
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that persons and firms
2 that conduct business in the State without first obtaining a
3 general excise tax license are benefitting from the privilege of
4 doing business in this State while escaping from the obligation
5 to pay for that privilege. The purpose of this Act is to
6 establish a moratorium period for unlicensed firms and persons
7 to obtain a general excise tax license and to strengthen
8 penalties upon the termination of the moratorium period for
9 firms and persons who conduct business in the State without a
10 license.

11 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§237- Moratorium on licenses. No person who is
15 required to obtain a license under section 237-9 and has not
16 obtained such a license shall be subject to the penalties
17 imposed under section 237-9 or 237-46; provided that the person



1 applies for and obtains a license between the effective date of
2 this Act and December 31, 2009."

3 SECTION 3. Section 237-9, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

6 "(a) Except as provided in this section, any person who
7 has a gross income or gross proceeds of sales or value of
8 products upon which a privilege tax is imposed by this chapter,
9 as a condition precedent to engaging or continuing in such
10 business, shall in writing apply for and obtain from the
11 department of taxation, upon a one-time payment of the sum of
12 \$20, a license to engage in and to conduct such business, upon
13 condition that the person shall pay the taxes accruing to the
14 State under this chapter, and the person shall thereby be duly
15 licensed to engage in and conduct the business. Any person
16 licensed or holding a license under this chapter before
17 January 1, 1990, shall pay a one-time license renewal fee of \$20
18 on or before January 31, 1990, as a condition precedent to
19 engaging or continuing in business. The license shall not be
20 transferable and shall be valid only for the person in whose
21 name it is issued and for the transaction of business at the
22 place designated therein. The license may be inspected and



1 examined, and shall at all times be conspicuously displayed at
2 the place for which it is issued. Any person who fails to apply
3 for and obtain a license as a condition precedent to engaging or
4 continuing to engage in a business for which a privilege tax is
5 imposed by this chapter shall be fined \$50 for the first offense
6 and \$100 for each succeeding offense, in addition to any other
7 penalties imposed by law."

8 2. By amending subsection (c) to read:

9 "(c) If the license fee is paid, the department shall not
10 refuse to issue a license or revoke or cancel a license for the
11 exercise of a privilege protected by the First Amendment of the
12 Constitution of the United States, or for the carrying on of
13 interstate or foreign commerce, or for any privilege the
14 exercise of which, under the Constitution and laws of the United
15 States, cannot be restrained on account of nonpayment of taxes,
16 nor shall section 237-46 be invoked to restrain the exercise of
17 such a privilege, or the carrying on of such commerce.

18 If the license fee is not paid, the department shall invoke
19 section 237-46 to restrain the exercise of such a privilege, or
20 the carrying on of such commerce."

21 SECTION 4. Section 237-46, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§237-46 Collection by suit; injunction. (a) The
2 department of taxation may collect taxes due and unpaid under
3 this chapter, together with all accrued penalties, by action in
4 assumpsit or other appropriate proceedings in the circuit court
5 of the judicial circuit in which the privilege taxed has been
6 exercised. After delinquency shall have continued for sixty
7 days, [~~er if any person lawfully required so to do under this~~
8 ~~chapter shall fail to apply for and secure a license as provided~~
9 ~~by this chapter for a period of sixty days after the first date~~
10 ~~when the person was required under this chapter to secure the~~
11 ~~same,~~] the department may proceed in the circuit court of the
12 judicial circuit in which the privilege taxed or taxable has
13 been exercised, to obtain an injunction restraining the further
14 exercise of the privilege until full payment shall have been
15 made of all taxes and penalties and interest due under this
16 chapter [~~, or until such license is secured, or both, as the~~
17 ~~circumstances of the case may require]~~.

18 (b) If any person lawfully required so to do under this
19 chapter shall fail to apply for and secure a license as provided
20 by this chapter for a period of sixty days after the first date
21 when the person was required under this chapter to secure the
22 same, the department shall proceed in the circuit court of the



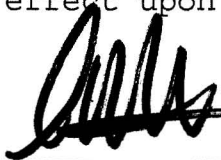
1 judicial circuit in which the privilege taxed or taxable has
 2 been exercised, to obtain an injunction restraining the further
 3 exercise of the privilege until such license is secured and
 4 until full payment shall have been made of all taxes and
 5 penalties and interest that would otherwise have been due under
 6 this chapter."



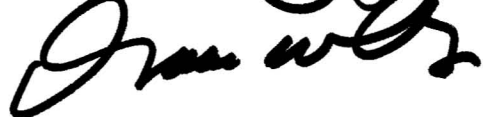
7 SECTION 5. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

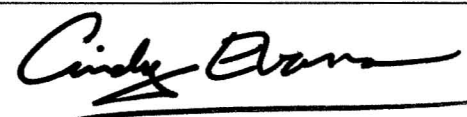
9 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:



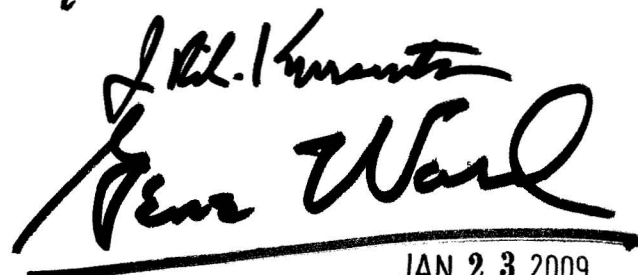
















Report Title:

Taxation; General Excise

Description:

Creates a moratorium for persons doing business in Hawaii to obtain a general excise tax license without penalty. Stiffens penalties at the end of the moratorium for persons doing business without a general excise tax license.

