

A Bill for an Act Relating to Tobacco.

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

SECTION 1. Section 245-9, Hawaii Revised Statutes, is amended to read as follows:

“§245-9 Inspection. (a) The department and the attorney general may examine all records, including tax returns and reports under section 245-31, required to be kept or filed under this chapter, and books, papers, and records of any person engaged in the business of wholesaling or dealing cigarettes and tobacco products, to verify the accuracy of the payment of the taxes imposed by this chapter. Every person in possession of any books, papers, and records, and the person’s agents and employees, are directed and required to give the department and the attorney general the means, facilities, and opportunities for the examinations.

(b) The department and the attorney general may inspect the operations, premises, and storage areas of any entity engaged in the sale of cigarettes, or the contents of a specific vending machine, during regular business hours. This inspection shall include inspection of all statements, books, papers, and records in whatever format, including electronic format, pertaining to the acquisition, possession, transportation, sale, or use of packages of cigarettes and tobacco products other than cigarettes, to verify the accuracy of the payment of taxes imposed by this chapter, and of the contents of cartons and shipping or storage containers to ascertain that all individual packages of cigarettes have an affixed stamp of proper denomination as required by this chapter. This inspection may also verify that all stamps were produced under the authority of the department. Every entity in possession of any books, papers, and records, and the entity’s agents and employees, are directed and required to give the department and the attorney general the means, facilities, and opportunities for the examinations. For purposes of this chapter “entity” means one or more individuals, a company, corporation, a partnership, an association, or any other type of legal entity.

(c) If the department or the attorney general has reasonable cause to believe and does believe that cigarettes, stamps, or counterfeit stamps are being acquired, possessed, transported, kept, sold, or offered for sale in violation of this chapter, the department or the attorney general may investigate or search the vehicle or premises in which the cigarettes, stamps, or counterfeit stamps are believed to be located. If cigarettes, stamps, or counterfeit stamps are found in a vehicle, premises, or vending machine in violation of this chapter the cigarettes, vending machine, vehicle, stamps, counterfeit stamps, or other tangible personal property containing those cigarettes, stamps, or counterfeit stamps and any books and records in possession of the entity in control or possession of the cigarettes, stamps, or counterfeit stamps may be seized by the department or the attorney general and are subject to forfeiture as provided in this chapter and chapter 712A.

(d) For purposes of this chapter:

“Counterfeit stamp” means any stamp that is not printed, manufactured, distributed, or made by authority of the department.

“Vehicle” means an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle.”

SECTION 2. Section 245-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Enforcement of this part shall be under the jurisdiction of the attorney general. The attorney general may seek assistance in the enforcement of this part from other law enforcement agencies.”

SECTION 3. Act 249, Session Laws of Hawaii 2000, is amended by amending section 20 to read as follows:

“SECTION 20. This Act shall take effect upon its approval; provided that[
 (1) ~~Sections~~] sections 15 and 16 shall take effect on July 1, 2000[;and
 (2) ~~On June 30, 2006, this Act shall be repealed and sections 245-1, 245-3, 245-5, 245-6, 245-7(b) and (c), 245-8(a), 245-9, 245-15, 712A-5(1), and 712A-16(1), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the approval of this Act].”~~

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved May 31, 2002.)