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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 231-1, 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 243-3.5, Hawaii Revised Statutes, is  
7 amended by amending subsection (e) to read as follows:

8           "(e) Each distributor subject to the tax imposed by  
9 subsection (a) or (b), on or before the [~~last~~] twentieth day of  
10 each calendar month, shall file with the [~~director,~~] department,  
11 on forms prescribed [~~, prepared, and furnished~~] by the  
12 [~~director,~~] department, a return statement of the tax under this  
13 section for which the distributor is liable for the preceding  
14 month. The form and payment of the tax shall be transmitted to  
15 the department [~~of taxation in the appropriate district~~]."

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



1           "§243-10   **Statements and payments.**   Each distributor and  
2 each person subject to section [~~243-4(b)~~], 243-4, on or before  
3 the twentieth day of each calendar month, shall file with the  
4 [~~director of taxation~~], department, on forms prescribed [~~7~~  
5 ~~prepared, and furnished~~] by the [~~director~~], department, a  
6 statement, authenticated as provided in section 231-15, showing  
7 separately for each county and for the island of Lanai and the  
8 island of Molokai within which and whereon fuel is sold or used  
9 during each preceding month of the calendar year, the following:

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

16           (2)   The total number of gallons of fuel acquired by the  
17                distributor or person during the month from persons  
18                not subject to the tax on the transaction or only  
19                subject to tax thereon at the rate of 1 cent per  
20                gallon, as the case may be, and sold or used by the  
21                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 (3) The total number of gallons of fuel sold by the  
4 distributor or person to the United States or any  
5 department or agency thereof, or to any other person  
6 or entity, or used in any manner, the effect of which  
7 sale or use is to exempt the fuel from the tax imposed  
8 by this chapter;

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

14 At the time of submitting the foregoing report to the  
15 department, each distributor and person shall pay the tax on  
16 each gallon of fuel (including diesel oil) sold or used by the  
17 distributor or person in each county and on the island of Lanai  
18 and the island of Molokai during the preceding month, as shown  
19 by the statement and required by this chapter; provided that the  
20 tax shall not apply to any fuel exempted and so long as the same  
21 is exempted from the imposition of the tax by the Constitution



1 or laws of the United States; and the tax shall be paid only  
 2 once upon the same fuel; provided further that a licensed  
 3 distributor shall be entitled, in computing the tax the licensed  
 4 distributor is required to pay, to deduct from the gallons of  
 5 fuel reported for the month for each county or for the island of  
 6 Lanai or the island of Molokai, as the case may be, one gallon  
 7 for each ninety-nine gallons of like liquid fuel sold by retail  
 8 dealers in that county or on that island during the month, as  
 9 shown by certificates furnished by the retail dealers to the  
 10 distributor and attached to the distributor's report. All taxes  
 11 payable for any month shall be delinquent after the expiration  
 12 of the twentieth day of the following month.

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

16 SECTION 4. Section 244D-1, Hawaii Revised Statutes, is  
 17 amended by amending the definition of "dealer" to read as  
 18 follows:

19 "Dealer" means the holder of a manufacturer's license, a  
 20 wholesaler's license, [œ] a brewpub's license, a winery's



1 license, a small craft producer's license, or a direct wine  
2 shipper permit under the liquor law."

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

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

14 (c) Any permit issued under this chapter shall be for the  
15 period covered by the dealer's license and shall not be  
16 assignable; it shall be conspicuously displayed on the licensed  
17 premises of the permittee; it shall expire upon the expiration  
18 of the period covered by the permittee's license, or on June 30  
19 next succeeding the date upon which it is issued, whichever is  
20 earlier, unless sooner suspended, surrendered, or revoked for  
21 cause by the department; and it shall be renewed annually before



1 July 1, upon fulfillment of all requirements as in the case of  
 2 an original permit and the payment of a renewal fee of \$2.50.  
 3 Whenever a permit is defaced, destroyed, or lost, or the  
 4 licensed premises are relocated, the department may issue a  
 5 duplicate permit to the permittee upon the payment of a fee of  
 6 50 cents."

7 SECTION 6. Section 244D-4, Hawaii Revised Statutes, is  
 8 amended by amending subsection (a) to read as follows:

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

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

- 17 ~~(1) \$5.92 per wine gallon on distilled spirits;~~
- 18 ~~(2) \$2.09 per wine gallon on sparkling wine;~~
- 19 ~~(3) \$1.36 per wine gallon on still wine;~~
- 20 ~~(4) \$0.84 per wine gallon on cooler beverages;~~
- 21 ~~(5) \$0.92 per wine gallon on beer other than draft beer;~~



1        ~~(6) \$0.53 per wine gallon on draft beer;~~  
2        ~~On July 1, 1998, and thereafter, the tax rate shall be:]~~  
3        (1) \$5.98 per wine gallon on distilled spirits;  
4        (2) \$2.12 per wine gallon on sparkling wine;  
5        (3) \$1.38 per wine gallon on still wine;  
6        (4) \$0.85 per wine gallon on cooler beverages;  
7        (5) \$0.93 per wine gallon on beer other than draft beer;  
8        (6) \$0.54 per wine gallon on draft beer;  
9 and at a proportionate rate for any other quantity so sold or  
10 used."

11        SECTION 7. Section 244D-6, Hawaii Revised Statutes, is  
12 amended to read as follows:

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



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

8 SECTION 8. Section 245-2.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (1) to read as follows:

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

13 (1) Include:

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

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

20 (C) Documentation in the form of any purchase orders,  
21 invoices, bills of lading, other written





1 statements, books, papers, or records in whatever  
 2 format, including electronic format, which  
 3 substantiate the purchase or acquisition of the  
 4 cigarettes and tobacco products stored or offered  
 5 for sale; and

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

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

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

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

20 "(a) The department and the attorney general may examine  
 21 all records, including tax returns [~~and reports under section~~]



1 ~~245-31~~], required to be kept or filed under this chapter, and  
2 books, papers, and records of any person engaged in the business  
3 of wholesaling or dealing cigarettes and tobacco products, to  
4 verify the accuracy of the payment of the taxes imposed by this  
5 chapter. Every person in possession of any books, papers, and  
6 records, and the person's agents and employees, are directed and  
7 required to give the department and the attorney general the  
8 means, facilities, and opportunities for the examinations.

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



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

9 SECTION 10. Section 245-41, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

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



1 SECTION 11. Section 243-1, Hawaii Revised Statutes, is  
2 amended as follows:

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

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

5 2. By repealing the definition of "month" or "calendar  
6 month":

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



1 ~~shall be made upon the basis of such business month and all~~  
2 ~~delinquencies and penalties shall attach and be calculated as of~~  
3 ~~the last day of such business month."~~]

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

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

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

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

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

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

20 ~~(b) On or before the twentieth day of each month, every~~  
21 ~~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; Fuel Tax; Liquor Tax; Cigarette Tax and Tobacco Tax

**Description:**

Makes various technical amendments to chapters 231, 243, 244D, and 245, Hawaii Revised Statutes. (HB1049 HD1)

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