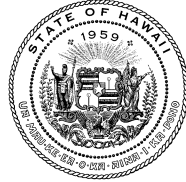


**DAVID Y. IGE**  
GOVERNOR

**SHAN TSUTSUI**  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
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**MARIA E. ZIELINSKI**  
DIRECTOR OF TAXATION

**JOSEPH K. KIM**  
DEPUTY DIRECTOR

To: The Honorable Sylvia Luke, Chair  
and Members of the House Committee on Finance

Date: Friday, April 1, 2016  
Time: 11:00 A.M.  
Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 2928, S.D. 2, H.D. 1, Relating to General Excise Tax Reporting for Special Events.

The Department of Taxation (Department) strongly supports S.B.2928, S.D. 2, H.D. 1, an Administration measure, and offers the following testimony for your consideration.

S.B. 2928, S.D. 2, H.D. 1, 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. S.B. 2928, S.D. 2, H.D. 1, also requires the Department to create an online form for reporting, and provides the Department the power to issue citations to special event operators who fail to comply with the reporting requirements and to waive those citations for reasonable cause. H.D. 1 exempts non-profit entities and other persons exempt from tax pursuant to section 237-23, Hawaii Revised Statutes, from reporting requirements. The measure has a defective effective date of February 19, 2022.

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 state tax laws. The Department however cannot have representatives present at all special events taking place within the State. S.B. 2928, S.D. 2, H.D. 1, 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.

S.B. 2928, S.D. 2, H.D. 1, 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 a 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.

As stated above, H.D. 1 has a defective effective date of February 19, 2022. The Department respectfully requests that the effective date be amended to “upon approval.”

Thank you for the opportunity to testimony in support.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

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SUBJECT: GENERAL EXCISE, Special Events Reporting

BILL NUMBER: SB 2928, HD-1

INTRODUCED BY: House Committee on Economic Development & Business

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. We only question the need to publish the forms online.

BRIEF SUMMARY: Adds a new section to HRS chapter 237 that would establish requirements for promoters or operators of special events. The requirements include an online form to report the name of each seller, along with the address given by the seller and any general excise tax number provided. The form shall be published on the department’s website.

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. The department may waive for reasonable cause any citation issued.

A special event is defined as one at which two or more retailers 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, but does not include a tax-exempt organization.

EFFECTIVE DATE: February 19, 2022.

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.

We do question the need to publish the forms online. Tax return information is generally not published in order to allow the person filing the return some protection against collateral use of the information. Publication of the information will allow anyone to use the information, including spammers.

We also question the exemption for tax-exempt special event operators. This measure is supposed to be giving the Department tools to enforce the tax laws against the vendors

participating in the events, not necessarily against the special event operators. There is nothing inherently different about tax-exempt organizations that would justify differential treatment. Note that if the tax-exempt organizations are not getting paid to organize the special event, the law would not apply to them according to the first part of the definition of special event operator.

Digested 3/30/2016



Executive Officers:  
Derek Kurisu, KTA Superstores - Chairperson  
John Erickson, Young's Market Company – Vice Chair  
Bob Stout, Times Supermarkets – Secretary/Treasurer  
Lauren Zirbel, Executive Director

1050 Bishop St. PMB 235  
Honolulu, HI 96813  
Fax : 808-791-0702  
Telephone : 808-533-1292

TO: COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair

Rep. Scott Y. Nishimoto, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION

Lauren Zirbel, Executive Director

DATE: Friday, April 1, 2016

TIME: 11:00 a.m.

PLACE: Conference Room 308

RE: SB2928, SD2, HD1

RELATING TO GENERAL EXCISE TAX REPORTING FOR SPECIAL EVENTS

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA produces the largest non-profit trade show in the state, the Made in Hawaii Festival. This measure will hurt the local companies that use our trade show to grow their business. By increasing costs, this bill will make it much more difficult for small entrepreneurs to enter the show. The entire purpose of the show is to create a venue for small Made in Hawaii businesses to showcase their products to a large audience. Many companies have grown tremendously as a result of their involvement with our show. Please don't compromise Made in Hawaii businesses' future ability to grow.

HFIA strongly opposes the passage of this bill. It will cause hardship on small businesses trying to do business in the Hawaii. It creates unnecessary work for event planners that in turn will pass these costs along with a great amount of trickle down costs associated to all involved. In addition, this information is proprietary and there is no way to ensure that it will not be compromised. It is unfair to ask for this information, as this is something we consider to be our property and most valued asset, which have taken

years to amass, and thousands of hours to compile.

Please do not pass this bill.



**Testimony to the House Finance Committee  
Representative Sylvia Luke, Chair  
Representative Scott Nishimoto, Vice Chair  
Friday April 1, 2016, 11:00 a.m.  
Conference Room 308  
SB 2928, SD 2 - Relating to General Excise Tax Reporting for Special Events**

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Dear Chair Luke, Vice Chair Nishimoto, and members of the FIN Committee:

On behalf of the Hawai'i Alliance of Nonprofit Organizations, I would like express opposition to **SB 2928, SD 2, HD 1**, relating to general excise tax reporting for special events.

Hawai'i Alliance of Nonprofit Organizations (HANO) is a statewide, sector-wide professional association of nonprofits. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawai'i. HANO's member organizations provide essential services to every community in the state.

HANO opposes SB 2928, SD 2, HD 1 because it imposes online reporting requirements on nonprofit organizations that hold special events with two or more vendors making sales on the site of the event. Nonprofit organizations are tax-exempt entities, and the onus should not fall on them to police for-profit entities in this way. Punitive action in the way of exorbitant fees for non-filing should not be subjected on nonprofit organizations, which often do not have the unrestricted income to pay these kinds of fees for non-compliance. Many organizations have limited capacity, where such reporting would be deemed onerous and problematic.

Thank you for the opportunity to provide written testimony in opposition.

Mahalo,

Lisa Maruyama  
President & CEO

TO: Members of the Committee on Finance

FROM: Natalie Iwasa, CPA, CFE  
808-395-3233

HEARING: 11 a.m. Friday, April 1, 2016

SUBJECT: SB 2928, SD2, HD1 GET For Special Events - **OPPOSED**

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on SB 2928, SD2, HD1 which would require certain operators of special events to collect certain information from sellers. I oppose this bill.

What would happen if there were two or more promoters of an event? For example, in the case of a carnival, EK Fernandez would be required to file information with the state. If they hired one or two marketers to promote the carnival, each of them would also be required to file this information as well. **Businesses simply should not be required to act as policing agents for the state and report this information.**

If the state is concerned about losing tax revenue, I would suggest they close the loophole that allows outside businesses to state that they are not required to have a license, even though they establish nexus. The prime example is BRV Corp., dba Biederman Redevelopment Ventures, Corp. The city had a \$1.2 million contract with them. They held public meetings on Oahu, yet they are not registered with the state to do business here and apparently have no GET license.

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



David Y. Ige  
Governor  
  
Douglas Murdock  
Comptroller

Charles T. Toguchi  
Chairman, Stadium Authority  
  
Scott L. Chan  
Manager



*An Agency of the State of Hawaii*

TESTIMONY  
OF  
SCOTT L. CHAN, MANAGER  
STADIUM AUTHORITY  
TO THE  
HOUSE COMMITTEE  
ON  
FINANCE  
ON  
April 1, 2016

**LATE**

S.B. 2928, SD2, HD1

RELATING TO GENERAL EXCISE TAX REPORTING FOR SPECIAL EVENTS

Chair Luke, Vice Chair Nishimoto, and members of the Committee, thank you for the opportunity to submit testimony in the form of comments on S.B. 2928, SD2, HD1.

The Stadium Authority supports the intent of the bill and understands the challenges that the State is faced with in its effort to enforce tax collections on cash based businesses.

The Aloha Stadium serves as the venue for the Aloha Stadium Swap Meet and Marketplace (ASSMM) held on Wednesdays, Saturdays, and Sundays throughout the year. Within the ASSMM's vendor mix is a category for the everyday person to sell their household goods in a "garage sale"- type of category. The characteristic of a "garage sale" seller is normally one who brings their used household goods, clothing, and other personal items to liquidate and recoup a fraction of what was originally spent on the item.

In reviewing the encompassing language of this bill, it appears that the reporting requirement may inadvertently include this "garage sale" category that a Special Event Operator

must collect and report seller information, as well as subject the Special Event Operator to citation(s) by the authority of the Department of Taxation.

We do not believe that it is the Legislature's intent to collect business information from this type of individual seller and require this category of seller to obtain a general excise tax license in order to liquidate their household goods and personal wares. The language of the bill will also subject the Special Event Operator to fines for non-collection of information that we believe is truly not intended to address this category of sellers.

We respectfully provide our comments to allow the Committee to consider language that would exempt or exclude this specific group of sellers from having to obtain a general excise tax license in order to sell their household goods and personal wares and to relieve the Special Event Operator from the reporting requirements for this specific group, thereby relieving the Special Event Operator from being subject to monetary citations for non-compliance.

Thank you for the opportunity to provide comments on this bill.