
A BILL FOR AN ACT

RELATING TO TAXATION.

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

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

4 "Director" means the director of taxation, unless the
5 context clearly indicates otherwise."

6 SECTION 2. Section 243-1, Hawaii Revised Statutes, is
7 amended by repealing the definition of "director."

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

9 SECTION 3. Section 243-3.5, Hawaii Revised Statutes, is
10 amended by amending subsection (e) to read as follows:

11 "(e) Each distributor subject to the tax imposed by
12 subsection (a) or (b), on or before the [~~last~~] twentieth day of
13 each calendar month, shall file with the [~~director,~~] department,
14 on forms prescribed [~~, prepared, and furnished~~] by the
15 [~~director,~~] department, a return statement of the tax under this
16 section for which the distributor is liable for the preceding



1 month. The form and payment of the tax shall be transmitted to
2 the department [~~of taxation in the appropriate district~~]."

3 SECTION 4. Section 243-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§243-10 Statements and payments.** Each distributor and
6 each person subject to section [~~243-4(b)~~], 243-4, on or before
7 the twentieth day of each calendar month, shall file with the
8 [~~director of taxation~~], department, on forms prescribed[
9 ~~prepared, and furnished~~] by the [~~director~~], department, a
10 statement, authenticated as provided in section 231-15, showing
11 separately for each county and for the island of Lanai and the
12 island of Molokai within which and whereon fuel is sold or used
13 during each preceding month of the calendar year, the following:

14 (1) The total number of gallons of fuel refined,
15 manufactured, or compounded by the distributor or
16 person within the State and sold or used by the
17 distributor or person, and if for ultimate use in
18 another county or on either island, the name of that
19 county or island;

20 (2) The total number of gallons of fuel acquired by the
21 distributor or person during the month from persons



1 not subject to the tax on the transaction or only
2 subject to tax thereon at the rate of 1 cent per
3 gallon, as the case may be, and sold or used by the
4 distributor or person, and if for ultimate use in
5 another county or on either island, the name of that
6 county or island;

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

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

18 At the time of submitting the foregoing report to the
19 department, each distributor and person shall pay the tax on
20 each gallon of fuel (including diesel oil) sold or used by the
21 distributor or person in each county and on the island of Lanai



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

17 Statements filed under this section concerning the number
18 of gallons of fuel refined, manufactured, compounded, imported,
19 sold or used by the distributor or person are public records."

20 SECTION 5. Section 244D-1, Hawaii Revised Statutes, is
21 amended by amending the definition of "dealer" to read:



1 "Dealer" means the holder of a manufacturer's license, a
2 wholesaler's license, ~~[or]~~ a brewpub's license, a winery's
3 license, a small craft producer's license, or a direct wine
4 shipper permit under the liquor law."

5 SECTION 6. Section 244D-2, Hawaii Revised Statutes, is
6 amended by amending subsections (b) and (c) to read as follows:

7 "(b) The liquor commission shall certify to the department
8 of taxation [~~from time to time and within forty-eight hours~~
9 ~~after such license is issued]~~ the name of every dealer, together
10 with the dealer's place of business and the period covered by
11 the dealer's license. The department [~~thereupon~~] shall issue
12 its permit to such person for the period covered by the person's
13 license upon the payment of a permit fee of \$2.50. The permit
14 shall be issued by the department as of the date when the liquor
15 commission issued the license.

16 (c) Any permit issued under this chapter shall be for the
17 period covered by the dealer's license and shall not be
18 assignable; it shall be conspicuously displayed on the licensed
19 premises of the permittee; it shall expire upon the expiration
20 of the period covered by the permittee's license, or on June 30
21 next succeeding the date upon which it is issued, whichever is



1 earlier, unless sooner suspended, surrendered, or revoked for
 2 cause by the department; and it shall be renewed annually before
 3 July 1, upon fulfillment of all requirements as in the case of
 4 an original permit and the payment of a renewal fee of \$2.50.
 5 Whenever a permit is defaced, destroyed, or lost, or the
 6 licensed premises are relocated, the department may issue a
 7 duplicate permit to the permittee upon the payment of a fee of
 8 50 cents."

9 SECTION 7. Section 244D-4, Hawaii Revised Statutes, is
 10 amended by amending subsection (a) to read as follows:

11 "(a) Every person who sells or uses any liquor in the
 12 State not taxable under this chapter, in respect of the
 13 transaction by which the person or the person's vendor acquired
 14 the liquor, shall pay a gallonage tax which is hereby imposed at
 15 the following rates for the various liquor categories defined in
 16 section 244D-1:

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

- 19 ~~(1) \$5.92 per wine gallon on distilled spirits;~~
- 20 ~~(2) \$2.09 per wine gallon on sparkling wine;~~
- 21 ~~(3) \$1.36 per wine gallon on still wine;~~



- 1 ~~(4) \$0.84 per wine gallon on cooler beverages;~~
- 2 ~~(5) \$0.92 per wine gallon on beer other than draft beer;~~
- 3 ~~(6) \$0.53 per wine gallon on draft beer;~~
- 4 ~~On July 1, 1998, and thereafter, the tax rate shall be:]~~
- 5 (1) \$5.98 per wine gallon on distilled spirits;
- 6 (2) \$2.12 per wine gallon on sparkling wine;
- 7 (3) \$1.38 per wine gallon on still wine;
- 8 (4) \$0.85 per wine gallon on cooler beverages;
- 9 (5) \$0.93 per wine gallon on beer other than draft beer;
- 10 (6) \$0.54 per wine gallon on draft beer;

11 and at a proportionate rate for any other quantity so sold or
12 used."

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

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



1 during the preceding month, showing separately the amount of the
 2 nontaxable sales, and the amount of the taxable sales, and the
 3 tax payable thereon. [~~The return shall also show the amount of~~
 4 ~~liquor by gallonage and dollar volume in each liquor category~~
 5 ~~defined in section 244D-1 and taxed under section 244D-4(a) used~~
 6 ~~during the preceding month which is subject to tax, and the tax~~
 7 ~~payable thereon.] The form of return shall be prescribed by the
 8 department and shall contain such information as it may deem
 9 necessary for the proper administration of this chapter."~~

10 SECTION 9. Section 245-2.5, Hawaii Revised Statutes, is
 11 amended by amending subsection (1) to read as follows:

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

15 (1) Include:

16 (A) A written statement containing the name and
 17 address of the permittee's source of its
 18 cigarettes and tobacco products;

19 (B) The date of delivery, quantity, trade name or
 20 brand, and price of the cigarettes and tobacco
 21 products; and



1 (C) Documentation in the form of any purchase orders,
2 invoices, bills of lading, other written
3 statements, books, papers, or records in whatever
4 format, including electronic format, which
5 substantiate the purchase or acquisition of the
6 cigarettes and tobacco products stored or offered
7 for sale; and

8 (2) Be offered for inspection and examination within
9 twenty-four hours of demand by the department or the
10 attorney general, and shall be preserved for a period
11 of [~~three~~] five years; provided that:

12 (A) Specified records may be destroyed if the
13 department and the attorney general both consent
14 to their destruction within the [~~three-year~~]
15 five-year period; and

16 (B) Either the department or the attorney general may
17 adopt rules pursuant to chapter 91 that require
18 specified records to be kept longer than a period
19 of [~~three~~] five years."

20 SECTION 10. Section 245-9, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:



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

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



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

11 SECTION 11. Section 245-41, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) Where the attorney general [~~initiates and~~] conducts
14 an investigation resulting in the imposition and collection of a
15 criminal fine pursuant to this part, one hundred per cent of the
16 fine shall be distributed to the attorney general to be
17 deposited to the credit of the department of the attorney
18 general's tobacco enforcement special fund; provided that if the
19 attorney general engages the prosecuting attorney for the
20 investigation or prosecution, or both, resulting in the
21 imposition and collection of a criminal fine under this part,



1 the fine shall be shared equally between the attorney general
2 and the prosecuting attorney."

3 SECTION 12. Section 243-8, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§243-8 License taxes payable monthly. License taxes~~
6 ~~imposed by this chapter shall be paid in monthly installments to~~
7 ~~the department of taxation."]~~

8 SECTION 13. Section 245-31, Hawaii Revised Statutes, is
9 repealed.

10 ~~["§245-31 Monthly report on distributions of cigarettes~~
11 ~~and tobacco products, and purchases of stamps. (a) On or~~
12 ~~before the twentieth day of each month, every licensee shall~~
13 ~~file on forms prescribed by the department:~~

14 ~~(1) A report of the licensee's distributions of cigarettes~~
15 ~~and purchases of stamps during the preceding month,~~
16 ~~and~~

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

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



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

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

6 SECTION 14. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 15. This Act shall take effect upon its approval.



Report Title:

Taxation; Technical Amendments; Tax Administration

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.

