

## SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. \_\_\_\_\_

17

Date APR 10 2007

TO: H.B. 1757, H.D. 1, S.D. 2

SECTION 1. House Bill No. 1757, H.D. 1, S.D. 2, is amended as follows:

1. By designating section 1 as part I.
2. By adding a new part II to read as follows:

### "PART II

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

"§237- Exemption of sale of liquid fuels and alcohol fuels. (a) There shall be exempted from and excluded from the measure of the taxes imposed by this chapter all of the gross income or proceeds arising from the sale of liquid fuels, as defined in section 243-1, and alcohol fuels, as defined in subsection (b), for consumption or use by the purchaser and not for resale.

(b) For the purposes of this section, "alcohol fuels" means neat biomass-derived alcohol liquid fuel or a petroleum-derived fuel and alcohol liquid fuel mixture consisting of at least ten volume per cent denatured biomass-derived alcohol commercially usable as a fuel to power aircraft, seacraft, spacecraft, motor vehicles, or other motorized vehicles.

(c) The director of taxation shall adopt rules pursuant to chapter 91 necessary to administer this section."

SECTION 3. Section 243-4, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

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



- (1) For each gallon of diesel oil, [~~1-cent,~~] 2 cents;
- (2) For each gallon of gasoline or other aviation fuel sold for use in or used for airplanes, [~~1-cent,~~] 2 cents;
- (3) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the city and county of Honolulu, or sold in any county for ultimate use in the city and county of Honolulu, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "city and county of Honolulu fuel tax", as shall be levied pursuant to section 243-5;
- (4) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Hawaii, or sold in any county for ultimate use in the county of Hawaii, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "county of Hawaii fuel tax", as shall be levied pursuant to section 243-5;
- (5) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Maui, or sold in any county for ultimate use in the county of Maui, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "county of Maui fuel tax", as shall be levied pursuant to section 243-5; and
- (6) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Kauai, or sold in any county for ultimate use in the county of Kauai, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "county of Kauai fuel tax", as shall be levied pursuant to section 243-5.

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

(b) Every distributor of diesel oil, in addition to the tax required by subsection (a), shall pay a license tax to the department for each gallon of such diesel oil sold or used by the distributor for operating a motor vehicle or motor vehicles



upon public highways of the State. The rates of the additional tax hereby imposed are as follows:

- (1) For each gallon of diesel oil sold or used in the city and county of Honolulu, or sold in any other county for ultimate use in the city and county of Honolulu, [~~15~~] 16 cents state tax, and in addition thereto such amount, to be known as the "city and county of Honolulu fuel tax", as shall be levied pursuant to section 243-5;
- (2) For each gallon of diesel oil sold or used in the county of Hawaii, or sold in any other county for ultimate use in the county of Hawaii, [~~15~~] 16 cents state tax, and in addition thereto such amount, to be known as the "county of Hawaii fuel tax", as shall be levied pursuant to section 243-5;
- (3) For each gallon of diesel oil sold or used in the county of Maui, or sold in any other county for ultimate use in the county of Maui, [~~15~~] 16 cents state tax, and in addition thereto such amount, to be known as the "county of Maui fuel tax", as shall be levied pursuant to section 243-5; and
- (4) For each gallon of diesel oil sold or used in the county of Kauai, or sold in any other county for ultimate use in the county of Kauai, [~~15~~] 16 cents state tax, and in addition thereto such amount, to be known as the "county of Kauai fuel tax", as shall be levied pursuant to section 243-5.

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



3. By renumbering section 2 as section 4, section 3 as section 5; and section 4 as section 6, and designating those sections as part III.

Offered by: J. Kalani Egbe (✓) Carried  
( ) Failed to Carry  
( ) Withdrawn



# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

## PART I

SECTION 1. Section 291-37, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person ~~[guilty of emitting]~~ who omits to perform any of the ~~[required]~~ acts~~[7]~~ required by, or ~~[committing]~~ who commits any of the ~~[prohibited]~~ acts ~~[of]~~ prohibited by, sections 291-2 to 291-33, or ~~[the]~~ any rules adopted to enforce those sections, shall be guilty of a violation ~~[of this chapter]~~ and shall be fined not less than \$25 nor more than \$1,800~~[7]~~, except as otherwise provided.

Any person ~~[guilty of emitting]~~ who omits to perform any of the ~~[required]~~ acts~~[7]~~ required by, or ~~[committing]~~ who commits any of the ~~[prohibited]~~ acts ~~[of]~~ prohibited by, section 291-34, 291-35, or 291-36 shall be fined in accordance with the following tables:

The fine for a ~~[first]~~

If the excess weight is: violation shall be:

100 to 1,500 pounds	<del>[\$125]</del> <u>\$250</u>
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1	1,501 to 2,000 pounds	<del>[130]</del> <u>260</u>
2	2,001 to 2,500 pounds	<del>[140]</del> <u>280</u>
3	2,501 to 3,000 pounds	<del>[160]</del> <u>320</u>
4	3,001 to 3,500 pounds	<del>[180]</del> <u>360</u>
5	3,501 to 4,000 pounds	<del>[200]</del> <u>400</u>
6	4,001 to 4,500 pounds	<del>[225]</del> <u>450</u>
7	4,501 to 5,000 pounds	<del>[250]</del> <u>500</u>
8	5,001 to 5,500 pounds	<del>[275]</del> <u>550</u>
9	5,501 to 6,000 pounds	<del>[300]</del> <u>600</u>
10	6,001 to 6,500 pounds	<del>[330]</del> <u>660</u>
11	6,501 to 7,000 pounds	<del>[360]</del> <u>720</u>
12	7,001 to 7,500 pounds	<del>[390]</del> <u>780</u>
13	7,501 to 8,000 pounds	<del>[420]</del> <u>840</u>
14	8,001 to 8,500 pounds	<del>[455]</del> <u>910</u>
15	8,501 to 9,000 pounds	<del>[490]</del> <u>980</u>
16	9,001 to 9,500 pounds	<del>[525]</del> <u>1050</u>
17	9,501 to 10,000 pounds	<del>[560]</del> <u>1120</u>
18	10,001 pounds and over	<del>[580]</del> <u>1160</u>

19	If the excess dimension is:	The fine shall be:
20	Up to 5 feet	<del>[\$ 25]</del> <u>\$ 50</u>
21	Over 5 feet and up to 10 feet	<del>[50]</del> <u>100</u>
22	Over 10 feet and up to 15 feet	<del>[75]</del> <u>150</u>



1 Over 15 feet [100] 200

2 ~~[For the purpose of the imposition of a fine or penalty herein,~~  
3 ~~evidence of prior offenses shall be admissible.~~

4 ~~For a second violation within one year of the first, the~~  
5 ~~fine for excess weight shall be not less than twice the fine~~  
6 ~~listed in the excess weight table above and not more than~~  
7 ~~\$1,200. For a third or subsequent violation for excess weight~~  
8 ~~previously cited under this section within one year, the fine~~  
9 ~~shall not be less than triple the fine listed in the excess~~  
10 ~~weight table above and not more than \$1,800.]~~

11 For the purposes of this section, "person" means the driver  
12 of the vehicle unless the driver is an employee in the scope and  
13 course of employment, in which case "person" means the employer  
14 of the driver. In the case of the transportation of a sealed  
15 container or transportation by flatrack, "person" means:

- 16 (1) The individual or company the cargo is consigned to;  
17 or  
18 (2) The individual or company located in the State  
19 shipping the cargo.

20 The consignee or the shipper shall not be cited if the power  
21 units' drive axle group is overweight, and the weight is not



1 more than that allowed for a tandem axle with any applicable  
2 tolerances.

3 All penalties imposed and collected for violations of  
4 sections 291-33 to 291-36 shall be paid into the state highway  
5 fund.

6 The department of transportation [~~is authorized to~~] shall  
7 institute a system where the fine, based on the tables in this  
8 subsection, may be mailed in when the citation or penalty is not  
9 to be contested. This system shall include an ability for the  
10 owner of the vehicle or combination of vehicles to request the  
11 operator be held harmless and the citation be transferred to  
12 that owner of the vehicle or combination of vehicles."

13 **PART II**

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

17 **"§237- Exemption of sale of liquid fuels and alcohol**  
18 **fuels.** (a) There shall be exempted from and excluded from the  
19 measure of the taxes imposed by this chapter all of the gross  
20 income or proceeds arising from the sale of liquid fuels, as  
21 defined in section 243-1, and alcohol fuels, as defined in



1 subsection (b), for consumption or use by the purchaser and not  
2 for resale.

3 (b) For the purposes of this section, "alcohol fuels"  
4 means neat biomass-derived alcohol liquid fuel or a petroleum-  
5 derived fuel and alcohol liquid fuel mixture consisting of at  
6 least ten volume per cent denatured biomass-derived alcohol  
7 commercially usable as a fuel to power aircraft, seacraft,  
8 spacecraft, motor vehicles, or other motorized vehicles.

9 (c) The director of taxation shall adopt rules pursuant to  
10 chapter 91 necessary to administer this section."

11 SECTION 3. Section 243-4, Hawaii Revised Statutes, is  
12 amended by amending subsections (a) and (b) to read as follows:

13 "(a) Every distributor [~~shall~~], in addition to any other  
14 taxes provided by law, shall pay a license tax to the department  
15 of taxation for each gallon of liquid fuel refined,  
16 manufactured, produced, or compounded by the distributor and  
17 sold or used by the distributor in the State or imported by the  
18 distributor, or acquired by the distributor from persons who are  
19 not licensed distributors, and sold or used by the distributor  
20 in the State. Any person who sells or uses any liquid fuel  
21 knowing that the distributor from whom it was originally  
22 purchased has not paid and is not paying the tax thereon shall



1 pay such tax as would have applied to such sale or use by the  
2 distributor. The rates of tax hereby imposed are as follows:

3 (1) For each gallon of diesel oil, [~~1-cent~~] 2 cents;

4 (2) For each gallon of gasoline or other aviation fuel  
5 sold for use in or used for airplanes, [~~1-cent~~] 2  
6 cents;

7 (3) 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 city and county  
10 of Honolulu, or sold in any county for ultimate use in  
11 the city and county of Honolulu, [~~16~~] 17 cents state  
12 tax, and in addition thereto such amount, to be known  
13 as the "city and county of Honolulu fuel tax", as  
14 shall be levied pursuant to section 243-5;

15 (4) 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  
18 Hawaii, or sold in any county for ultimate use in the  
19 county of Hawaii, [~~16~~] 17 cents state tax, and in  
20 addition thereto such amount, to be known as the  
21 "county of Hawaii fuel tax", as shall be levied  
22 pursuant to section 243-5;



1           (5) 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 Maui,  
4           or sold in any county for ultimate use in the county  
5           of Maui, [~~16~~] 17 cents state tax, and in addition  
6           thereto such amount, to be known as the "county of  
7           Maui fuel tax", as shall be levied pursuant to section  
8           243-5; and

9           (6) For each gallon of liquid fuel other than fuel  
10          mentioned in paragraphs (1) and (2), and other than an  
11          alternative fuel, sold or used in the county of Kauai,  
12          or sold in any county for ultimate use in the county  
13          of Kauai, [~~16~~] 17 cents state tax, and in addition  
14          thereto such amount, to be known as the "county of  
15          Kauai fuel tax", as shall be levied pursuant to  
16          section 243-5.

17          If it is shown to the satisfaction of the department, based  
18          upon proper records and from such other evidence as the  
19          department may require, that liquid fuel other than fuel  
20          mentioned in paragraphs (1) and (2) is used for agricultural  
21          equipment that does not operate upon the public highways of the  
22          State, the user thereof may obtain a refund of all taxes thereon



1 imposed by this section in excess of 1 cent per gallon. The  
2 department shall adopt rules to administer such refunds.

3 (b) Every distributor of diesel oil, in addition to the  
4 tax required by subsection (a), shall pay a license tax to the  
5 department for each gallon of such diesel oil sold or used by  
6 the distributor for operating a motor vehicle or motor vehicles  
7 upon public highways of the State. The rates of the additional  
8 tax hereby imposed are as follows:

9 (1) For each gallon of diesel oil sold or used in the city  
10 and county of Honolulu, or sold in any other county  
11 for ultimate use in the city and county of Honolulu,  
12 [~~15~~] 16 cents state tax, and in addition thereto such  
13 amount, to be known as the "city and county of  
14 Honolulu fuel tax", as shall be levied pursuant to  
15 section 243-5;

16 (2) For each gallon of diesel oil sold or used in the  
17 county of Hawaii, or sold in any other county for  
18 ultimate use in the county of Hawaii, [~~15~~] 16 cents  
19 state tax, and in addition thereto such amount, to be  
20 known as the "county of Hawaii fuel tax", as shall be  
21 levied pursuant to section 243-5;



(3) For each gallon of diesel oil sold or used in the county of Maui, or sold in any other county for ultimate use in the county of Maui, [~~15~~] 16 cents state tax, and in addition thereto such amount, to be known as the "county of Maui fuel tax", as shall be levied pursuant to section 243-5; and

(4) For each gallon of diesel oil sold or used in the county of Kauai, or sold in any other county for ultimate use in the county of Kauai, [~~15~~] 16 cents state tax, and in addition thereto such amount, to be known as the "county of Kauai fuel tax", as shall be levied pursuant to section 243-5.

If any user of diesel oil furnishes a certificate, in such form as the department shall prescribe, to the distributor, or the distributor who uses diesel oil signs such certificate, certifying that the diesel oil is for use in operating a motor vehicle or motor vehicles in areas other than upon the public highways of the State, the tax as provided in paragraphs (1) to (4) shall not be applicable. In the event a certificate is not or cannot be furnished and the diesel oil is in fact for use for operating a motor vehicle or motor vehicles in areas other than upon public highways of the State, the user thereof may obtain a



1 refund of all taxes thereon imposed by the foregoing paragraphs.  
2 The department shall adopt rules to administer the refunding of  
3 such taxes."

4 **PART III**

5 SECTION 4. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun, before its effective date.

8 SECTION 5. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect on July 1, 2007.



H.B. NO. 1757  
H.D. 1  
S.D. 3

**Report Title:**  
Vehicle Gross Weight

**Description:**  
Increases fines for certain violations of vehicle length and gross weight requirements. Repeals fines for second, third, and subsequent violations. Requires, rather than permits, the department of transportation to establish a process for vehicle weight violators to mail in uncontested fine payments. Exempts sale of liquid and alcohol fuels from the general excise tax. (SD3)

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