

JAN 25 2006

S.B. NO. 3063

---

---

# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Section 237-24, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§237-24 Amounts not taxable.** This chapter shall not  
4 apply to the following amounts:

5           (1) Amounts received under life insurance policies and  
6 contracts paid by reason of the death of the insured;

7           (2) Amounts received (other than amounts paid by reason of  
8 death of the insured) under life insurance, endowment,  
9 or annuity contracts, either during the term or at  
10 maturity or upon surrender of the contract;

11           (3) Amounts received under any accident insurance or  
12 health insurance policy or contract or under workers'  
13 compensation acts or employers' liability acts, as  
14 compensation for personal injuries, death, or  
15 sickness, including also the amount of any damages or  
16 other compensation received, whether as a result of  
17 action or by private agreement between the parties on  
18 account of the personal injuries, death, or sickness;



- 1           (4) The value of all property of every kind and sort  
2           acquired by gift, bequest, or devise, and the value of  
3           all property acquired by descent or inheritance;
- 4           (5) Amounts received by any person as compensatory damages  
5           for any tort injury to the person, or to the person's  
6           character reputation, or received as compensatory  
7           damages for any tort injury to or destruction of  
8           property, whether as the result of action or by  
9           private agreement between the parties (provided that  
10          amounts received as punitive damages for tort injury  
11          or breach of contract injury shall be included in  
12          gross income);
- 13          (6) Amounts received as salaries or wages for services  
14          rendered by an employee to an employer;
- 15          (7) Amounts received as alimony and other similar payments  
16          and settlements;
- 17          (8) Amounts collected by distributors as fuel taxes on  
18          "liquid fuel" imposed by chapter 243, and the amounts  
19          collected by such distributors as a fuel tax imposed  
20          by any Act of the Congress of the United States;
- 21          (9) Taxes on liquor imposed by chapter 244D on dealers  
22          holding permits under that chapter;



- 1       (10) The amounts of taxes on cigarettes and tobacco  
2           products imposed by chapter 245 on wholesalers or  
3           dealers holding licenses under that chapter and  
4           selling the products at wholesale;
- 5       (11) Federal excise taxes imposed on articles sold at  
6           retail and collected from the purchasers thereof and  
7           paid to the federal government by the retailer;
- 8       (12) The amounts of federal taxes under chapter 37 of the  
9           Internal Revenue Code, or similar federal taxes,  
10          imposed on sugar manufactured in the State, paid by  
11          the manufacturer to the federal government;
- 12      (13) An amount up to, but not in excess of, \$2,000 a year  
13          of gross income received by any blind, deaf, or  
14          totally disabled person engaging, or continuing, in  
15          any business, trade, activity, occupation, or calling  
16          within the State; a corporation all of whose  
17          outstanding shares are owned by an individual or  
18          individuals who are blind, deaf, or totally disabled;  
19          a general, limited, or limited liability partnership,  
20          all of whose partners are blind, deaf, or totally  
21          disabled; or a limited liability company, all of whose  
22          members are blind, deaf, or totally disabled;

1           (14) Amounts received by a producer of sugarcane from the  
2           manufacturer to whom the producer sells the sugarcane,  
3           where:

4           (A) The producer is an independent cane farmer, so  
5           classed by the Secretary of Agriculture under the  
6           Sugar Act of 1948 (61 Stat. 922, Chapter 519) as  
7           the Act may be amended or supplemented;

8           (B) The value or gross proceeds of sale of the sugar,  
9           and other products manufactured from the  
10          sugarcane, is included in the measure of the tax  
11          levied on the manufacturer under section 237-  
12          13(1) or (2);

13          (C) The producer's gross proceeds of sales are  
14          dependent upon the actual value of the products  
15          manufactured therefrom or the average value of  
16          all similar products manufactured by the  
17          manufacturer; and

18          (D) The producer's gross proceeds of sales are  
19          reduced by reason of the tax on the value or sale  
20          of the manufactured products;



- 1           (15) Money paid by the State or eleemosynary child-placing  
2           organizations to foster parents for their care of  
3           children in foster homes; [~~and~~]
- 4           (16) Amounts received by a cooperative housing corporation  
5           from its shareholders in reimbursement of funds paid  
6           by such corporation for lease rental, real property  
7           taxes, and other expenses of operating and maintaining  
8           the cooperative land and improvements; provided that  
9           such a cooperative corporation is a corporation:
- 10           (A) Having one and only one class of stock  
11           outstanding;
- 12           (B) Each of the stockholders of which is entitled  
13           solely by reason of the stockholder's ownership  
14           of stock in the corporation, to occupy for  
15           dwelling purposes a house, or an apartment in a  
16           building owned or leased by the corporation; and
- 17           (C) No stockholder of which is entitled (either  
18           conditionally or unconditionally) to receive any  
19           distribution not out of earnings and profits of  
20           the corporation except in a complete or partial  
21           liquidation of the corporation[~~-~~]; and



1        (17) Amounts received by retailers of gasoline or diesel  
 2                fuel for motor vehicles taxed by the State under  
 3                chapter 243."

4            SECTION 2. Section 243-4, Hawaii Revised Statutes, is  
 5 amended by amending subsections (a) and (b) to read as follows:

6            "(a) Every distributor shall, in addition to any other  
 7 taxes provided by law, pay a license tax to the department of  
 8 taxation for each gallon of liquid fuel refined, manufactured,  
 9 produced, or compounded by the distributor and sold or used by  
 10 the distributor in the State or imported by the distributor, or  
 11 acquired by the distributor from persons who are not licensed  
 12 distributors, and sold or used by the distributor in the State.  
 13 Any person who sells or uses any liquid fuel knowing that the  
 14 distributor from whom it was originally purchased has not paid  
 15 and is not paying the tax thereon shall pay such tax as would  
 16 have applied to such sale or use by the distributor. The rates  
 17 of tax hereby imposed are as follows:

- 18            (1) For each gallon of diesel oil, 1 cent;
- 19            (2) For each gallon of gasoline or other aviation fuel  
 20                sold for use in or used for airplanes, 1 cent;
- 21            (3) For each gallon of liquid fuel other than fuel  
 22                mentioned in paragraphs (1) and (2), and other than an



1 alternative fuel, sold or used in the city and county  
2 of Honolulu, or sold in any county for ultimate use in  
3 the city and county of Honolulu, [~~16~~] 24 cents state  
4 tax, and in addition thereto such amount, to be known  
5 as the "city and county of Honolulu fuel tax", as  
6 shall be levied pursuant to section 243-5;

7 (4) For each gallon of liquid fuel other than fuel  
8 mentioned in paragraphs (1) and (2), and other than an  
9 alternative fuel, sold or used in the county of  
10 Hawaii, or sold in any county for ultimate use in the  
11 county of Hawaii, [~~16~~] 24 cents state tax, and in  
12 addition thereto such amount, to be known as the  
13 "county of Hawaii fuel tax", as shall be levied  
14 pursuant to section 243-5;

15 (5) For each gallon of liquid fuel other than fuel  
16 mentioned in paragraphs (1) and (2), and other than an  
17 alternative fuel, sold or used in the county of Maui,  
18 or sold in any county for ultimate use in the county  
19 of Maui, [~~16~~] 24 cents state tax, and in addition  
20 thereto such amount, to be known as the "county of  
21 Maui fuel tax", as shall be levied pursuant to section  
22 243-5; and



1           (6) For each gallon of liquid fuel other than fuel  
2           mentioned in paragraphs (1) and (2), and other than an  
3           alternative fuel, sold or used in the county of Kauai,  
4           or sold in any county for ultimate use in the county  
5           of Kauai, [~~16~~] 24 cents state tax, and in addition  
6           thereto such amount, to be known as the "county of  
7           Kauai fuel tax", as shall be levied pursuant to  
8           section 243-5.

9           If it is shown to the satisfaction of the department, based  
10          upon proper records and from such other evidence as the  
11          department may require, that liquid fuel other than fuel  
12          mentioned in paragraphs (1) and (2) is used for agricultural  
13          equipment that does not operate upon the public highways of the  
14          State, the user thereof may obtain a refund of all taxes thereon  
15          imposed by this section in excess of 1 cent per gallon. The  
16          department shall adopt rules to administer such refunds.

17          (b) Every distributor of diesel oil, in addition to the  
18          tax required by subsection (a), shall pay a license tax to the  
19          department for each gallon of such diesel oil sold or used by  
20          the distributor for operating a motor vehicle or motor vehicles  
21          upon public highways of the State. The rates of the additional  
22          tax hereby imposed are as follows:





- 1 (1) For each gallon of diesel oil sold or used in the city  
2 and county of Honolulu, or sold in any other county  
3 for ultimate use in the city and county of Honolulu,  
4 [~~15~~] 23 cents state tax, and in addition thereto such  
5 amount, to be known as the "city and county of  
6 Honolulu fuel tax", as shall be levied pursuant to  
7 section 243-5;
- 8 (2) For each gallon of diesel oil sold or used in the  
9 county of Hawaii, or sold in any other county for  
10 ultimate use in the county of Hawaii, [~~15~~] 23 cents  
11 state tax, and in addition thereto such amount, to be  
12 known as the "county of Hawaii fuel tax", as shall be  
13 levied pursuant to section 243-5;
- 14 (3) For each gallon of diesel oil sold or used in the  
15 county of Maui, or sold in any other county for  
16 ultimate use in the county of Maui, [~~15~~] 23 cents  
17 state tax, and in addition thereto such amount, to be  
18 known as the "county of Maui fuel tax", as shall be  
19 levied pursuant to section 243-5; and
- 20 (4) For each gallon of diesel oil sold or used in the  
21 county of Kauai, or sold in any other county for  
22 ultimate use in the county of Kauai, [~~15~~] 23 cents



1 state tax, and in addition thereto such amount, to be  
 2 known as the "county of Kauai fuel tax", as shall be  
 3 levied pursuant to section 243-5.

4 If any user of diesel oil furnishes a certificate, in such  
 5 form as the department shall prescribe, to the distributor, or  
 6 the distributor who uses diesel oil signs such certificate,  
 7 certifying that the diesel oil is for use in operating a motor  
 8 vehicle or motor vehicles in areas other than upon the public  
 9 highways of the State, the tax as provided in paragraphs (1) to  
 10 (4) shall not be applicable. In the event a certificate is not  
 11 or cannot be furnished and the diesel oil is in fact for use for  
 12 operating a motor vehicle or motor vehicles in areas other than  
 13 upon public highways of the State, the user thereof may obtain a  
 14 refund of all taxes thereon imposed by the foregoing paragraphs.  
 15 The department shall adopt rules to administer the refunding of  
 16 such taxes."

17 SECTION 3. Section 243-6, Hawaii Revised Statutes, is  
 18 amended to read as follows:

19 **"§243-6 Fuel taxes, dispositions.** [~~The~~] (a) Except as  
 20 provided in subsection (b), the "city and county of Honolulu  
 21 fuel tax" shall be paid by the department of taxation into the  
 22 state treasury, and shall, by the state director of finance, be



1 paid over to the director of finance of the city and county of  
2 Honolulu for deposit into the fund known as the "highway fund"  
3 created by section 249-18.

4 The "county of Kauai fuel tax" shall be paid by the  
5 department into the state treasury, and shall, by the state  
6 director of finance, be paid over to the director of finance of  
7 the county of Kauai for deposit into the fund known as the  
8 "highway fund" created by section 249-18.

9 The "county of Hawaii fuel tax" shall be paid by the  
10 department into the state treasury, and shall, by the state  
11 director of finance, be paid over to the director of finance of  
12 the county of Hawaii for deposit into the fund known as the  
13 "highway fund" created by section 249-18.

14 The "county of Maui fuel tax" collected on account of  
15 liquid fuel sold or used on the island of Lanai or sold  
16 elsewhere for ultimate use on the island of Lanai, shall be paid  
17 by the department into the state treasury, and shall, by the  
18 state director of finance, be paid over to the director of  
19 finance of the county of Maui for deposit into the fund known as  
20 the "highway fund" created by section 249-18, for expenditure on  
21 the island of Lanai. The "county of Maui fuel tax" collected on  
22 account of liquid fuel sold or used on the island of Molokai or



1 sold elsewhere for ultimate use on the island of Molokai, shall  
2 be paid by the department into the state treasury, and shall, by  
3 the state director of finance, be paid over to the director of  
4 finance of the county of Maui for deposit into the fund known as  
5 the "highway fund" created by section 249-18, for expenditure on  
6 the island of Molokai. The remainder of the "county of Maui  
7 fuel tax" shall be paid by the department into the state  
8 treasury, and shall, by the state director of finance, be paid  
9 over to the director of finance of the county of Maui for  
10 deposit into the fund known as the "highway fund" created by  
11 section 249-18.

12 (b) Eight cents of every gallon of gasoline assessed and  
13 collected pursuant to section 243-4(b)(3), (4), (5), and (6) and  
14 (c) and disposed of pursuant to subsection (a) shall be  
15 deposited to the credit of the general fund.

16 (c) Each of the [~~foregoing~~] taxes under subsection (a)  
17 shall be expended for the following purposes, for the island for  
18 which the tax revenue is specially indicated, or, if none, for  
19 the county for which the tax revenue is indicated:

20 (1) For payment of interest on and redemption of any bonds  
21 duly issued or sold on or after July 1, 1951, under  
22 chapter 47 for the financing or aiding in financing



1 the construction of county highway tunnels, approach  
2 roads thereto, and highways. Such payments of  
3 interest and principal on the bonds when due, shall be  
4 first charges on such moneys so deposited in the fund.

5 (2) For acquisition, designing, construction,  
6 reconstruction, improvement, repair, and maintenance  
7 of county main and general thoroughfares, highways,  
8 and other streets, street lights, storm drains, and  
9 bridges, including costs of new land therefor, when  
10 expenditures for the foregoing purposes cannot be  
11 financed under state-federal aid projects.

12 (3) In the case of the city and county of Honolulu, for  
13 payment of the city and county's share in an  
14 improvement district initiated by the city and county  
15 for an improvement listed in (2) above which is  
16 permitted to be constructed in the city and county.

17 (4) For the construction of county highway tunnels,  
18 overpasses, underpasses, and bridges, where such  
19 improvement cannot be made under state-federal aid  
20 projects.





- 1 (5) For purposes and functions connected with county  
2 traffic control and preservation of safety upon the  
3 public highways and streets.
- 4 (6) For purposes and functions in connection with mass  
5 transit.
- 6 (7) For acquisition, design, construction, improvement,  
7 repair, and maintenance of bikeways.
- 8 (8) No expenditure shall be made, out of the revenues paid  
9 into any such fund, which will jeopardize federal aid  
10 for highway construction."

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

13 SECTION 5. This Act shall take effect on July 1, 2006.

14

INTRODUCED BY:   




# SB. NO. 3063

**Report Title:**

General Excise Tax; Fuel Tax; Gasoline; Motor Vehicles

**Description:**

Exempts the sale of gasoline from the state general excise tax and raises the state fuel tax on gasoline with the increase paid to the general fund.

