

ACT 134

H.B. NO. 3155

A Bill for an Act Relating to the Income Taxation of Foreign Manufacturers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For the purposes of [section 235-5(d),] sections 235-21 to 235-39, a foreign corporation engaged in the business of manufacturing without the State, having its manufactured products warehoused in this State by another person who is engaged in the business of warehousing in this State and whose compensation for providing the warehousing is included in the measure of the tax imposed by chapter 237 or 239, shall not be deemed to be carrying on a trade or business in this State if all of the following requirements are met:

- (1) Every delivery of sale of such products so warehoused is made at the warehouse to fill an order for such property procured by a representative (as defined in subsection (b)) from a seller licensed under chapter 237 and purchasing such property for purposes of resale;
- (2) Every order so procured was made subject to acceptance and was accepted by the corporation at an office located out of this State;
- (3) No collection for the payment of the products delivered as described in paragraph (1) [of this subsection] is made in this State by any of its employees or agents or by any representative; and
- (4) Except as provided in this section, it is not carrying on a trade or business in this State within the meaning of [section 235-5(d).] sections 235-21 to 235-39.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 3, 1992.)