
A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX REPORTING FOR SPECIAL EVENTS.

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

SECTION 1. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237- Requirements for promoters or operators of special events. (a) All special event operators shall submit a report in writing to the department providing information regarding sellers engaging in business at all special events for which the person is a special event operator. The report shall be filed together with each of the special event operator's periodic general excise tax returns for periods during which one or more special events occurred, and shall be in the form prescribed by the department.

(b) The report required under subsection (a) shall include:

- (1) The name of each seller at the special event, including any names under which the seller is doing business;

(2) The address or primary place of business of each seller;

(3) The business license number issued under section 237-9 of each seller; and

(4) All other information requested by the department.

(c) The department may issue citations to any special event operator who fails to file a complete and accurate report as required by this section. A citation issued pursuant to this subsection shall include a monetary fine of not more than:

(1) \$250 for a first violation for which a citation is issued;

(2) \$500 for a second violation for which a citation is issued; and

(3) \$2,500 for a third and any subsequent violation for which a citation is issued.

(d) For the purposes of this section:

"Special event" means any event organized by a special event operator at which two or more persons offer property or services for sale or exchange. Special events include, but are not limited to, swap meets, art shows, cultural festivals or events, carnivals, local fairs, farmers' markets, sporting events, food truck events, craft fairs, and flea markets.

H.B. NO. 2399

1 "Special event operator" means any person who charges a fee
2 or otherwise receives income in exchange for promoting,
3 organizing, managing, or otherwise operating a special event."

4 SECTION 2. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: _____



BY REQUEST

JAN 25 2016

Report Title:

Taxes; Special Event Reporting

Description:

Requires operators of special events to file reports giving information about the vendors participating in special events. Grants Department of Taxation authority to issue citations for failure to file report.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAX REPORTING FOR SPECIAL EVENTS.

PURPOSE: Require reporting from the organizer of flea markets, swap meets or other special events, providing information to the department about individuals doing business at those events.

MEANS: Add a new section to chapter 237, Hawaii Revised Statutes.

JUSTIFICATION: The department faces difficulty enforcing compliance within Hawaii's cash economy for a variety of reasons. One of the main limitations on the department's ability to enforce compliance in these areas is the fact that it is difficult to find non-filing taxpayers. Requiring reporting from the event organizers regarding who is conducting business at their special events will help the department reach out to those taxpayers to determine whether they are in compliance and, if not, to assist them in becoming compliant with the tax laws.

The reporting requirement created by this section is similar to that in place in several other states, and should not be overly burdensome to event organizers.

Impact on the public: Minimal or none.

Impact on the department and other agencies: This measure will provide the department with additional information to assist in locating taxpayers and ensuring compliance in cash-based businesses.

GENERAL FUND: None.

OTHER FUNDS: None.

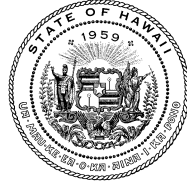
PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION

P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
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To: The Honorable Derek S.K. Kawakami, Chair
and Members of the House Committee on Economic Development and Business

Date: February 12, 2016

Time: 10:30 A.M.

Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 2399, Relating to General Excise Tax Reporting for Special Events.

The Department of Taxation (Department) strongly supports H.B. 2399, an Administration measure, and offers the following testimony for your consideration.

H.B. 2399 imposes reporting requirements on the operators of special events, which are defined as an event at which there are two or more retailers offering property or services for sale or exchange. Operators of such events will be required to provide to the Department information regarding sellers participating in special events, including the names, addresses, and business license number of the sellers. H.B. 2399 also provides the Department the power to issue citations to special event operators who fail to comply with the reporting requirements. The measure is effective upon approval.

Special events represent a special challenge to tax law enforcement, as such events often involve primarily cash-based businesses which may or may not be properly licensed. The Department participates in these events to the extent feasible with its present resources, and frequently finds businesses which are not in compliance with all the tax laws. The Department however cannot have representatives present at all special events taking place within the State. H.B. 2399 requires the operators of special events to give the Department information on the businesses taking part in the special event. This information will assist the Department in finding businesses not currently in compliance with their general excise tax (GET) obligations and in bringing those businesses into compliance.

H.B. 2399 imposes requirements that are similar to those faced by special event operators in several other states, including California, New York, and Illinois. Therefore the new requirements should not present an undue burden to the affected businesses. Further, it is likely that a special event operator already possesses the information required to be reported pursuant to this measure as business or contractual relationship exists between the parties. The Department

supports this measure as a means to bring more cash-based businesses into compliance with the tax laws of the State.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Special Events Reporting

BILL NUMBER: HB 2399; SB 2928 (Identical)

INTRODUCED BY: HB by Souki by request; SB by Kouchi by request

EXECUTIVE SUMMARY: The Department proposes to require an organizer of “special events” such as flea markets and swap meets to provide information to the Department about individuals doing business at those events, in order to bring those typically cash-based businesses into compliance with the law.

BRIEF SUMMARY: Adds a new section to HRS chapter 237 that would establish requirements for promoters or operators of special events. The requirements include reporting the name of each seller, along with the address given by the seller and any general excise tax number provided. Provides that citations may be issued to noncompliant promoters or operators, including a fine of \$250 for a first violation, \$500 for a second, and \$2,500 for any subsequent violation. A special event is defined as one at which two or more persons offer property or services for sale or exchange, such as swap meets, art shows, cultural festivals or events, carnivals, local fairs, farmers’ markets, sporting events, food truck events, craft fairs, and flea markets. A special event operator is any person who charges a fee or otherwise receives income in exchange for promoting, organizing, managing, or otherwise operating a special event.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This measure was submitted by the Department of Taxation as TAX-08 (16). Apparently the Department is concerned about “cash economy” transactions at these special events, and wants the special event organizers to collect information about the participants such as names, addresses, and license numbers. This would seem to be a reasonable measure to ensure that cash-based businesses at these special events are competing on a level playing field with those of us who abide by the law and pay taxes.

Digested 2/10/2016

TO: Members of the Committee on Economic Development & Business

FROM: Natalie Iwasa
Honolulu, HI 96825
808-395-3233

HEARING: 10:30 a.m. Friday, February 12, 2016

SUBJECT: HB 2399 Special Events Operators - **OPPOSED**

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on HB 2399, which would require operators of special events to collect certain information from sellers. I oppose this bill.

Many special events are organized by nonprofit organizations that may hire service providers to help with promotion. This bill would require the service provider to obtain and report certain information, including “all other information requested by the department,” to the tax department. This would basically turn public relations and other companies into **policing agents for the state and drive up costs** for nonprofits.

I urge you to vote **“no”** on this bill.

TO: Members of the Committee on Economic Development & Business

FROM: Cycle On Hawaii

HEARING: 10:30 a.m. Friday, February 12, 2016

SUBJECT: HB 2399 Special Events Operators - **OPPOSED**

Aloha Chair and Committee Members,

Thank you for allowing us the opportunity to provide testimony on HB 2399, which would require operators of special events to collect certain information from sellers. We oppose this bill and ask you to vote “no.”

We are a 501(c)(3) organization and periodically hold cyclovias, which would apparently fall under the definition of special events. We hired a firm to assist with the promotion of Hele On Kakaako. Had this bill been in effect, that firm would have been required to obtain and report information about *our* booth vendors to the tax department. Our vendors, “sellers,” should not have to provide information to other parties we work with. This bill would also **drive up costs** for us and other nonprofits.

Please vote **“no”** on this bill.

PETER L. FRITZ

Attorney at Law

TELEPHONE (SPRINT IP RELAY): (808) 568-0077

E-MAIL: PLFLEGIS@FRITZHQ.COM

HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Testimony on H.B. 2399

Hearing: Friday, February 12, 2016

(RELATING TO GENERAL EXCISE TAX REPORTING FOR SPECIAL EVENTS)

Chair Kawakami, Vice Chair Kong and members of the Committee, my name is Peter Fritz. I am an attorney and a former Department of Taxation (“DOTAX” or “Department”) Rules Specialist. I am testifying **in opposition** to this bill as currently drafted.

This bill requires operators of special events to file reports giving information about the vendors participating in special events. It also grants Department of Taxation authority to issue citations for failure to file report.

Many years ago, the Department introduced legislation to regulate and collect tax on “cash economy” transactions. One area of concern expressed by the Department in its testimony was the collection of taxes on cash sales at flea markets and farmers’ markets (“cash economy”). The Department was concerned that businesses operating at those “special events” might not have a General Excise Tax (“GET”) license and therefore would not be paying any tax on cash sales. The Department of Taxation now requires the businesses to display their GET license at these special events. This bill would accomplish nothing because vendors are currently required to show their GET license. Requiring the event operator to provide the names of vendors who have presented a valid GET license to sell at the special event adds little since the intent is to find businesses that do not have a GET license. As drafted, this bill does not substantially add to that intent when measured against the burden that will be placed upon the operators of a special event. The cash economy legislation was based on procedures used by the Liquor Commission. The request in this bill is equivalent to the Liquor Commission requiring liquor licensees collect the ID information from everyone who enters their establishment and send it to the liquor commission.

Stopping unlicensed vendors from selling at special events can be accomplished by simply by requiring a vendor to present a GET license in order to participate in the event with the event operator recording the GET license number. It does not require the filing information with the Department and I would request that this bill be amended to eliminate the reporting information to the Department.

The recording burden is unreasonable because the businesses that sell at such events can vary on each event date and this bill would require the operator of the special event to maintain a list of every business displaying on every operating day of the special event in order for the Department to have meaningful data.

In addition, it is unlikely that the Department could handle all the meaningful data. If there are 700 or more businesses selling wares at the Aloha Stadium Flea Market every Saturday and Sunday, an operator would have to submit more than 72,000 (700x2x 52) records showing the GET license numbers for the exhibitors to accurately reflect which businesses were selling goods on a particular day. Upon information and belief, the RFP for the new TSM system does not contain any contract clauses to develop software that might be able to mine any meaningful information from this big data.

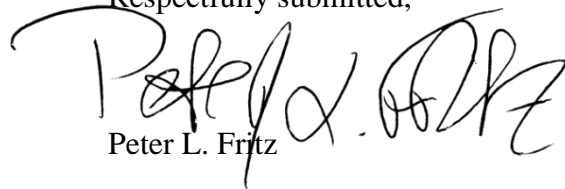
At most, all this bill should require is that the operator of the special event to obtain a copy of the businesses' general excise tax license and keep such copy on file for a 3-year period and elimination of the requirement for each vendor to display their GET license.

Creating and filing reports will be burdensome and oppressive and would more likely than not result in a information that is never reviewed by anyone at the DOTAX.

The Department should focus on paperwork reduction, not paperwork creation.

Thank you for the opportunity to testify.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter L. Fritz", written over a horizontal line.

Peter L. Fritz



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the House Committee on Economic Development & Business
Friday, February 12, 2016 at 10:30 A.M.
Conference Room 312, State Capitol**

LATE

**RE: HOUSE BILL 2399 RELATING TO GENERAL EXCISE TAX REPORTING FOR
SPECIAL EVENTS**

Chair Kawakami, Vice Chair Kong, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") would like to **express concern** on HB 2399, which requires operators of special events to file reports giving information about the vendors participating in special events. Grants Department of Taxation authority to issue citations for failure to file report.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

This bill would require special event operators to submit a report to the Department of Taxation providing information regarding sellers engaging in business at all special events for which they act as the operator. The form of the report would be prescribed by the Department. Penalties would apply for noncompliance. A special event would take place if there are two or more persons offering property or services for sale or exchange.

HB 2399 would increase regulatory burden, shifting enforcement of tax laws on cash economy participants from the Department of Taxation to event organizers. In some cases, particularly with respect to smaller events, event organizers may not be maintaining careful records of the sellers, nor are they necessarily required to do so under current law. We have some concern of shifting this burden from DOTAX to event organizers.

Thank you for the opportunity to testify.

kong2 - Christie

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 12, 2016 6:10 AM
To: edbtestimony
Cc: kauaihole@gmail.com
Subject: *Submitted testimony for HB2399 on Feb 12, 2016 10:30AM*

HB2399

Submitted on: 2/12/2016

Testimony for EDB on Feb 12, 2016 10:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Louisa Wooton	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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