

JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

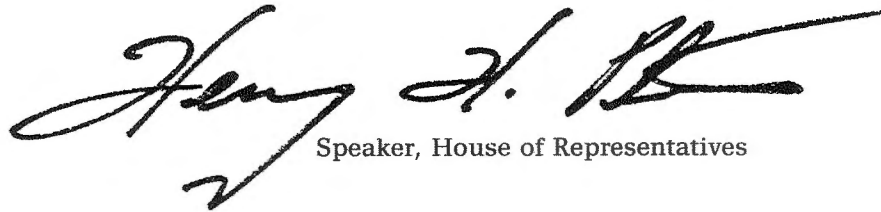
**TWELFTH LEGISLATURE
STATE OF HAWAII**

SPECIAL SESSION OF 1984

**Convened Monday, July 9, 1984
Adjourned Friday, July 13, 1984**

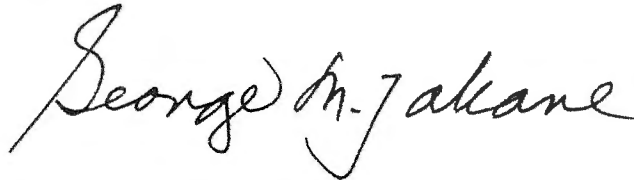
CERTIFICATE

We hereby certify that the minutes for each day's session as appears in this House Journal are true and correct and that the original copies have been duly signed by the Speaker and Clerk of the House of Representatives and are on file in the Archives of the State of Hawaii.



Henry A. Blais

Speaker, House of Representatives



George M. Jakane

Clerk, House of Representatives

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THE
TWELFTH LEGISLATURE
STATE OF HAWAII
SPECIAL SESSION OF 1984
JOURNAL OF THE HOUSE

FIRST DAY

Monday, July 9, 1984

In accordance with the provisions of Section 10, Article III of the Constitution of the State of Hawaii, the House of Representatives of the Twelfth Legislature of the State of Hawaii convened in Special Session on Monday, July 9, 1984, for consideration of the liquor tax law.

The Honorable Henry Haalilio Peters, member of the Thirty-Eighth District, he having been elected Speaker of the House of Representatives on the opening day of the Twelfth Legislature and retaining that position under the provision of Rule 1.5 of the Rules of Procedure of the House of Representatives called the House to order at 11:10 o'clock a.m.

The Divine Blessing was invoked by Father Terry Watanabe representing St. John Vianny Church, after which the Roll was called showing all members present with the exception of Representatives Hayes and Takamine, who were excused.

GOVERNOR'S MESSAGES

A message from the Governor (Gov. Msg. No. 1) was read by the Clerk and placed on file:

"STATE OF HAWAII
EXECUTIVE CHAMBERS

July 6, 1984

The Honorable Henry H. Peters
Speaker of the House of Representatives
Twelfth State Legislature
State Capitol
Honolulu, Hawaii 96813

Dear Mr. Speaker:

Transmitted herewith is the Proclamation convening the Legis-

lature of the State of Hawaii in Special Session on Monday, July 9, 1984.

With warm personal regards, I remain,

Yours very truly,

/s/ George R. Ariyoshi

GEORGE R. ARIYOSHI

Enclosure"

"PROCLAMATION

I, George R. Ariyoshi, Governor of the State of Hawaii, by virtue of the authority in me vested by law, do hereby convene the Legislature of the State of Hawaii, in Special Session on Monday, the 9th day of July, 1984, at 11:00 o'clock a.m., for consideration of the liquor tax law.

Done at the State Capitol,

Honolulu, Hawaii,

this 6th day of July 1984.

/s/ George R. Ariyoshi

GEORGE R. ARIYOSHI
Governor of Hawaii

APPROVED AS TO FORM:

/s/ Michael A. Lilly
Attorney General"

A message from the Governor (Gov. Msg. No. 2) was read by the Clerk and placed on file:

"STATE OF HAWAII
EXECUTIVE CHAMBERS

July 9, 1984

The Honorable Henry H. Peters,
Speaker
and Members of the House of Repre-
sentatives
The Twelfth Legislature
First Special Session
State Capitol
Honolulu, Hawaii 96813

Dear Sirs and Mesdames:

Pursuant to Section 17-4 of the Hawaii Revised Statutes, I have appointed Lowell S. Dillingham to fill the unexpired term of Frederick W. Rohlfsing as a member of the House of Representatives from the Thirteenth District, effective immediately.

With warm personal regards, I remain,

Yours very truly,

/s/ George R. Ariyoshi

GEORGE R. ARIYOSHI

At this time, the Chair appointed Representatives Stanley, Chairman; Shito, Crozier, Hashimoto, Lardizabal, Kim, Tungpalan, Anderson and Ikeda to the Committee on Credentials.

At 11:15 o'clock a.m., the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:23 o'clock a.m.

SPECIAL COMMITTEE REPORT

Representative Stanley, for the Committee on Credentials, presented a report (Spec.Com. Rep. No. 1) stating that the Committee had examined Governor's Message No. 2 appointing Lowell S. Dillingham to fill the vacancy created by the resignation of Frederick W. Rohlfsing and recommending that Lowell S. Dillingham be seated as a member of the House.

On motion by Representative Stanley, seconded by Representative Shito and carried, the report of the Committee on Credentials was adopted.

The Chair then appointed Representatives Blair, Marumoto, Say and Segawa to escort Mr. Lowell S. Dillingham to the well of the floor to be sworn in and Representatives Anderson, Baker, Honda and Kawakami to escort Chief Justice Herman Lum to the rostrum to administer the oath of office.

OATH OF OFFICE

The oath of office was administered by the Honorable Herman Lum, Chief Justice of the Supreme Court of the State of Hawaii, in accordance with the provisions of the Constitution of the State of Hawaii to Mr. Lowell S. Dillingham.

At this time, Representatives Hashimoto and Marumoto presented Representative Lowell S. Dillingham with ilima leis.

The Chair then appointed Representatives Andrews, Grauly, Morgado and Medeiros to escort Chief Justice Herman Lum from the rostrum.

At this time, the Chair acknowledged the presence of the Honorable George R. Ariyoshi, Governor of the State of Hawaii; Mrs. Dillingham, wife of Representative Dillingham and Mrs. Patricia Saiki, Chairman of the Republican party.

At 11:25 o'clock a.m., the Chair declared a recess to allow the members of the House to meet Representative Dillingham, subject to the call of the Chair.

The House of Representatives reconvened at 11:35 o'clock a.m.

ORDER OF THE DAY

INTRODUCTION OF BILLS

On motion by Representative Segawa, seconded by Representative Marumoto and carried, the following bill (1-84) passed First Reading by title and was referred to the Committee on Finance:

House Bill No.

1-84 "A Bill for an Act relating to taxation."

Introduced by: Representative Peters. (By request)

The Chair directed the Clerk to note that printed copies of H.B. No. 1-84 were made available to the members of the House at 11:00 o'clock a.m.

At this time, Representative Kiyabu request that the 48-hour notice requirement for hearings be waived on H.B. No. 1-84, and the Chair "so ordered."

ADJOURNMENT

At 11:38 o'clock a.m., on motion by
Representative Segawa, seconded by

Representative Marumoto and carried,
the House of Representatives
adjourned until 11:00 o'clock a.m.,
tomorrow, Tuesday, July 10, 1984.

SECOND DAY

Tuesday, July 10, 1984

The House of Representatives of the Twelfth Legislature of the State of Hawaii, Special Session of 1984, convened at 11:00 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by Chaplain A.L. Hockaday, Lt. Colonel, of Hickam Air Force Base, after which the Roll was called showing all members present with the exception of Representative Menor, who was excused.

By unanimous consent, reading of the Journal of the First Day was deferred.

At this time, the following introductions were made to the members of the House:

Representative Isbell introduced Mason Wong from Kona, island of Hawaii, who is here for a conference.

Representative Crozier introduced Representative Peter Walker and Mrs. Walker from Tasmania.

ORDER OF THE DAY

STANDING COMMITTEE REPORT

Representative Kiyabu, for the Committee on Finance, presented a report (Stand. Com. Rep. No. 1-84) recommending that H.B. No. 1-84 pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Kiyabu, seconded by Representative Kawakami and carried, the report of the Committee was adopted and H.B. No. 1-84, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", passed Second Reading and was placed on the calendar for Third Reading.

The Chair directed the Clerk to note that printed copies of H.B. No. 1-84 were made available to the members of the House at 11:00 o'clock a.m.

ADJOURNMENT

At 11:17 o'clock a.m., on motion by Representative Segawa, seconded by Representative Marumoto and carried, the House of Representatives adjourned until 11:00 o'clock a.m. tomorrow, Wednesday, July 11, 1984.

THIRD DAY

Wednesday, July 11, 1985

The House of Representatives of the Twelfth Legislature of the State of Hawaii, First Special Session of 1984, convened at 11:00 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by the Reverend Kim On Chong representing the United Church of Christ, after which the Roll was called showing all members present with the exception of Representative Stanley who was excused.

The Clerk proceeded to read the Journals of the First and Second Days.

On motion by Representative Segawa, seconded by Representative Marumoto and carried, reading of the Journals was dispensed with and the Journals of the First and Second Days were approved.

ORDER OF THE DAY

SUSPENSION OF RULES

On motion by Representative Segawa, seconded by Representative Marumoto and carried, the rules were suspended for the purpose of considering bills on Third Reading on the basis of a modified consent calendar.

THIRD READING

H.B. No. 1-84:

On motion by Representative Kiyabu, seconded by Representative Kawakami and carried, H.B. No. 1-84 entitled: "A BILL FOR AN ACT RELATING TO TAXATION", having been read throughout, passed Final Reading by a vote of 50 ayes, with Representative Stanley being excused.

The Chair directed the Clerk to note that H.B. No. 1-84 had passed Third Reading at 11:17 o'clock a.m.

At 11:17 o'clock a.m., at the request of Representative Okamura, the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:19 o'clock a.m.

ANNOUNCEMENTS

At this time, the Chair announced that the House would "stand adjourned until 11:00 o'clock a.m., Friday, July 13, 1984."

ADJOURNMENT

At 12:00 o'clock midnight, the House of Representatives adjourned until 11:00 o'clock a.m., Friday, July 13, 1984.

FOURTH DAY**Thursday, July 12, 1984****NO SESSION**

FIFTH DAY

Friday, July 13, 1984

The House of Representatives of the Twelfth Legislature of the State of Hawaii, First Special Session of 1984, convened at 11:43 o'clock a.m., with the Speaker presiding.

The Divine Blessing was invoked by the Reverend Colin Correa representing the Roman Catholic Church, after which the Roll was called showing all members present.

The Clerk proceeded to read the Journal of the Third Day.

On motion by Representative Segawa, seconded by Representative Marumoto and carried, reading of the Journal was dispensed with and the Journal of the Third Day was approved.

At 11:47 o'clock a.m., at the request of Representative Marumoto, the Chair declared a recess, subject to the call of the Chair.

The House of Representatives reconvened at 11:48 o'clock a.m.

SENATE COMMUNICATION

A communication from the Senate (Sen. Com. No. 1) returning House Bill No. 1-84, entitled: "A BILL FOR AN ACT RELATING TO TAXATION", which passed Third Reading in the Senate on July 13, 1984, was read by the Clerk and was placed on file.

ORDER OF THE DAY

INTRODUCTION OF RESOLUTION

A resolution (H.R. No. 1) authorizing and directing the Committee on the Journal to compile and print the Journal of the House of Representatives of the First Special Session of 1984 was jointly offered by Representatives Segawa, Marumoto, Kawakami, Kihano and Blair and was read by the Clerk.

On motion by Representative Segawa, seconded by Representative Marumoto and carried, H.R. No. 1 was adopted.

At 11:53 o'clock a.m., the Chair declared the House in recess, subject to the call of the Chair.

The House of Representatives reconvened at 12:17 o'clock p.m.

ADJOURNMENT

Representative Segawa moved that the House of Representatives of the Twelfth Legislature of the State of Hawaii, First Special Session of 1984, adjourn Sine Die, seconded by Representative Marumoto and carried.

At 12:20 o'clock p.m., the Speaker rapped his gavel and declared the House of Representatives of the Twelfth Legislature of the State of Hawaii, First Special Session of 1984, adjourned Sine Die.

GOVERNOR'S MESSAGE RECEIVED AFTER THE ADJOURNMENT
OF THE LEGISLATURE SINE DIE

Gov. Msg. No. 3 informing the House that on July 14, 1984, he signed the following bill into law:

House Bill No. 1-84 as Act 1, entitled: "RELATING TO TAXATION".

SPECIAL COMMITTEE REPORT

Spec. Com. Rep. 1-84

Your Committee on Credentials begs leave to report that it has thoroughly considered the matter of the seating of Lowell S. Dillingham as a member of the House of Representatives of the Twelfth Legislature of the State of Hawaii.

Your Committee was referred the communication from the Governor of the State of Hawaii on the appointment of Lowell S. Dillingham to fill the vacancy created by the resignation of former State Representative Frederick W. Rohlfing. After reviewing the communication of appointment and the qualification of the appointee, your Committee finds the said appointee to be qualified and recommends that Lowell S. Dillingham be seated as a member of the House of Representatives from the Thirteenth Representative District.

Signed by Representatives Stanley, Shito, Crozier, Hashimoto,
Lardizabal, Levin, Taniguchi, Tungpalan, Anderson and Ikeda.

STANDING COMMITTEE REPORT

SCRep. 1-84 Finance on H.B. No. 1-84

The purpose of this bill is to reaffirm the legislative intent that the liquor industry shall continue to be taxed for the manufacture and sale of intoxicating liquor in the State of Hawaii in the same manner and pursuant to the same scheme as currently provided in Chapter 244, Hawaii Revised Statutes, without, however, the exemptions accorded to okolehao, fruit wine and rum. This bill, therefore, expresses the legislative intention to continue to administer and enforce, in the manner heretofore administered and enforced, the provisions now contained in Chapter 244 except for the exemptions invalidated by the United States Supreme Court in Bacchus Imports, et al. v. Dias, ___ U.S. ___, Sup. Ct. No. 82-1565, decided June 29, 1984.

In Bacchus, the wholesaler-distributors challenged the constitutional validity of the liquor tax law by reason of the exemptions accorded to the manufacture and sale of okolehao and fruit wine produced from fruits grown locally in the State. Because the exemptions favored local products, the wholesaler-distributors contended the exemptions discriminated against their imported products. By its decision, the United States Supreme Court rendered the following conclusions: "We therefore conclude that the Hawaii Liquor Tax exemptions for okolehao and pineapple wine violated the Commerce Clause because it had both the purpose and effect of discriminating in favor of local products." Notwithstanding this conclusion by the Court, your Committee is informed that the wholesaler-distributors may yet contend that the Court has invalidated the entire liquor tax law.

Testimony furnished by the Department of Taxation establishes that, for each month since the litigation has begun, local wholesaler-distributors have paid their taxes under protest at the rate of approximately two million dollars per month and that the total amount of revenues now in escrow approximate 100 million dollars. This money, therefore, has been diverted from the general fund and is not available for use for the general good of the State. The Department of Taxation is of the opinion that, as long as the invalidity of the liquor tax law is being questioned, the wholesaler-distributors will continue to pay their taxes under protest.

For the foregoing reasons, your Committee believes that it is prudent that a Hawaii liquor tax law be enacted without the exemptions, and the existing Chapter 244 be repealed to remove any doubt as to the validity of the Hawaii liquor tax and the collection thereof for placement into the general fund of the State.

Your Committee has also amended Section 231-1 to continue to give the Director of Taxation the authority to administer the provisions of SECTION 2 of this bill. Section 281-83 has been amended to continue to allow the liquor dealers to pass the tax on to their respective purchasers and to be reimbursed therefor, provided the tax is separately itemized.

There are other provisions in the Hawaii Revised Statutes which currently refer to, or may be affected by, Chapter 244 which is being repealed under this bill. It is the intent of your Committee that all such provisions shall remain in force, and any references in such provisions to said Chapter 244 shall be and mean references to the provisions of SECTION 2 of this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

NUMBER AND TITLE	Introduced Referred	First Reading	Second Reading	Third Reading	Action of Senate	Conference Committee	Final Action of Governor	Further Action	Act No.	Vetoed
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HB 1-84. A Bill for an Act relating to taxation.

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NUMBER AND TITLE	Offered Referred	Report of Committee	Adoption
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HR 1. Authorizing and directing the Committee on the Journal to compile and print the Journal of the House of Representatives, Special Session of 1984.	7		7
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