
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:

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

4 "§237- Requirements for special event operators; online
5 form. (a) The department shall develop an online form to be
6 filled out by special event operators, regarding sellers
7 engaging in business at all special events for which a person is
8 a special event operator. The form shall be completed each time
9 a special event operator's periodic general excise tax returns,
10 for periods during which one or more special events occurred,
11 are filed with the department.

12 (b) The form required under subsection (a) shall be
13 published on the department's website and shall require the
14 special event operator to provide the department with the
15 following information:

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



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

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

5 (4) Any other information requested by the department.

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

10 (1) \$250 for a first violation for which a citation is
11 issued;

12 (2) \$500 for a second violation for which a citation is
13 issued; and

14 (3) \$2,500 for a third and any subsequent violation for
15 which a citation is issued.

16 (d) For the purposes of this section:

17 "Special event" means any event organized by a special
18 event operator at which two or more persons offer property or
19 services for sale or exchange. Special events include but are
20 not limited to swap meets, art shows, cultural festivals or



1 events, carnivals, local fairs, farmers' markets, sporting
2 events, food truck events, craft fairs, and flea markets.

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

6 SECTION 2. New statutory material is underscored.

7 SECTION 3. This Act shall take effect in January 1, 2017.



Report Title:

Department of Taxation; General Excise Tax; Special Event Operators; Required Form

Description:

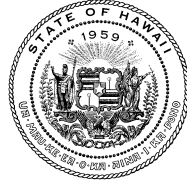
Requires the department of taxation to develop an online form to be filled out by special event operators, regarding sellers engaged in business at all special events for which a person is a special event operator. Grants the department of taxation the authority to issue citations for failure to complete an accurate form. Effective 1/1/2017. (SD2)

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



DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

To: The Honorable Derek S.K. Kawakami, Chair
and Members of the House Committee on Economic Development and Business

Date: March 15, 2016

Time: 9:00 A.M.

Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

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

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

S.B. 2928, S.D. 2, 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, 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. The measure is effective January 1, 2017.

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, 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, 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.

Prior committees have expressed concern about the effect this measure would have on non-profit organizations holding special events. If the Legislature's intention is to exempt non-profit organizations from complying with these provisions, the Department suggests an addition to the definition of "Special event operator" contained in this measure, to read:

"Special event operator" means 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 persons exempt from this chapter pursuant to section 237-23.

Thank you for the opportunity to offer testimony in support.

DAVID Y. IGE
GOVERNOR

DOUGLAS MURDOCK
COMPTROLLER



CHARLES T. TOGUCHI
CHAIRMAN, STADIUM AUTHORITY

SCOTT L. CHAN
MANAGER

LATE

TESTIMONY
OF
SCOTT L. CHAN, MANAGER
STADIUM AUTHORITY
TO THE
HOUSE COMMITTEE
ON
ECONOMIC DEVELOPMENT & BUSINESS
ON
March 15, 2016
S.B. 2928, SD2

RELATING TO GENERAL EXCISE TAX REPORTING FOR SPECIAL EVENTS

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

The Stadium Authority supports the intent of this 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 business 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 typically 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 the bill, as proposed, it appears that the “garage sale” category would fall under the reporting requirements of a Special Event Operator and under the enforcement and citation-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 also require this category of seller to obtain a general excise tax license in order to resell their household wares. The language of this bill also subjects the Special Event Operator to assessment of fines for non-collection and non-reporting of “garage-sale” sellers that we believe is truly not the intent of this bill.

We respectfully provide our comments to allow the Committee to consider language that would exempt or exclude this specific group of “garage-sale” sellers from having to obtain a general excise tax license in order to sell their household goods and also to relieve the Special Event Operator from the reporting requirements for this specific group. In turn, this will relieve the Special Event Operator from being subject to monetary citations for non-compliance, as well.

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

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Special Events Reporting

BILL NUMBER: SB 2928, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

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. 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: January 1, 2017.

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.

Digested 3/12/2016

TO: Members of the Committee on Economic Development & Business

FROM: Cycle On Hawaii

HEARING: 9 a.m. Tuesday, March 15, 2016

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

Aloha Chair and Committee Members,

Thank you for allowing us the opportunity to provide testimony on SB 2928, SD2, 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.

TO: Members of the Committee on Economic Development & Business

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

HEARING: 9 a.m. Tuesday, March 15, 2016

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

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on SB 2928, SD2, 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 to the tax department. This would be akin to asking a CPA to gather information on a client's employees, simply because the CPA is paid to prepare the client's tax returns.

In addition, this bill would drive up costs for nonprofits.

I urge you to vote "no" on this bill.

LATE

March 14, 2016

RE: SB 2928 SD2 and SSCR2592 to be heard on Tuesday, March 15, 2016 at 9 a.m. in Conference Room 312

Aloha Ladies and Gentlemen of the Committee on Economic Development,

I would like to strongly oppose the passage of the measures stated above as they cause a further 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.

Mahalo,

Amy Hammond
President, Special Events Hawaii
and Executive Director for the
First Hawaiian Bank Made in Hawaii Festival
Produced by the Hawaii Food Industry Association



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

LATE

TO:

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Rep. Derek S.K. Kawakami, Chair

Rep. Sam Satoru Kong, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION

Lauren Zirbel, Executive Director

DATE: Tuesday, March 15, 2016

TIME: 9:00 a.m.

PLACE: Conference Room 312

RE: SB 2928 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.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Economic Development & Business
Tuesday, March 15, 2016 at 9:00 A.M.
Conference Room 312, State Capitol**

LATE

**RE: SENATE BILL 2928 SD2 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 SB 2928 SD2, which requires the department of taxation to develop an online form to be filled out by special event operators, regarding sellers engaged in business at all special events for which a person is a special event operator and grants the department of taxation the authority to issue citations for failure to complete an accurate form.

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.

SB 2928 SD2 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.



LATE

**Testimony to the House Economic Development & Business Committee
Representative Derek Kawakami, Chair
Representative Sam Satoru Kong, Vice Chair
Tuesday, March 15, 2016, 9:00 a.m.
Conference Room 312
SB 2928, SD 2 - Relating to General Excise Tax Reporting for Special Events**

Dear Chair Kawakami, Vice Chair Kong, and members of the EDB Committee:

On behalf of the Hawai'i Alliance of Nonprofit Organizations, I would like express opposition to **SB 2928, SD 2**, 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 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