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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. Section 231-84, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~+~~§231-84~~+~~ Right to inspection of books, records, and  
4 premises; warrants and writs; levy and seizure. (a) The right  
5 to inspection under this section shall be applicable only if the  
6 following conditions are met:

7 (1) The licensee fails to openly display the license; and

8 (2) Upon request by the special enforcement section, the  
9 licensee fails to produce the license;

10 provided that the special enforcement section may conduct  
11 inspections pursuant to subsection (d) without regard to  
12 paragraphs (1) and (2).

13 ~~+(a)~~ (b) Upon presenting credentials, the special  
14 enforcement section may examine any books, papers, records, and  
15 any article or item of business transacted of any person engaged  
16 in business in this State to verify the accuracy of the  
17 reporting and payment of the taxes imposed by law. Every person  
18 in possession of any books, papers, records, or articles or



1 items of business transacted, and the person's agents and  
2 employees, shall provide the special enforcement section the  
3 means, facilities, and opportunities for the examinations upon  
4 request, to the extent reasonably possible under the  
5 circumstances.

6 ~~[(b)]~~ (c) The special enforcement section may inspect the  
7 operations, premises, and storage areas of any person engaged in  
8 business in this State during regular business hours.

9 ~~[(e)]~~ (d) The special enforcement section may inspect the  
10 operations, premises, and storage areas of any person engaged in  
11 business in this State at any time, without notice, upon the  
12 issuance of a warrant or writ of entry based upon probable cause  
13 of a violation under title 14. The determination of probable  
14 cause for purposes of this section shall be made based upon the  
15 standard of probable cause for an administrative or civil search  
16 or seizure. Application for a search warrant or writ of entry  
17 under this section shall be made by making a declaration, under  
18 oath, which includes the following:

- 19 (1) The taxpayer's form of business;  
20 (2) The taxpayer's interest in and address of the premises  
21 sought to be searched;



- 1           (3) Whether permission to search the premises has been  
2           requested in advance of requesting the warrant or  
3           writ;
- 4           (4) The particular books, records, items, articles,  
5           assets, or contraband reasonably believed to be on the  
6           premises; and
- 7           (5) The alleged violation reasonably believed to have  
8           occurred, including nonpayment of taxes; and, if  
9           searching or seizing in furtherance of collection,  
10          identification of the assets reasonably believed to be  
11          on the premises.

12          The special enforcement section may apply to the circuit  
13          court where the person is located for issuance of such warrant  
14          or writ. The special enforcement section may execute warrants  
15          or writs of entry. Any police officer, criminal investigator,  
16          or deputy sheriff of this State or any county shall be required  
17          to render assistance and aid to the special enforcement section  
18          in executing warrants and writs, upon request. Criminal law  
19          enforcement agencies that assist the special enforcement section  
20          may be compensated, as determined by the director; provided that  
21          no person or agency shall be compensated on the basis of a



1 specific percentage or fraction of the money collected from  
2 taxpayers.

3 ~~[(d)]~~ (e) The special enforcement section's ability to  
4 inspect shall include inspection of all statements, books,  
5 papers, and records in whatever format, including electronic  
6 format, articles or items of business transacted, including  
7 inventory, supplies, stock, and cash on hand, pertaining to the  
8 sales or other business activities of any person to verify the  
9 accuracy of the reporting and payment of taxes imposed by law.

10 ~~[(e)]~~ (f) The special enforcement section may seize and  
11 levy any assets in the custody or control of any person pursuant  
12 to this chapter, and subject to all rights of appeal set forth  
13 herein."

14 SECTION 2. Section 231-96, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "[+]§231-96[+] Failure to record transaction [~~by receipt~~].

17 (a) It shall be unlawful to knowingly conduct more than ten  
18 taxable business transactions per day in cash and fail to

19 [~~provide~~]:

20 (1) Offer a receipt or other record of the transaction

21 [~~when the means for issuing a receipt or recording the~~

22 ~~transaction are available.]; and~~



1           (2) Maintain a contemporaneously generated record of all  
2           business transactions conducted each day;  
3 whether hand written or generated by manually operated or  
4 electronic cash register. Each day a person is in violation of  
5 this section shall be treated as a separate violation.

6           [Any] (b) Except as provided in subsection (c), any person  
7 who violates this section shall be subject to a fine not to  
8 exceed \$1,000; provided that if the person is a cash-based  
9 business, the fine shall not exceed \$2,000.

10           (c) If the person, including a cash-based business, is  
11 otherwise in compliance with title 14 at the time of violation,  
12 the fine for a violation of this section shall not exceed \$100."

13           SECTION 3. Section 231-97, Hawaii Revised Statutes, is  
14 repealed.

15           ~~["[§231-97]—Failure to record transaction by register. It~~  
16 ~~shall be unlawful to conduct more than ten taxable business~~  
17 ~~transactions per day in cash and fail to record the transaction~~  
18 ~~in a cash register when the means for recording the transaction~~  
19 ~~in a cash register are available. Each day a person is in~~  
20 ~~violation of this section shall be treated as a separate~~  
21 ~~violation. Any person who violates this section shall be~~  
22 ~~subject to a fine not to exceed \$1,000; provided that if the~~



# H.B. NO. 828

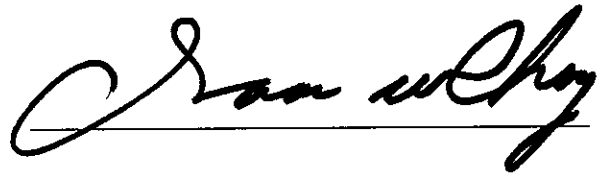
1 ~~person is a cash-based business, the fine shall not exceed~~  
2 ~~\$2,000-"]~~

3 SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

6

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Ivan Velasco", is written over a horizontal line.

JAN 24 2011



**Report Title:**

Tax Administration; Cash Economy; Receipts and Records

**Description:**

Establishes conditions to inspect required records and receipts of cash business transaction and permits records to be prepared by hand or by cash register. Clarifies state of mind for violation of record and receipt requirements. Limits fine for violation if person is otherwise in compliance with tax laws.

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

