-22(e) of any unused  
 19 stamps. The department may provide by rule for the cancellation  
 20 of stamps."



1 SECTION 16. Section 245-41, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Where the attorney general [~~initiates and~~] conducts  
4 an investigation resulting in the imposition and collection of a  
5 criminal fine pursuant to this part, one hundred per cent of the  
6 fine shall be distributed to the attorney general to be  
7 deposited to the credit of the department of the attorney  
8 general's tobacco enforcement special fund; provided that if the  
9 attorney general engages the prosecuting attorney for the  
10 investigation or prosecution, or both, resulting in the  
11 imposition and collection of a criminal fine under this part,  
12 the fine shall be shared equally between the attorney general  
13 and the prosecuting attorney."

14 SECTION 17. Section 243-8, Hawaii Revised Statutes, is  
15 repealed.

16 [~~"§243-8 License taxes payable monthly. License taxes  
17 imposed by this chapter shall be paid in monthly installments to  
18 the department of taxation."~~]

19 SECTION 18. Section 245-31, Hawaii Revised Statutes, is  
20 repealed.



1        [~~"§245-31 Monthly report on distributions of cigarettes~~  
2 ~~and tobacco products, and purchases of stamps. (a) On or~~  
3 ~~before the twentieth day of each month, every licensee shall~~  
4 ~~file on forms prescribed by the department:~~

5            ~~(1) A report of the licensee's distributions of cigarettes~~  
6            ~~and purchases of stamps during the preceding month;~~  
7            ~~and~~

8            ~~(2) Any other information that the department may require~~  
9            ~~to carry out this part.~~

10          ~~(b) On or before the twentieth day of each month, every~~  
11 ~~licensee shall file on forms prescribed by the department:~~

12            ~~(1) A report of the licensee's distributions of tobacco~~  
13            ~~products and the wholesale costs of tobacco products~~  
14            ~~during the preceding month; and~~

15            ~~(2) Any other information that the department may require~~  
16            ~~to carry out this part." ]~~

17        SECTION 19. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19        SECTION 20. This Act shall take effect upon its approval.



**Report Title:**

Taxation; Administration of Taxes; Fuel Tax; Liquor Tax;  
Cigarette Tax and Tobacco Tax

**Description:**

Makes various technical amendments to chapters 231, 243, 244D,  
and 245, Hawaii Revised Statutes. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

