

JAN 18 2013

S.B. NO. 759

## A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

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

SECTION 1. Section 237-24.3, Hawaii Revised Statutes, is amended to read as follows:

**"§237-24.3 Additional amounts not taxable.** In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received from the loading, transportation, and unloading of agricultural commodities, aquacultural commodities, livestock, and meat shipped for a producer or dealer of agricultural commodities, aquacultural commodities, livestock, or meat on one island of this State to a person, firm, or organization on another island of this State. The terms "producer" and "dealer" shall have the same meanings as in section 145-1. The [terms] term "agricultural commodity" [,"producer", and "produce dealer"] shall [be defined in the same manner as they are defined] have the same meaning as in section 147-1; provided that agricultural commodities need not



1 have been produced in the State. The term  
2 "aquacultural commodities" means aquatic plants and  
3 animals that have been propagated, cultivated, or  
4 farmed in controlled or selected environments for  
5 commercial or authorized stock enhancement purposes.  
6 "Meat" shall have the same meaning as the term "meat  
7 or meat products" in section 159-3.

8 (2) Amounts received from sales of:

9 (A) Intoxicating liquor as the term "liquor" is  
10 defined in chapter 244D;

11 (B) Cigarettes and tobacco products as defined in  
12 chapter 245; and

13 (C) Agricultural, meat, or fish products;  
14 to any person or common carrier in interstate or  
15 foreign commerce, or both, whether ocean-going or air,  
16 for consumption out-of-state on the shipper's vessels  
17 or airplanes;

18 (3) Amounts received by the manager, submanager, or board  
19 of directors of:

20 (A) An association of owners of a condominium  
21 property regime established in accordance with  
22 chapter 514A or 514B; or



(B) A nonprofit homeowners or community association incorporated in accordance with chapter 414D or any predecessor thereto and existing pursuant to covenants running with the land,

in reimbursement of sums paid for common expenses;

(4) Amounts received or accrued from:

(A) The loading or unloading of cargo from ships, barges, vessels, or aircraft, whether or not the ships, barges, vessels, or aircraft travel between the State and other states or countries or between the islands of the State;

(B) Tugboat services including pilotage fees performed within the State, and the towage of ships, barges, or vessels in and out of state harbors, or from one pier to another; and

(C) The transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar services; standby charges; and use of moorings and running mooring lines;

(5) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income;



1 and amounts received by a nonprofit organization or  
2 office, as payments for costs and expenses incurred  
3 for the administration of an employee benefit plan;  
4 provided that this exemption shall not apply to any  
5 gross rental income or gross rental proceeds received  
6 after June 30, 1994, as income from investments in  
7 real property in this State; and provided further that  
8 gross rental income or gross rental proceeds from  
9 investments in real property received by an employee  
10 benefit plan after June 30, 1994, under written  
11 contracts executed prior to July 1, 1994, shall not be  
12 taxed until the contracts are renegotiated, renewed,  
13 or extended, or until after December 31, 1998,  
14 whichever is earlier. For the purposes of this  
15 paragraph, "employee benefit plan" means any plan as  
16 defined in section 1002(3) of title 29 of the United  
17 States Code, as amended;

- 18 (6) Amounts received for purchases made with United States  
19 Department of Agriculture food coupons under the  
20 federal food stamp program, and amounts received for  
21 purchases made with United States Department of  
22 Agriculture food vouchers under the Special



1 Supplemental Foods Program for Women, Infants and  
2 Children;

3 (7) Amounts received by a hospital, infirmary, medical  
4 clinic, health care facility, pharmacy, or a  
5 practitioner licensed to administer the drug to an  
6 individual for selling prescription drugs or  
7 prosthetic devices to an individual; provided that  
8 this paragraph shall not apply to any amounts received  
9 for services provided in selling prescription drugs or  
10 prosthetic devices. As used in this paragraph:

11 "Prescription drugs" are those drugs defined  
12 under section 328-1 and dispensed by filling or  
13 refilling a written or oral prescription by a  
14 practitioner licensed under law to administer the drug  
15 and sold by a licensed pharmacist under section 328-16  
16 or practitioners licensed to administer drugs; and

17 "Prosthetic device" means any artificial device  
18 or appliance, instrument, apparatus, or contrivance,  
19 including their components, parts, accessories, and  
20 replacements thereof, used to replace a missing or  
21 surgically removed part of the human body, which is  
22 prescribed by a licensed practitioner of medicine,



1 osteopathy, or podiatry and which is sold by the  
2 practitioner or which is dispensed and sold by a  
3 dealer of prosthetic devices; provided that  
4 "prosthetic device" shall not mean any auditory,  
5 ophthalmic, dental, or ocular device or appliance,  
6 instrument, apparatus, or contrivance;

7 (8) Taxes on transient accommodations imposed by chapter  
8 237D and passed on and collected by operators holding  
9 certificates of registration under that chapter;

10 (9) Amounts received as dues by an unincorporated  
11 merchants association from its membership for  
12 advertising media, promotional, and advertising costs  
13 for the promotion of the association for the benefit  
14 of its members as a whole and not for the benefit of  
15 an individual member or group of members less than the  
16 entire membership;

17 (10) Amounts received by a labor organization for real  
18 property leased to:

19 (A) A labor organization; or

20 (B) A trust fund established by a labor organization  
21 for the benefit of its members, families, and  
22 dependents for medical or hospital care, pensions



1 on retirement or death of employees,  
2 apprenticeship and training, and other membership  
3 service programs.

4 As used in this paragraph, "labor organization" means  
5 a labor organization exempt from federal income tax  
6 under section 501(c)(5) of the Internal Revenue Code,  
7 as amended;

8 (11) Amounts received from foreign diplomats and consular  
9 officials who are holding cards issued or authorized  
10 by the United States Department of State granting them  
11 an exemption from state taxes; and

12 (12) Amounts received as rent for the rental or leasing of  
13 aircraft or aircraft engines used by the lessees or  
14 renters for interstate air transportation of  
15 passengers and goods. For purposes of this paragraph,  
16 payments made pursuant to a lease shall be considered  
17 rent regardless of whether the lease is an operating  
18 lease or a financing lease. The definition of  
19 "interstate air transportation" is the same as in 49  
20 U.S.C. 40102."

21 SECTION 2. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



1       SECTION 3. This Act shall take effect on July 1, 2013;  
2 provided that the amendments made to section 237-24.3, Hawaii  
3 Revised Statutes, by section 1 of this Act shall not be repealed  
4 when that section is reenacted on December 31, 2014, pursuant to  
5 section 1 of Act 91, Session Laws of Hawaii 2010.

6  
INTRODUCED BY:

Makana Gann  
Gina K. K. K.

Danah D. G.

D. J. G.



**Report Title:**

General Excise Tax; Livestock; Meat; Aquaculture

**Description:**

Exempts from the general excise tax money received from interisland loading, transportation, and unloading of aquacultural commodities, livestock, and meat.

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