
A BILL FOR AN ACT

RELATING TO ASSISTANCE FOR NEW BUSINESSES.

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

1 SECTION 1. Chapter 201, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§201- New businesses; report; assistance. The
5 department shall:

- 6 (1) Develop and post on its website an annual report
7 detailing whether any laws or rules have been adopted
8 or amended in the year prior to the report that
9 support businesses operating for five years or less;
10 and
11 (2) Serve as the primary point of contact to assist
12 businesses operating for five years or less."

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

16 "§237- Imposition of tax on new businesses. A tax
17 shall be assessed and collected annually against persons who



H.B. NO. 2402

1 have obtained a license pursuant to section 237-9 on or after
2 July 1, 2022, as follows:

3 (1) The first \$ _____ of a person's income in the
4 first tax year the person is engaging in business
5 shall be exempt from the tax imposed under section
6 237-13;

7 (2) The first \$ _____ of a person's income in the
8 second tax year the person is engaging in business
9 shall be exempt from the tax imposed under section
10 237-13;

11 (3) The first \$ _____ of a person's income in the
12 third tax year the person is engaging in business
13 shall be taxed at a rate of _____ per cent, and any
14 remaining income shall be taxed pursuant to section
15 237-13;

16 (4) The first \$ _____ of a person's income in the
17 fourth tax year the person is engaging in business
18 shall be taxed at a rate of _____ per cent, and any
19 remaining income shall be taxed pursuant to section
20 237-13; and



1 (5) Any income of a person engaging in business after the
2 fourth tax year shall be taxed pursuant to section
3 237-13."

4 SECTION 3. Chapter 383, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§383- Self-employment assistance; benefits. (a) An
8 individual shall be eligible to continue to receive benefits as
9 allowed under section 383-22 if the individual:

10 (1) Is eligible to receive benefits under this chapter;

11 (2) Is identified under section 383-92.5 as an individual
12 likely to exhaust regular benefits;

13 (3) Has filed an application to continue to receive
14 regular benefits within sixty days of filing an
15 initial claim for regular benefits and furnished the
16 department with any other information the director may
17 prescribe;

18 (4) Has, at the time the application is filed, a balance
19 of regular benefits equal to at least eighteen times
20 the individual's weekly benefits amount and at least



1 eighteen weeks remaining in the individual's benefit
2 year; and
3 (5) Provides documentation that the individual is working
4 on a full-time basis towards starting a business in
5 the State, including but not limited to participating
6 in training and activities, such as business
7 counseling; provided that for the purposes of this
8 paragraph, "full-time basis" means the amount of time
9 necessary each week, as determined by the department,
10 to establish a business that will serve as the full-
11 time occupation of the individual.
12 An individual who fails meet the requirements of this subsection
13 shall be disqualified for benefits for the week in which the
14 failure occurs.
15 (b) An individual approved by the department to continue
16 to receive regular benefits as provided under subsection (a)
17 shall be exempt from the requirements of sections 383-29(a)(2),
18 383-29(a)(3), and 383-30(2).
19 (c) Except as otherwise provided in subsection (a), if an
20 individual is ineligible for benefits under this chapter at any
21 time while otherwise authorized to receive benefits pursuant to



1 this section, the individual shall be disqualified from
2 receiving benefits.

3 (d) The department shall adopt rules pursuant to chapter
4 91 to administer this section."

5 SECTION 4. Chapter 412, article IX, Hawaii Revised
6 Statutes, is amended by adding a new section to be appropriately
7 designated and to read as follows:

8 **"§412:7- Small business loans; confessions of judgment;**
9 **prohibited.** (a) A savings and loan association shall not
10 require a small business domiciled in the State to sign a
11 confession of judgment as a condition for receiving a loan.

12 (b) For the purposes of this section, "small business"
13 means a corporation, partnership, sole proprietorship, or other
14 legal entity that:

- 15 (1) Is domiciled in this State;
- 16 (2) Is formed to make a profit;
- 17 (3) Is independently owned and operated; and
- 18 (4) Employs fewer than one hundred full-time employees."

19 SECTION 5. Section 39-53, Hawaii Revised Statutes, is
20 amended to read as follows:



1 **"§39-53 Additional powers of departments.** In addition to
2 the powers which departments may otherwise have, any department
3 shall have the power pursuant to this part:

4 (1) To construct, acquire by gift, purchase, or the
5 exercise of the right of eminent domain, reconstruct,
6 improve, better, or extend any undertaking within its
7 jurisdiction, and to acquire by gift, purchase, or the
8 exercise of the right of eminent domain, lands or
9 rights in land or water in connection therewith within
10 its jurisdiction or to undertake the establishment and
11 administration of a loan program as authorized by law
12 within its jurisdiction; provided that a department
13 shall allocate at least _____ per cent of funds awarded
14 under this chapter to a business established within
15 five years of a project to be conducted pursuant to
16 this paragraph;

17 (2) To operate and maintain any undertaking or administer,
18 operate, and maintain a loan program as authorized by
19 law within its jurisdiction and furnish the services,
20 facilities, and commodities thereof for its own use
21 and for the use of public and private consumers;



1 provided that a department shall allocate at least
2 _____ per cent of funds awarded under this chapter to a
3 business established within five years of a project to
4 be conducted pursuant to this paragraph;

5 (3) To issue revenue bonds of the State in the amounts
6 authorized by specific act or acts of the legislature
7 to finance in whole or in part the cost of the
8 acquisition, purchase, construction, reconstruction,
9 improvement, betterment, or extension of any
10 undertaking or the establishment and administration of
11 any loan program as authorized by law;

12 (4) Subject to the provisions of section 39-61, to impose,
13 prescribe, and collect rates, rentals, fees, and
14 charges for the use and services of, and the
15 facilities and commodities furnished by, the
16 undertaking or for the use and services of the loan
17 program as authorized by law; and

18 (5) To pledge to the punctual payment of the revenue bonds
19 and interest thereon, or to covenant to pay into any
20 special funds from which any of the revenue bonds may
21 be payable, all or any portion of the revenue of the



1 undertaking or loan program or of any part thereof, or
2 the user taxes derived therefrom, or any combination
3 of both (including improvements, betterments, or
4 extensions thereto thereafter constructed or acquired)
5 sufficient, among other things, to pay the revenue
6 bonds and interest as they shall become due and to
7 create and maintain reasonable reserves to pay the
8 principal and interest; provided that no user taxes
9 shall be pledged to the payment unless the legislature
10 in the specific act or acts authorizing the issuance
11 of the revenue bonds shall have provided that the
12 revenue bonds may be payable from and secured by user
13 taxes.

14 The department, in determining the cost, may include all
15 costs and estimated costs of the issuance of the revenue bonds,
16 all architectural, engineering, inspection, financial and legal
17 expenses, all costs of establishing or administering a loan
18 program authorized by law, the cost of causing the payment of
19 the principal or interest or both of the revenue bonds to be
20 insured or guaranteed, the initial cost of any support facility
21 obtained as permitted by section 39-59, and interest which it is



1 estimated will accrue during the construction period and for six
2 months thereafter on money borrowed or which it is estimated
3 will be borrowed pursuant to this part."

4 SECTION 6. Section 103D-206, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§103D-206 Additional duties of the administrator of the**
7 **procurement office.** In addition to the duties referred to in
8 section 103D-205, the administrator shall:

9 (1) Perform periodic review of the procurement practices
10 and procedures of all governmental bodies, in
11 collaboration with the state procurement policy board,
12 for compliance with the procurement code;

13 (2) Assist, advise, and guide governmental bodies in
14 matters relating to procurement[+], including advising
15 government bodies to allocate at least per cent
16 of funds for the procurement of goods or services from
17 businesses established within the previous five years
18 and whose principal place of business is in the State;

19 (3) Determine corrective actions; provided that if a
20 procurement officer under the jurisdiction of the
21 administrator of the state procurement office or a



1 chief procurement officer of any of the other state
2 entities under section 103D-203, fails to comply with
3 any determination rendered by the administrator within
4 thirty days from the date of the issuance of the
5 determination, or longer if permitted by the
6 administrator upon request by the procurement officer
7 or a chief procurement officer, the procurement
8 officer or chief procurement officer shall be subject
9 to an administrative fine under section 103D-106, for
10 every day of noncompliance;

11 (4) Develop and administer a statewide procurement
12 orientation and training program;

13 (5) Develop, distribute, and maintain a procurement manual
14 for all state procurement officials; and

15 (6) Develop, distribute, and maintain a procurement guide
16 for vendors wishing to do business with the State and
17 its counties."

18 SECTION 7. Section 237-9, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **§237-9 Licenses; penalty.** (a) Except as provided in this
21 section, any person who has a gross income or gross proceeds of



1 sales or value of products upon which a privilege tax is imposed
2 by this chapter, as a condition precedent to engaging or
3 continuing in such business, shall in writing apply for and
4 obtain from the department of taxation[, ~~upon a one-time payment~~
5 ~~of the sum of \$20,~~] a license to engage in and to conduct such
6 business, upon condition that the person shall pay the taxes
7 accruing to the State under this chapter, and the person shall
8 thereby be duly licensed to engage in and conduct the business.
9 The license shall not be transferable and shall be valid only
10 for the person in whose name it is issued and for the
11 transaction of business at the place designated therein. The
12 license may be inspected and examined, and shall at all times be
13 conspicuously displayed at the place for which it is issued.

14 (b) Licenses and applications therefor shall be in such
15 form as the department shall prescribe, except that where the
16 licensee is engaged in two or more forms of business of
17 different classification, the license shall so state on its
18 face. The license provided for by this section shall be
19 effective until canceled in writing. Any application for the
20 reissuance of a previously canceled license identification
21 number after December 31, 1989, shall be regarded as a new



1 license application [~~and subject to the payment of the one-time~~
2 ~~license fee of \$20~~]. The director may revoke or cancel any
3 license issued under this chapter for cause as provided by rules
4 adopted pursuant to chapter 91.

5 (c) Any person who receives gross income or gross proceeds
6 of sales or value of products from engaging in business in the
7 State and who fails to obtain a license or receives gross income
8 or gross proceeds of sales or value of products from engaging in
9 business in the State without a license required under this
10 section may be fined not more than \$500; provided that a cash-
11 based business may be fined not less than \$500 and not more than
12 \$2,000, as determined by the director or the director's
13 designee. The penalty under this subsection shall be in
14 addition to any other penalty provided under law and may be
15 waived or canceled upon a showing of good cause.

16 (d) [~~If the license fee is paid, the~~] The department shall
17 not refuse to issue a license or revoke or cancel a license for
18 the exercise of a privilege protected by the First Amendment of
19 the Constitution of the United States, or for the carrying on of
20 interstate or foreign commerce, or for any privilege the
21 exercise of which, under the Constitution and laws of the United



1 States, cannot be restrained on account of nonpayment of taxes,
2 nor shall section 237-46 be invoked to restrain the exercise of
3 such a privilege, or the carrying on of such commerce.

4 (e) The director may permit a person engaged in network
5 marketing, multi-level marketing, or other similar business to
6 obtain the license required under this section for purposes of
7 becoming a tax collection agent on behalf of its direct sellers.
8 The tax collection agent shall report, collect, and pay over the
9 taxes due under this chapter and chapter 238 on behalf of its
10 direct sellers who are covered by the tax collection agreement.
11 The tax collection agent's direct sellers shall be deemed to be
12 licensed under this chapter; provided that the licensure shall
13 apply solely to the business activity conducted directly through
14 the marketing arrangement. Under this section, a tax collection
15 agent shall:

16 (1) Notify all of its direct sellers making sales in the
17 State that it has been designated to collect, report,
18 and pay over the tax imposed by this chapter and
19 chapter 238 on their behalf on the business activity
20 conducted through the marketing arrangement;



- 1 (2) If required by the director as a condition of
2 obtaining the license, furnish with the annual return,
3 a list (including identification numbers) of all
4 direct sellers for the taxable year who have been
5 provided (by the tax collection agent) information
6 returns required under section 6041A of the Internal
7 Revenue Code of 1986, as amended, and any other
8 information that is relevant to ensure proper payment
9 of taxes due under this section; and
- 10 (3) Be personally liable for the taxes due and collected
11 under the tax collection agreement if taxes are
12 collected, but not reported or paid, together with
13 penalties and interest as provided by law.
- 14 (f) Notwithstanding any other law to the contrary,
15 beginning July 1, 2022, a person who obtains a license to engage
16 in and conduct business pursuant to this section shall be exempt
17 from paying any other fee relating to a license or registration
18 within the first five years after the person obtains the
19 license.
- 20 [~~(f)~~] (g) For the purposes of this section:



1 "Cash-based business" has the same meaning as in section
2 231-93.

3 "Consumer product" shall include tangible consumer products
4 and intangible consumer services.

5 "Direct seller" means any person who is engaged in the
6 trade or business of selling (or soliciting the sale of)
7 consumer products:

8 (1) To any buyer on a buy-sell basis, a deposit-commission
9 basis, or any similar basis, that the director
10 prescribes by rule adopted pursuant to chapter 91, for
11 resale other than in a permanent retail establishment;

12 (2) Other than in a permanent retail establishment;
13 provided that:

14 (A) Substantially all the remuneration (whether or
15 not paid in cash) for the sale of consumer
16 products is directly related to sales or other
17 output rather than to the number of hours worked;
18 and

19 (B) The sales of consumer products by the person are
20 performed pursuant to a written contract that
21 provides that the person will not be treated as



1 an employee with respect to those sales for
2 federal or state tax purposes.

3 "Direct seller" includes individuals who realize
4 remuneration dependent on the productivity of other individuals
5 in the marketing arrangement.

6 "Network marketing" or "multi-level marketing" means a
7 marketing arrangement in which consumer products are distributed
8 and sold to or through direct sellers."

9 SECTION 8. Section 237-12, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) The tax imposed by this chapter shall be in addition
12 to [~~the license fee imposed under section 237-9 and~~] all other
13 taxes levied by law as a condition precedent to engaging in any
14 business, trade, or calling. A person exercising a privilege
15 taxable under this chapter[~~, subject to the payment of the~~
16 ~~license fee imposed under section 237-9~~], which is a condition
17 precedent to exercising the privilege taxed, may exercise the
18 privilege upon the condition that the person shall pay the tax
19 accruing under this chapter."

20 SECTION 9. Section 237-13, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§237-13 Imposition of tax.** [There] Except as provided
2 under section 237- , there is hereby levied and shall be
3 assessed and collected annually privilege taxes against persons
4 on account of their business and other activities in the State
5 measured by the application of rates against values of products,
6 gross proceeds of sales, or gross income, whichever is
7 specified, as follows:

8 (1) Tax on manufacturers.

9 (A) Upon every person engaging or continuing within
10 the State in the business of manufacturing,
11 including compounding, canning, preserving,
12 packing, printing, publishing, milling,
13 processing, refining, or preparing for sale,
14 profit, or commercial use, either directly or
15 through the activity of others, in whole or in
16 part, any article or articles, substance or
17 substances, commodity or commodities, the amount
18 of the tax to be equal to the value of the
19 articles, substances, or commodities,
20 manufactured, compounded, canned, preserved,
21 packed, printed, milled, processed, refined, or



1 prepared for sale, as shown by the gross proceeds
2 derived from the sale thereof by the manufacturer
3 or person compounding, preparing, or printing
4 them, multiplied by one-half of one per cent.

5 (B) The measure of the tax on manufacturers is the
6 value of the entire product for sale.

7 (2) Tax on business of selling tangible personal property;
8 producing.

9 (A) Upon every person engaging or continuing in the
10 business of selling any tangible personal
11 property whatsoever, there is likewise hereby
12 levied, and shall be assessed and collected, a
13 tax equivalent to four per cent of the gross
14 proceeds of sales of the business; provided that,
15 in the case of a wholesaler, the tax shall be
16 equal to one-half of one per cent of the gross
17 proceeds of sales of the business; and provided
18 further that insofar as the sale of tangible
19 personal property is a wholesale sale under
20 section 237-4(a)(8), the tax shall be one-half of
21 one per cent of the gross proceeds. Upon every



1 person engaging or continuing within this State
2 in the business of a producer, the tax shall be
3 equal to one-half of one per cent of the gross
4 proceeds of sales of the business, or the value
5 of the products, for sale.

6 (B) Gross proceeds of sales of tangible property in
7 interstate and foreign commerce shall constitute
8 a part of the measure of the tax imposed on
9 persons in the business of selling tangible
10 personal property, to the extent, under the
11 conditions, and in accordance with the provisions
12 of the Constitution of the United States and the
13 Acts of the Congress of the United States which
14 may be now in force or may be hereafter adopted,
15 and whenever there occurs in the State an
16 activity to which, under the Constitution and
17 Acts of Congress, there may be attributed gross
18 proceeds of sales, the gross proceeds shall be so
19 attributed.

20 (C) No manufacturer or producer, engaged in such
21 business in the State and selling the



1 manufacturer's or producer's products for
2 delivery outside of the State (for example,
3 consigned to a mainland purchaser via common
4 carrier f.o.b. Honolulu), shall be required to
5 pay the tax imposed in this chapter for the
6 privilege of so selling the products, and the
7 value or gross proceeds of sales of the products
8 shall be included only in determining the measure
9 of the tax imposed upon the manufacturer or
10 producer.

11 (D) A manufacturer or producer, engaged in such
12 business in the State, shall pay the tax imposed
13 in this chapter for the privilege of selling its
14 products in the State, and the value or gross
15 proceeds of sales of the products, thus subjected
16 to tax, may be deducted insofar as duplicated as
17 to the same products by the measure of the tax
18 upon the manufacturer or producer for the
19 privilege of manufacturing or producing in the
20 State; provided that no producer of agricultural
21 products who sells the products to a purchaser



1 who will process the products outside the State
2 shall be required to pay the tax imposed in this
3 chapter for the privilege of producing or selling
4 those products.

5 (E) A taxpayer selling to a federal cost-plus
6 contractor may make the election provided for by
7 paragraph (3) (C), and in that case the tax shall
8 be computed pursuant to the election,
9 notwithstanding this paragraph or paragraph (1)
10 to the contrary.

11 (F) The department, by rule, may require that a
12 seller take from the purchaser of tangible
13 personal property a certificate, in a form
14 prescribed by the department, certifying that the
15 sale is a sale at wholesale; provided that:

16 (i) Any purchaser who furnishes a certificate
17 shall be obligated to pay to the seller,
18 upon demand, the amount of the additional
19 tax that is imposed upon the seller whenever
20 the sale in fact is not at wholesale; and

1 (ii) The absence of a certificate in itself shall
2 give rise to the presumption that the sale
3 is not at wholesale unless the sales of the
4 business are exclusively at wholesale.

5 (3) Tax upon contractors.

6 (A) Upon every person engaging or continuing within
7 the State in the business of contracting, the tax
8 shall be equal to four per cent of the gross
9 income of the business.

10 (B) In computing the tax levied under this paragraph,
11 there shall be deducted from the gross income of
12 the taxpayer so much thereof as has been included
13 in the measure of the tax levied under
14 subparagraph (A), on another taxpayer who is a
15 contractor, as defined in section 237-6; provided
16 that any person claiming a deduction under this
17 paragraph shall be required to show in the
18 person's return the name and general excise
19 number of the person paying the tax on the amount
20 deducted by the person.



1 (C) In computing the tax levied under this paragraph
2 against any federal cost-plus contractor, there
3 shall be excluded from the gross income of the
4 contractor so much thereof as fulfills the
5 following requirements:
6 (i) The gross income exempted shall constitute
7 reimbursement of costs incurred for
8 materials, plant, or equipment purchased
9 from a taxpayer licensed under this chapter,
10 not exceeding the gross proceeds of sale of
11 the taxpayer on account of the transaction;
12 and
13 (ii) The taxpayer making the sale shall have
14 certified to the department that the
15 taxpayer is taxable with respect to the
16 gross proceeds of the sale, and that the
17 taxpayer elects to have the tax on gross
18 income computed the same as upon a sale to
19 the state government.
20 (D) A person who, as a business or as a part of a
21 business in which the person is engaged, erects,

1 constructs, or improves any building or
2 structure, of any kind or description, or makes,
3 constructs, or improves any road, street,
4 sidewalk, sewer, or water system, or other
5 improvements on land held by the person (whether
6 held as a leasehold, fee simple, or otherwise),
7 upon the sale or other disposition of the land or
8 improvements, even if the work was not done
9 pursuant to a contract, shall be liable to the
10 same tax as if engaged in the business of
11 contracting, unless the person shows that at the
12 time the person was engaged in making the
13 improvements the person intended, and for the
14 period of at least one year after completion of
15 the building, structure, or other improvements
16 the person continued to intend to hold and not
17 sell or otherwise dispose of the land or
18 improvements. The tax in respect of the
19 improvements shall be measured by the amount of
20 the proceeds of the sale or other disposition
21 that is attributable to the erection,



1 construction, or improvement of such building or
2 structure, or the making, constructing, or
3 improving of the road, street, sidewalk, sewer,
4 or water system, or other improvements. The
5 measure of tax in respect of the improvements
6 shall not exceed the amount which would have been
7 taxable had the work been performed by another,
8 subject as in other cases to the deductions
9 allowed by subparagraph (B). Upon the election
10 of the taxpayer, this paragraph may be applied
11 notwithstanding that the improvements were not
12 made by the taxpayer, or were not made as a
13 business or as a part of a business, or were made
14 with the intention of holding the same. However,
15 this paragraph shall not apply in respect of any
16 proceeds that constitute or are in the nature of
17 rent, which shall be taxable under paragraph (9);
18 provided that insofar as the business of renting
19 or leasing real property under a lease is taxed
20 under section 237-16.5, the tax shall be levied
21 by section 237-16.5.



- 1 (4) Tax upon theaters, amusements, radio broadcasting
- 2 stations, etc.
- 3 (A) Upon every person engaging or continuing within
- 4 the State in the business of operating a theater,
- 5 opera house, moving picture show, vaudeville,
- 6 amusement park, dance hall, skating rink, radio
- 7 broadcasting station, or any other place at which
- 8 amusements are offered to the public, the tax
- 9 shall be equal to four per cent of the gross
- 10 income of the business, and in the case of a sale
- 11 of an amusement at wholesale under section 237-
- 12 4(a)(13), the tax shall be one-half of one per
- 13 cent of the gross income.
- 14 (B) The department may require that the person
- 15 rendering an amusement at wholesale take from the
- 16 licensed seller a certificate, in a form
- 17 prescribed by the department, certifying that the
- 18 sale is a sale at wholesale; provided that:
- 19 (i) Any licensed seller who furnishes a
- 20 certificate shall be obligated to pay to the
- 21 person rendering the amusement, upon demand,



1 the amount of additional tax that is imposed
2 upon the seller whenever the sale is not at
3 wholesale; and

4 (ii) The absence of a certificate in itself shall
5 give rise to the presumption that the sale
6 is not at wholesale unless the person
7 rendering the sale is exclusively rendering
8 the amusement at wholesale.

9 (5) Tax upon sales representatives, etc. Upon every
10 person classified as a representative or purchasing
11 agent under section 237-1, engaging or continuing
12 within the State in the business of performing
13 services for another, other than as an employee, there
14 is likewise hereby levied and shall be assessed and
15 collected a tax equal to four per cent of the
16 commissions and other compensation attributable to the
17 services so rendered by the person.

18 (6) Tax on service business.

19 (A) Upon every person engaging or continuing within
20 the State in any service business or calling
21 including professional services not otherwise



1 specifically taxed under this chapter, there is
2 likewise hereby levied and shall be assessed and
3 collected a tax equal to four per cent of the
4 gross income of the business, and in the case of
5 a wholesaler under section 237-4(a)(10), the tax
6 shall be equal to one-half of one per cent of the
7 gross income of the business.

8 (B) The department may require that the person
9 rendering a service at wholesale take from the
10 licensed seller a certificate, in a form
11 prescribed by the department, certifying that the
12 sale is a sale at wholesale; provided that:

13 (i) Any licensed seller who furnishes a
14 certificate shall be obligated to pay to the
15 person rendering the service, upon demand,
16 the amount of additional tax that is imposed
17 upon the seller whenever the sale is not at
18 wholesale; and

19 (ii) The absence of a certificate in itself shall
20 give rise to the presumption that the sale
21 is not at wholesale unless the person



1 rendering the sale is exclusively rendering
2 services at wholesale.

3 (C) Where any person is engaged in the business of
4 selling interstate or foreign common carrier
5 telecommunication services within and without the
6 State, other than as a home service provider, the
7 tax shall be imposed on that portion of gross
8 income received by a person from service which is
9 originated or terminated in this State and is
10 charged to a telephone number, customer, or
11 account in this State notwithstanding any other
12 state law (except for the exemption under section
13 237-23(a)(1)) to the contrary. If, under the
14 Constitution and laws of the United States, the
15 entire gross income as determined under this
16 paragraph of a business selling interstate or
17 foreign common carrier telecommunication services
18 cannot be included in the measure of the tax, the
19 gross income shall be apportioned as provided in
20 section 237-21; provided that the apportionment



1 factor and formula shall be the same for all
2 persons providing those services in the State.
3 (D) Where any person is engaged in the business of a
4 home service provider, the tax shall be imposed
5 on the gross income received or derived from
6 providing interstate or foreign mobile
7 telecommunications services to a customer with a
8 place of primary use in this State when the
9 services originate in one state and terminate in
10 another state, territory, or foreign country;
11 provided that all charges for mobile
12 telecommunications services which are billed by
13 or for the home service provider are deemed to be
14 provided by the home service provider at the
15 customer's place of primary use, regardless of
16 where the mobile telecommunications originate,
17 terminate, or pass through; provided further that
18 the income from charges specifically derived from
19 interstate or foreign mobile telecommunications
20 services, as determined by books and records that
21 are kept in the regular course of business by the



1 home service provider in accordance with section
2 239-24, shall be apportioned under any
3 apportionment factor or formula adopted under
4 subparagraph (C). Gross income shall not
5 include:

6 (i) Gross receipts from mobile
7 telecommunications services provided to a
8 customer with a place of primary use outside
9 this State;

10 (ii) Gross receipts from mobile
11 telecommunications services that are subject
12 to the tax imposed by chapter 239;

13 (iii) Gross receipts from mobile
14 telecommunications services taxed under
15 section 237-13.8; and

16 (iv) Gross receipts of a home service provider
17 acting as a serving carrier providing mobile
18 telecommunications services to another home
19 service provider's customer.

20 For the purposes of this paragraph, "charges for
21 mobile telecommunications services", "customer",



1 "home service provider", "mobile
2 telecommunications services", "place of primary
3 use", and "serving carrier" have the same meaning
4 as in section 239-22.

5 (7) Tax on insurance producers. Upon every person engaged
6 as a licensed producer pursuant to chapter 431, there
7 is hereby levied and shall be assessed and collected a
8 tax equal to 0.15 per cent of the commissions due to
9 that activity.

10 (8) Tax on receipts of sugar benefit payments. Upon the
11 amounts received from the United States government by
12 any producer of sugar (or the producer's legal
13 representative or heirs), as defined under and by
14 virtue of the Sugar Act of 1948, as amended, or other
15 Acts of the Congress of the United States relating
16 thereto, there is hereby levied a tax of one-half of
17 one per cent of the gross amount received; provided
18 that the tax levied hereunder on any amount so
19 received and actually disbursed to another by a
20 producer in the form of a benefit payment shall be
21 paid by the person or persons to whom the amount is



1 actually disbursed, and the producer actually making a
2 benefit payment to another shall be entitled to claim
3 on the producer's return a deduction from the gross
4 amount taxable hereunder in the sum of the amount so
5 disbursed. The amounts taxed under this paragraph
6 shall not be taxable under any other paragraph,
7 subsection, or section of this chapter.

8 (9) Tax on other business. Upon every person engaging or
9 continuing within the State in any business, trade,
10 activity, occupation, or calling not included in the
11 preceding paragraphs or any other provisions of this
12 chapter, there is likewise hereby levied and shall be
13 assessed and collected, a tax equal to four per cent
14 of the gross income thereof. In addition, the rate
15 prescribed by this paragraph shall apply to a business
16 taxable under one or more of the preceding paragraphs
17 or other provisions of this chapter, as to any gross
18 income thereof not taxed thereunder as gross income or
19 gross proceeds of sales or by taxing an equivalent
20 value of products, unless specifically exempted."



1 SECTION 10. Section 237-23, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) For all persons, the statement registering the person
4 with the department or application for exemption shall be filed
5 on or before March 31 of the first year of registration or
6 within three months after the commencement of business. In the
7 event of allowance of the exemption, no further statement or
8 application therefor need be filed unless there is a material
9 change in the facts. In the event of disallowance of the
10 exemption, a license may be obtained [~~upon payment of the~~
11 ~~required fee~~] as provided by section 237-9[, ~~less the \$20~~
12 ~~already paid under this section, which shall be credited~~
13 ~~thereon~~]. In the event the registrant has a license under this
14 chapter, no further fee shall be required for registration under
15 this section."

16 SECTION 11. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18



H.B. NO. 2402

1 SECTION 12. This Act shall take effect on July 1, 2022.

2

INTRODUCED BY:



JAN 26 2022



H.B. NO. 2402

Report Title:

New Businesses; DBEDT; Assistance; Loans; Fees; Unemployment Insurance Benefits

Description:

Requires DBEDT to provide support services to new businesses. Establishes a separate general excise tax rate for a business's first five years of operation. Exempts a business from paying any fees related to licensing and registration within its first five years of operation. Allows individuals to continue to receive unemployment benefits while in the process of starting a business. Requires the state procurement office to advise government bodies to allocate at least five percent of funding to procure goods and services from new businesses in the State. Prohibits savings and loan associations from requiring a signed confession of judgment from a small business as a condition of receiving a loan.

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

