
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 243, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§243- Chapter 235 and chapter 237 applicable. All of
5 the provisions of chapters 235 and 237 not inconsistent with
6 this chapter and that may appropriately be applied to the taxes,
7 persons, circumstances, and situations involved in this chapter,
8 including (without prejudice to the generality of the foregoing)
9 provisions as to penalties and interest, and provisions granting
10 administrative powers to the director of taxation, and
11 provisions for the assessment, levy, and collection of taxes,
12 shall be applicable to the taxes imposed by this chapter, and to
13 the assessment, levy, and collection thereof."

14 SECTION 2. Section 243-2, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§243-2 Distributors to register and be licensed. (a)
17 Every distributor, and any person before becoming a distributor,



1 shall register as such with the department of taxation on forms
2 to be prescribed, prepared, and furnished by the department and
3 the department shall issue to such distributor a license which
4 shall be valid until revoked by the department as hereinafter
5 provided. ~~[However, distributors who cannot legally be required~~
6 ~~by the State to so register and be licensed, or to perform the~~
7 ~~duties required of distributors by any other provisions of this~~
8 ~~chapter, shall be deemed to be excluded from the operation of~~
9 ~~such provisions.]~~

10 (b) Any license issued under this chapter shall not be
11 assignable and shall be conspicuously displayed on the licensed
12 premises of the licensee. Whenever a license is defaced,
13 destroyed, or lost, or the licensed premises are relocated, the
14 department may issue a duplicate license to the licensee upon
15 the payment of a fee of 50 cents.

16 (c) The department may suspend or revoke any license
17 issued under this chapter whenever the department finds that the
18 licensee has failed to comply with this chapter or any rule
19 adopted under this chapter, or for any other good cause. Good
20 cause includes instances where an applicant or licensee has:



- 1 (1) Submitted a false or fraudulent application or
2 provided a false statement in an application;
3 (2) Possessed or displayed a false or fraudulent license;
4 (3) Failed to comply with, violated, or been convicted of
5 violating any county, state, or federal law directly
6 pertaining to the sale, importation, acquisition,
7 possession, distribution, transportation, or smuggling
8 of fuel, including petroleum products and alternative
9 fuels; or
10 (4) Failed to maintain complete and accurate records when
11 and if required to be kept.

12 Upon suspending or revoking any license, the department may
13 request that the licensee surrender the license or any duplicate
14 issued to or printed by the licensee, and the licensee shall
15 surrender the license or duplicate promptly to the department as
16 requested.

17 (d) When the department suspends or revokes a license, the
18 department shall immediately notify the licensee and afford the
19 licensee a hearing, if requested; provided that a hearing has
20 not already been afforded. The department shall provide no less



1 than thirty days notice to the licensee of a hearing afforded
2 under this subsection. After the hearing, the department shall:

3 (1) Rescind its order of suspension;

4 (2) Continue the suspension;

5 (3) Revoke the license; or

6 (4) Rescind its order of revocation."

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

9 "§243-3 Retail dealers, permits; certificates. (a) The
10 certificate of a retail dealer as to the amount of the retail
11 dealer's retail sales during the month, referred to in section
12 243-10, is of no validity unless at the time of making the
13 certificate the retail dealer holds a permit from the department
14 of taxation, which is then in effect. In order to obtain a
15 permit, a retail dealer shall make an application to the
16 department therefor, in such form as the department prescribes,
17 and containing such information as the department requires.

18 (b) Any person who makes a false or fraudulent application
19 or certificate or false statement in an application or
20 certificate provided for by this chapter, with intent to defraud
21 the State or to obtain, for a licensed distributor, an



1 unauthorized credit, or who in any manner intentionally deceives
2 or attempts to deceive the department in relation to an
3 application or certificate provided for by this chapter, shall
4 be fined not more than \$5,000 or imprisoned not more than one
5 year, or both.

6 (c) No permit shall be issued to a retail dealer unless
7 the department is satisfied that:

- 8 (1) The retail dealer, as to all of the liquid fuel
9 purchased by the retail dealer from licensed
10 distributors, is engaged exclusively in selling the
11 same at retail, and is not using the liquid fuel for
12 any other purpose; or
- 13 (2) The retail dealer maintains on the premises a pump or
14 pumps drawing on tanks into which fuel is delivered by
15 licensed distributors and from which no liquid fuel is
16 drawn by the retailer for any purpose other than the
17 sale thereof at retail, and the retail dealer further
18 maintains records showing the quantity of liquid fuel
19 on hand in those tanks at the beginning and end of
20 each month and the deliveries into those tanks made by
21 licensed distributors during the month; or



1 (3) The retail dealer maintains records by which retail
2 sales of liquid fuel purchased from licensed
3 distributors are segregated from all other sales or
4 uses of liquid fuel, and further showing the quantity
5 of liquid fuel on hand at the beginning and end of
6 each month and the purchases of liquid fuel from
7 licensed distributors during the month.

8 (d) Permits to retail dealers shall be issued on an annual
9 basis and shall expire at the end of each calendar year. A fee
10 of \$5 shall be charged for each permit or renewal thereof.
11 Permits shall be numbered and each certificate made by a retail
12 dealer holding a permit shall bear the same identifying number
13 as the permit which the retail dealer holds.

14 (e) ~~[The department may revoke a permit upon the grounds~~
15 ~~hereinafter stated, after notice to the retail dealer holding~~
16 ~~the permit informing the retail dealer of the grounds of the~~
17 ~~proposed revocation and of the time and place at which a hearing~~
18 ~~will be held thereon. If the department finds, after the~~
19 ~~hearing, that there is good cause therefor it may revoke the~~
20 ~~permit. The permit may be revoked upon any of the following~~
21 ~~grounds:~~



- 1 ~~(1) A false or fraudulent application or false statement~~
2 ~~in an application;~~
- 3 ~~(2) The giving of a false or fraudulent certificate or a~~
4 ~~false statement in a certificate;~~
- 5 ~~(3) Failure to maintain the practices or records required~~
6 ~~by paragraphs (1), (2), or (3) of subsection (c),~~
7 ~~whichever is applicable as shown by the retail~~
8 ~~dealer's application for the permit;~~
- 9 ~~(4) Incomplete or inaccurate records when and if required~~
10 ~~to be kept.]~~

11 Any entity that operates as a distributor and also sells
12 fuel to consumers at retail shall acquire a separate retail
13 dealer permit.

14 (f) Each retail dealer who holds a permit issued by the
15 department [which] that remains in effect[7] may make a
16 certificate showing the amount of retail sales, made by the
17 retail dealer during the month, of liquid fuel purchased from a
18 licensed distributor, and further may furnish [such] the
19 certificate to the licensed distributor from whom the retail
20 dealer purchased the liquid fuel, for the retail dealer's use as
21 provided, in section 243-10.



1 (g) A retail dealer permit shall be nonassignable and
2 nontransferable from one entity to another entity. A retail
3 dealer permit may be transferred from one business location to
4 another business location after an application has been filed
5 with the department requesting the transfer and approval has
6 been obtained from the department.

7 (h) A retail dealer permit issued under this section shall
8 be displayed at all times in a conspicuous place at the place of
9 business requiring the permit.

10 (i) The department may suspend, revoke, or decline to
11 renew any permit issued under this chapter whenever the
12 department finds that the applicant has failed to comply with
13 this chapter or any rule adopted under this chapter, or for any
14 other good cause. Good cause includes instances where an
15 applicant or permittee has:

16 (1) Submitted a false or fraudulent application or
17 provided a false statement in an application;

18 (2) Possessed or displayed a false or fraudulent permit;

19 (3) Provided a false or fraudulent certificate or made a
20 false statement in a certificate;



1 (4) Failed to comply with, violated, or been convicted of
2 violating any county, state, or federal law directly
3 pertaining to the sale, importation, acquisition,
4 possession, distribution, transportation, or smuggling
5 of fuel, including but not limited to petroleum
6 products and alternative fuels; or

7 (5) Failed to maintain complete and accurate records when
8 and if required to be kept.

9 Upon suspending or revoking any permit, the department may
10 request that the permittee surrender the permit or any duplicate
11 issued to or printed by the permittee, and the permittee shall
12 surrender the permit or duplicate promptly to the department as
13 requested.

14 (j) When the department suspends, revokes, or declines to
15 renew a permit, the department shall immediately notify the
16 applicant or permittee and afford the applicant or permittee a
17 hearing, if requested; provided that a hearing has not already
18 been afforded. The department shall provide no less than thirty
19 days notice to the applicant or permittee of a hearing afforded
20 under this subsection. After the hearing, the department shall:

21 (1) Rescind its order of suspension;



- 1 (2) Continue the suspension;
- 2 (3) Revoke the permit;
- 3 (4) Rescind its order of revocation;
- 4 (5) Decline to renew the permit; or
- 5 (6) Renew the permit."

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

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

- 17 (1) The total number of gallons of fuel refined,
18 manufactured, or compounded by the distributor or
19 person within the State and sold or used by the
20 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 (2) The total number of gallons of fuel acquired by the
4 distributor or person during the month from persons
5 not subject to the tax on the transaction or only
6 subject to tax thereon at the rate of 1 cent per
7 gallon, as the case may be, and sold or used by the
8 distributor or person, and if for ultimate use in
9 another county or on either island, the name of that
10 county or island;

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

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



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



1 Statements filed under this section concerning the number
2 of gallons of fuel refined, manufactured, compounded, imported,
3 sold or used by the distributor or person are public records.
4 All other information filed under this chapter and not expressly
5 made public record under this section shall not be public
6 records."

7 SECTION 5. Section 244D-1, Hawaii Revised Statutes, is
8 amended by amending the definition of "dealer" to read as
9 follows:

10 "'Dealer" means the holder of a manufacturer's license, a
11 wholesaler's license, ~~[or]~~ a brewpub's license, a winery's
12 license, or a small craft producer's license under the liquor
13 law."

14 SECTION 6. Section 244D-2, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§244D-2[+] Permit. (a) It shall be unlawful for any
17 dealer to sell liquor unless a permit has been issued to the
18 dealer as hereinafter prescribed, and such permit is in full
19 force and effect.

20 (b) The liquor commission shall certify to the department
21 ~~[of taxation from time to time and within forty eight hours~~



1 ~~after such license is issued]~~ the name of every dealer, together
2 with the dealer's place of business and the period covered by
3 the dealer's license. The department [~~thereupon~~] shall issue
4 its permit to such person for the period covered by the person's
5 license upon the payment of a permit fee of \$2.50. The permit
6 shall be issued by the department as of the date when the liquor
7 commission issued the license.

8 (c) Any permit issued under this chapter shall be for the
9 period covered by dealer's license; it shall not be assignable;
10 it shall be conspicuously displayed on the licensed premises of
11 the permittee; it shall expire upon the expiration of the period
12 covered by the permittee's license, or on June 30 next
13 succeeding the date upon which it is issued, whichever is
14 earlier, unless sooner suspended, surrendered, or revoked for
15 cause by the department; and it shall be renewed annually before
16 July 1, upon fulfillment of all requirements as in the case of
17 an original permit and the payment of a renewal fee of \$2.50.
18 Whenever a permit is defaced, destroyed, or lost, or the
19 licensed premises are relocated, the department may issue a
20 duplicate permit to the permittee upon the payment of a fee of
21 50 cents.



1 (d) ~~[The department may suspend, or, after hearing,~~
2 ~~revoke, any permit issued under this chapter whenever it finds~~
3 ~~that the permittee has failed to comply with this chapter, or~~
4 ~~any rule or regulation of the department prescribed, adopted,~~
5 ~~and promulgated under this chapter. Upon suspending or revoking~~
6 ~~any permit the department shall request the permittee to~~
7 ~~surrender to it immediately the permit, or any duplicate thereof~~
8 ~~issued to the permittee, and the permittee shall surrender the~~
9 ~~same promptly to the department as requested.]~~ The department
10 may suspend, revoke, or decline to renew any permit issued under
11 this chapter whenever the department finds that the applicant
12 has failed to comply with this chapter or any rule adopted under
13 this chapter, or for any other good cause. Good cause includes
14 instances where an applicant or permittee has:

- 15 (1) Submitted a false or fraudulent application or
16 provided a false statement in an application;
17 (2) Possessed or displayed a false or fraudulent permit;
18 (3) Failed to comply with, violated, or been convicted of
19 violating any county, state, or federal law directly
20 pertaining to the sale, importation, acquisition,



1 possession, distribution, transportation, or smuggling
2 of liquor; or

3 (4) Failed to maintain complete and accurate records when
4 and if required to be kept.

5 Upon suspending or revoking any permit, the department may
6 request that the permittee surrender the permit or any duplicate
7 issued to or printed by the permittee, and the permittee shall
8 surrender the permit or duplicate promptly to the department as
9 requested.

10 (e) Whenever the department suspends, revokes, or declines
11 to renew a permit, it shall notify the applicant or permittee
12 immediately and afford the applicant or permittee a hearing, if
13 desired, and if a hearing has not already been afforded. The
14 department shall provide no less than thirty days notice to the
15 applicant or permittee of a hearing afforded under this
16 subsection. After the hearing the department shall [either
17 ~~rescind its order of suspension, or good cause appearing~~
18 ~~therefor, shall continue the suspension or revoke the permit.]:~~

19 (1) Rescind its order of suspension;

20 (2) Continue the suspension;

21 (3) Revoke the permit;



1 (4) Rescind its order of revocation;

2 (5) Decline to renew the permit; or

3 (6) Renew the permit."

4 SECTION 7. Section 245-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§245-2 License.** (a) It shall be unlawful for any person
7 to engage in the business of a wholesaler or dealer in the State
8 without having received first a license therefor issued by the
9 department of taxation under this chapter; provided that this
10 section shall not be construed to supersede any other law
11 relating to licensing of persons in the same business.

12 (b) The license shall be issued by the department upon
13 application therefor, in such form and manner as shall be
14 required by rule of the department, and the payment of a fee of
15 \$2.50, and shall be renewable annually on July 1 for the twelve
16 months ending the succeeding June 30.

17 (c) Any license issued under this chapter shall not be
18 assignable and shall be conspicuously displayed on the licensed
19 premises of the licensee. Whenever a license is defaced,
20 destroyed, or lost, or the licensed premises are relocated, the



1 department may issue a duplicate license to the licensee upon
2 the payment of a fee of 50 cents.

3 ~~[(e)]~~ (d) The department may suspend ~~[or, after hearing]~~,
4 revoke, or decline to renew any license issued under this
5 chapter whenever the department finds that the applicant or
6 licensee has failed to comply with this chapter or any rule
7 adopted under this chapter, or for any other good cause. Good
8 cause includes but is not limited to instances where an
9 applicant or licensee has:

10 (1) Submitted a false or fraudulent application or
11 provided a false statement in an application; ~~[or]~~

12 (2) Possessed or displayed a false or fraudulent
13 license~~[-]~~;

14 (3) Failed to comply with, violated, or been convicted of
15 violating any county, state, or federal law directly
16 pertaining to the sale, importation, acquisition,
17 possession, stamping, distribution, transportation, or
18 smuggling of cigarettes, counterfeit cigarettes,
19 counterfeit tax stamps, or other tobacco products; or

20 (4) Failed to maintain complete and accurate records when
21 and if required to be kept.



1 Upon suspending or revoking any license, the department [~~shall~~]
2 may request that the licensee immediately surrender the license
3 or any duplicate issued to or printed by the licensee, and the
4 licensee shall surrender the license or duplicate promptly to
5 the department as requested.

6 [~~(d)~~] (e) Whenever the department suspends, revokes, or
7 declines to renew a license, the department shall notify the
8 applicant or licensee immediately and afford the applicant or
9 licensee a hearing, if requested and if a hearing has not
10 already been afforded. The department shall provide no less
11 than thirty days notice to the applicant or licensee of a
12 hearing afforded under this subsection. After the hearing, the
13 department shall:

- 14 (1) Rescind its order of suspension;
15 (2) Continue the suspension;
16 (3) Revoke the license;
17 (4) Rescind its order of revocation;
18 (5) Decline to renew the license; or
19 (6) Renew the license."

20 SECTION 8. Section 245-2.5, Hawaii Revised Statutes, is
21 amended by amending subsections (m) and (n) to read as follows:



1 "(m) The department may suspend or ~~[, after hearing,]~~
2 revoke, or decline to renew any retail tobacco permit issued
3 under this chapter whenever the department finds that the
4 applicant or permittee has failed to comply with this chapter or
5 any rule adopted under this chapter, or for any other good
6 cause. Good cause includes but is not limited to instances
7 where an applicant or permittee has:

8 (1) Submitted a false or fraudulent application or
9 provided a false statement in an application; ~~[or]~~

10 (2) Possessed or displayed a false or fraudulent retail
11 tobacco permit ~~[,]~~;

12 (3) Failed to comply with, violated, or been convicted of
13 violating any county, state, or federal law directly
14 pertaining to the sale, importation, acquisition,
15 possession, stamping, distribution, transportation, or
16 smuggling of cigarettes, counterfeit cigarettes,
17 counterfeit tax stamps, or other tobacco products; or

18 (4) Failed to maintain complete and accurate records when
19 and if required to be kept.

20 Upon suspending or revoking any retail tobacco permit, the
21 department ~~[shall]~~ may request that the permittee immediately



1 surrender any retail tobacco permit or duplicate issued to or
2 printed by the permittee, and the permittee shall surrender the
3 permit or duplicate promptly to the department as requested.

4 (n) Whenever the department suspends, revokes, or declines
5 to renew a retail tobacco permit, the department shall notify
6 the applicant or permittee immediately and afford the applicant
7 or permittee a hearing, if requested and if a hearing has not
8 already been afforded. The department shall provide no less
9 than thirty days notice to the applicant or permittee of a
10 hearing afforded under this subsection. After the hearing, the
11 department shall:

- 12 (1) Rescind its order of suspension;
13 (2) Continue the suspension;
14 (3) Revoke the retail tobacco permit;
15 (4) Rescind its order of revocation;
16 (5) Decline to renew the retail tobacco permit; or
17 (6) Renew the retail tobacco permit."

18 SECTION 9. Section 245-9, Hawaii Revised Statutes, is
19 amended by amending subsection (a) 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 SECTION 10. Section 245-33, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[~~§~~245-33~~]~~ **Unused stamps; cancellation of stamps.** The
12 department shall adopt rules for a refund or credit to a
13 licensee in the amount of the denominated values less any
14 discount applied pursuant to section 245-22(e) of any unused
15 stamps. The department may provide by rule for the cancellation
16 of stamps."

17 SECTION 11. Section 243-8, Hawaii Revised Statutes, is
18 repealed.

19 [~~"§243-8 License taxes payable monthly. License taxes~~
20 ~~imposed by this chapter shall be paid in monthly installments to~~
21 ~~the department of taxation."~~]



SECTION 12. Section 245-31, Hawaii Revised Statutes, is repealed.

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

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

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

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

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

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

SECTION 13. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.



1 SECTION 14. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 15. This Act shall take effect on July 1, 2021.



Report Title:
Taxation

Description:
Makes various technical amendments to chapters 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.

