
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 this
12 subsection.

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



1 compensated on the basis of a specific percentage or fraction of
2 the money collected from 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 "~~[(f)]~~**§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 a 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 of this section, the fine for a violation of this section shall
13 not exceed \$100."

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15 repealed.

16 ~~["§231-97] Failure to record transaction by register. It~~
17 ~~shall be unlawful to conduct more than ten taxable business~~
18 ~~transactions per day in cash and fail to record the transaction~~
19 ~~in a cash register when the means for recording the transaction~~
20 ~~in a cash register are available. Each day a person is in~~
21 ~~violation of this section shall be treated as a separate~~
22 ~~violation. Any person who violates this section shall be~~



1 ~~subject to a fine not to exceed \$1,000; provided that if the~~
2 ~~person is a cash based business, the fine shall not exceed~~
3 ~~\$2,000."]~~

4 SECTION 4. This Act does not affect the rights and duties
5 that matured, penalties that were incurred, and proceedings that
6 were begun before its effective date.

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 on January 7, 2059.



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. Effective January 7, 2059. (HB828 HD2)

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

