
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

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

- 1 SECTION 1. The legislature finds that:
- 2 (1) Undertaking action to reduce greenhouse gas emissions
3 will likely create long-term economic benefits to the
4 State's economy;
- 5 (2) While substantial progress has been made in reducing
6 smog-forming emissions from new motor vehicles, there
7 remain disparities in the amount of allowable
8 emissions of criteria pollutants among the identified
9 categories of exhaust emissions standards for
10 passenger vehicles;
- 11 (3) Monetary incentives can encourage automobile buyers to
12 purchase cleaner vehicles and encourage manufacturers
13 to offer more low-emitting vehicle choices to Hawaii
14 consumers;
- 15 (4) One-time rebates on the purchase of new motor vehicles
16 that emit low amounts of greenhouse gases are a
17 reasonable and appropriate method to incentivize the
18 purchase of these vehicles;



1 (5) One-time surcharges on the purchase of new motor
2 vehicles that emit high amounts of greenhouse gases
3 are a reasonable and appropriate method to
4 disincentivize the purchase of and internalize the
5 environmental cost to the public of these vehicles;

6 (6) The creation of a clean vehicle incentive program to
7 reduce greenhouse gas emissions from motor vehicles is
8 a market-based mechanism that does not create any new
9 regulatory standard under the law; and

10 (7) The impact of global warming poses a serious threat to
11 the economic well-being, public health natural
12 resources, and environment of Hawaii.

13 The purpose of this Act is to establish a market-based
14 clean vehicle incentive program consisting of one-time rebates
15 and one-time surcharges on the purchase of new motor vehicles to
16 mitigate against emissions of greenhouse gases from motor
17 vehicles. The program is to be self-financing and is not
18 intended to increase expenditures from or reduce revenues into
19 the general fund.

20 SECTION 2. The Hawaii Revised Statutes is amended by
21 adding a new chapter to be appropriately designated and to read
22 as follows:



1 "CHAPTER

2 HAWAII CLEAN VEHICLE INCENTIVE PROGRAM

3 § -1 Definitions. For purposes of this chapter:

4 "Authorized emergency vehicle" shall have the same meaning
5 as defined in section 291C-1.

6 "Carbon dioxide equivalent" means a metric, as determined
7 by the council, used to compare or identify the emissions from
8 various greenhouse gases based upon their global warming
9 potential derived by multiplying the tons of the gas by the
10 associated global warming potential.

11 "Contributory pollutant" means an air toxic pollutant or
12 contaminant, including, but not limited to, black carbon, carbon
13 monoxide, and nitrous oxide that the council has determined
14 contributes to global warming.

15 "Council" means the environmental council.

16 "Criteria air pollutant" means an air pollutant for which
17 the United States Environmental Protection Agency has issued
18 primary or secondary national air quality standards pursuant to
19 Sections 108 and 109 of the federal Clean Air Act (42 U.S.C.
20 Secs. 7408 and 7409), including carbon monoxide, lead, nitrogen
21 oxides, ozone, particulate matter, and sulfur dioxide.

22 "Dealer" means any person licensed under chapter 437.



1 "Department" means the department of health.

2 "Director" means the director of health.

3 "Fund" means the clean vehicle incentive special fund.

4 "Greenhouse gas factor" means the dollar value, as
5 determined by the council, that is assigned to carbon dioxide
6 equivalent emissions per mile from a motor vehicle. At the
7 discretion of the council, this may be expressed in dollars
8 divided by grams of carbon dioxide equivalent per mile
9 (\$/g CO₂ -eq/mi).

10 "Greenhouse gases" means carbon dioxide,
11 hydrofluorocarbons, methane, oxides of nitrogen,
12 perfluorocarbons, and sulfur hexafluoride, and any other gases
13 that the council determines contribute significantly to global
14 warming.

15 "Motor vehicle" or "vehicle" means a light- or medium-duty
16 passenger vehicle with a gross vehicle weight rating of ten
17 thousand pounds or less, as determined by the council.

18 "New motor vehicle" shall have the same meaning as defined
19 in section 437-1.1.

20 "Program" means the clean vehicle incentive program
21 established pursuant to this chapter.

22 "Retail sale" means a retail sale of a new motor vehicle.



1 "Zero band" means that portion of a linear scale of rebates
2 and surcharges in which vehicles are assigned neither a rebate
3 nor a surcharge.

4 § -2 **Rebate eligibility and payment.** (a) Any resident
5 of the State who purchases a qualified new motor vehicle at a
6 retail sale in the State shall receive a clean vehicle rebate
7 for the purchase after June 30, 2010, of a new motor vehicle of
8 model year 2011 or later, determined by the council to be
9 eligible for a rebate in the amount assigned by the director
10 pursuant to rules adopted under this chapter.

11 (b) The dealer shall clearly indicate the amount of the
12 rebate owed to the new motor vehicle owner on the purchase
13 receipt and contract or lease agreement, as applicable.

14 (c) To receive the rebate, the motor vehicle owner shall
15 file a claim on a form prescribed by the director through the
16 dealer at the time of purchase.

17 (d) The dealer shall facilitate and accept rebate claims
18 from new motor vehicle owners and shall submit rebate claims to
19 the department, in a time, place, and manner determined by the
20 department. Each rebate claim shall be accompanied by proof of
21 vehicle purchase from the dealer. The proof of purchase shall
22 include, at a minimum:



- 1 (1) The date when the vehicle was purchased;
- 2 (2) The year, make, and model of the vehicle purchased;
- 3 (3) The vehicle identification number of the vehicle; and
- 4 (4) The price paid for the vehicle.

5 (e) The department shall pay the rebate to the eligible
6 new motor vehicle owner through electronic funds transfer if
7 requested by the owner.

8 (f) The department shall make every reasonable effort to
9 pay the rebate to the eligible new motor vehicle owner within
10 sixty days of receiving the rebate claim form. No interest
11 shall be paid on any rebate made pursuant to this article.

12 § -3 **Surcharge.** (a) Except as otherwise provided for
13 in this chapter, a person who becomes a motor vehicle owner by
14 purchasing at a retail sale, after June 30, 2010, a new motor
15 vehicle of model year 2011 or later, determined by the council
16 to be subject to an emissions surcharge, shall pay the emissions
17 surcharge in the amount determined by the director pursuant to
18 rules adopted under this chapter.

19 (b) Dealers shall collect from the new motor vehicle
20 owners the emissions surcharge at the time of retail sale.



1 (c) Dealers shall clearly indicate the amount of the
2 emissions surcharge paid by the new motor vehicle owner on the
3 purchase receipt and contract, or lease agreement as applicable.

4 (d) All emissions surcharges collected by a dealer shall
5 be owed to the State and be due and payable to the department in
6 a time, place, and manner prescribed by the director.

7 § -4 Rules. (a) No later than July 1, 2009, the
8 director, in consultation with the council and any other state
9 agencies that the director determines are appropriate, and after
10 at least two public workshops, shall adopt rules under chapter
11 91 to create and implement a clean vehicle incentive program
12 that achieves the maximum feasible and cost-effective reduction
13 of greenhouse gas emissions from motor vehicles.

14 (b) The director shall establish by rule a schedule of
15 one-time clean vehicle rebates and one-time emissions surcharges
16 for all new motor vehicles not otherwise excluded in this
17 chapter.

18 (c) The schedule of rebates and surcharges shall take
19 effect July 1, 2010, and shall apply to motor vehicles with the
20 2011 model year and each model year thereafter.

21 § -5 Calculation of rebate and surcharge. (a) The
22 director shall calculate, using a linear scale, the rebate or



1 surcharge to be applied to any motor vehicle subject to the
2 program based on the vehicle's emissions of greenhouse gases,
3 compared to the greenhouse gas emissions of all motor vehicles
4 of the same model year that are subject to the program.

5 (b) For purposes of calculating the rebate or surcharge,
6 the council shall determine the difference between a motor
7 vehicle's emissions of greenhouse gases, as determined by the
8 council, and the average emissions of greenhouse gases of all
9 vehicles subject to the program, for a given model year. The
10 difference identified for each vehicle based on emissions of
11 greenhouse gases shall be multiplied by a greenhouse gases
12 factor to determine the amount of the rebate or surcharge
13 attributed to emissions of greenhouse gases.

14 (c) The amount determined pursuant to subsection (b) may
15 be adjusted to account for one or both of the following, but no
16 adjustments pursuant to this section shall affect the rebate or
17 surcharge by a factor larger than twenty per cent:

18 (1) Emissions of contributory pollutants as determined by
19 the council; or

20 (2) Emissions of criteria air pollutants.

21 (d) Based on the council's calculations made pursuant to
22 subsections (b) and (c), the director shall assign a rebate or



1 surcharge to every motor vehicle subject to this program that
2 reflects its relative emissions of greenhouse gases and, at the
3 discretion of the director, its relative emissions of
4 contributory pollutants or criteria air pollutants, compared to
5 all vehicles for the same model year that are subject to the
6 program; provided that:

7 (1) The director shall establish a zero band that includes
8 the midpoint of the linear scale and includes not less
9 than twenty per cent, nor more than twenty-five per
10 cent, of the fleet of a given model year. Motor
11 vehicles that fall within the zero band shall not be
12 assigned a rebate or a surcharge;

13 (A) The zero band shall be designed, placed, and
14 adjusted along the linear scale to ensure that
15 vehicle buyers continue to have a variety of
16 choices among multiple vehicle types, including
17 light-duty trucks, that are not assigned a
18 surcharge; and

19 (B) The director shall consider sales-weighted data
20 in determining the placement of the zero band and
21 the schedule of rebates and surcharges;



1 (2) The maximum rebate and surcharge shall not be less
2 than \$2,250 nor more than \$2,500, and no surcharge
3 shall exceed the amount of the general excise tax
4 applicable to the purchase price of the motor vehicle;

5 (3) No rebate or surcharge shall be less than \$100. Motor
6 vehicles that would otherwise be assigned a rebate or
7 surcharge of less than \$100 shall be placed in the
8 zero band; and

9 (4) The director may round up or down the assigned rebate
10 and surcharge amounts to the nearest \$25 for each
11 motor vehicle.

12 (e) When setting the schedule of rebates and surcharges
13 for motor vehicles of a given model year, the director shall
14 consider previous years' sales data and projected sales of motor
15 vehicles to ensure that the program will incentivize reductions
16 in greenhouse gas emissions and be self-financing.

17 § -6 **Schedule of rebates and surcharges.** (a) The
18 schedule of rebates and surcharges shall be designed to ensure
19 that the program will be self-financing and will generate
20 adequate revenues to:

21 (1) Fund the cost of all rebates and surcharge refunds
22 associated with the program;



1 (2) Fund all administrative costs associated with the
2 program; and

3 (3) Provide for a reserve within the program equal to
4 approximately fifteen per cent of the estimated
5 rebates to ensure the account, to the extent possible,
6 will have a positive balance at the end of each fiscal
7 year.

8 (b) If the director determines that the amount of the
9 reserve specified in subsection (a)(3) is either excessive or
10 inadequate at the fifteen per cent level to meet the
11 requirements of subsection (a)(1) and (2), it may reduce or
12 increase the size of the reserve as needed to satisfy those
13 requirements.

14 (c) The schedule of rebates and surcharges may be adjusted
15 not more than once per model year to meet the requirements of
16 this chapter. Any adjustments pursuant to this section shall
17 become operative on the first day of the first month that
18 commences at least ninety days after the director formally
19 adopts the adjustment to the schedule.

20 (d) The director shall make annual or biennial adjustments
21 to the schedule of surcharges and rebates, and the placement of
22 the zero band, based on recent and anticipated changes in motor



1 vehicle sales to ensure that the program continues to generate
2 adequate revenues to meet the requirements of subsection (a).

3 **§ -7 Applicability.** (a) The schedule of rebates and
4 surcharges, as adjusted annually or biennially, shall take
5 effect no earlier than July 1 of each subsequent year, and be
6 applied to new motor vehicles of the next model year
7 accordingly. The director may make adjustments biennially only
8 if the director determines that:

9 (1) The program will remain self-financing and is not in
10 jeopardy of running a deficit; and

11 (2) It is in the best interest of achieving the goals of
12 the program to not make adjustments more often than
13 once every two years.

14 (b) In the first year of the program, the director may
15 delay implementation of the rebate eligibility for up to sixty
16 days after the surcharges initially take effect to ensure that
17 adequate funds are available to fund the program's rebates.

18 **§ -8 Effect of taxes.** The rebates and surcharges
19 adopted by the director shall be assigned to the price of the
20 motor vehicle after applicable taxes have been added. State
21 general excise taxes shall not have an effect on the assigned
22 rebate or surcharge.



1 § **-9 Motor vehicles purchased outside the State.** (a)

2 Any person who purchases a new motor vehicle outside of the
3 State that would otherwise have been subject to an emissions
4 surcharge shall pay the surcharge to the department of
5 transportation at the time of the motor vehicle's initial
6 registration in the State. The director and department of
7 transportation and county agencies having responsibility for
8 motor vehicle registration shall cooperate to develop procedures
9 to implement this chapter.

10 (b) Motor vehicles purchased outside of the State shall
11 not be eligible for a rebate.

12 § **-10 New motor vehicle leases.** (a) Any state resident
13 who leases from a dealer a new motor vehicle, otherwise subject
14 to an emissions surcharge, for a term of one year or more, shall
15 be assessed and shall pay the surcharge upon execution of the
16 lease.

17 (b) Any state resident who leases from a dealer a new
18 motor vehicle, otherwise subject to a rebate, for a term of one
19 year or more shall qualify for and receive the rebate pursuant
20 to this chapter.

21 § **-11 Public information.** (a) Not later than May 1,
22 2010, the director shall make available to the public the



1 schedule of rebates and surcharges applicable in the fiscal year
2 following their publication. The updated schedule shall be made
3 available to the public at the time when it is updated.

4 (b) The director:

5 (1) Shall disseminate information to dealers and consumers
6 about the program;

7 (2) Shall notify licensed dealers about relevant details
8 of the program, including identifying, to the extent
9 feasible, motor vehicles that are exempt from the
10 program, and providing reasonable assistance to help
11 motor vehicle dealers carry out the program; and

12 (3) Shall establish a public education campaign to inform
13 and encourage the public to purchase cleaner motor
14 vehicles.

15 (c) Dealers shall be required to clearly display the
16 amount of the assigned rebate or surcharge for each new motor
17 vehicle available for sale at the dealership, including a
18 description of the limit on the surcharge based on the general
19 excise tax on the purchase price of the motor vehicle pursuant
20 to this chapter.



1 § -12 Exemptions. (a) Notwithstanding any other
2 provision of this chapter, a new motor vehicle owner shall be
3 refunded the surcharge that would otherwise be applicable for:

4 (1) Emergency vehicles purchased by any county or county
5 agency;

6 (2) Motor vehicles designed or modified specifically for
7 the purpose of transporting disabled persons;

8 (3) Vans that are purchased for use in public or private
9 fleets to be used primarily for the purpose of
10 vanpools; and

11 (4) Motor vehicles purchased or leased by very low income
12 residents of the State, as defined by the director.

13 (b) Notwithstanding any other provision of this chapter,
14 motor vehicles shall be exempt from this chapter if:

15 (1) The motor vehicle's primary exhaust is identified as a
16 chemical that causes cancer; or

17 (2) The motor vehicle is not subject to a state-mandated
18 inspection and maintenance program.

19 (c) If a motor vehicle is not identified as an exempt
20 vehicle by the director pursuant to this section, but the
21 purchaser of the vehicle believes that the motor vehicle
22 qualifies for an exemption pursuant to this section, the



1 purchaser shall pay the surcharge at the time of sale, and shall
2 submit an application to the department within ninety days after
3 payment of the surcharge to determine whether the vehicle
4 qualifies for the exemption. The department shall notify the
5 applicant within sixty days of receipt of the application
6 whether an exemption will be granted. If the director
7 determines that the motor vehicle qualifies for an exemption
8 from the surcharge, the department shall reimburse the applicant
9 for the amount of the surcharge from the account.

10 (d) The department shall prepare and make available to
11 dealers and the public, an application for use by motor vehicle
12 purchasers seeking reimbursement for a surcharge paid for an
13 exempt vehicle. The application shall provide the opportunity
14 for the purchaser to demonstrate that a vehicle or vehicle
15 purchaser, as applicable, qualifies for an exemption, specify
16 the period of time within which the purchaser must apply for
17 reimbursement, and provide reasonable means for the applicant to
18 challenge the director's finding if it determines that a vehicle
19 does not qualify for an exemption.

20 § -13 **Clean vehicle incentive special fund.** There is
21 established in the state treasury the clean vehicle incentive
22 special fund. All emissions surcharges collected pursuant to



1 this chapter shall be deposited into the special fund. Moneys
2 in the fund are continuously appropriated without regard to
3 fiscal year and shall be used only for:

- 4 (1) Clean vehicle rebates;
- 5 (2) Refunds of emissions surcharges as allowed for in this
6 chapter;
- 7 (3) Reimbursing the department and the council for the
8 administrative costs incurred pursuant to this
9 chapter; and
- 10 (4) Reimbursing the department of transportation for costs
11 incurred for each county pursuant to this chapter.

12 § -14 **Data collection.** The council may regularly
13 collect from motor vehicle manufacturers adequate data to
14 calculate a vehicle's emissions of greenhouse gases to carry out
15 this chapter.

16 § -15 **Alternative fuel vehicles.** The director, in
17 consultation with the council, shall determine a manner to
18 account for vehicles that run on an alternative fuel as defined
19 in section 243-1. The director shall consider upstream
20 emissions and may develop procedures to allow for a refund of a
21 surcharge if a council-approved after-market alternative fuel



1 conversion device is installed on the vehicle within six months
2 of original purchase.

3 § -16 Reporting. Not later than January 1, 2013, and
4 every three years thereafter, the director, in consultation with
5 the council, shall provide the legislature with a report that
6 includes:

7 (1) A description of the effectiveness of the program in
8 reducing emissions of greenhouse gases from motor
9 vehicles;

10 (2) An identification of any adjustments made to the
11 schedule of rebates and surcharges and the reasons for
12 the adjustments; and

13 (3) Recommendation of any changes needed to enhance the
14 effectiveness of the program in meeting the goals of
15 the program."

16 SECTION 3. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so much
18 thereof as may be necessary for fiscal year 2008-2009 for the
19 establishment of the Hawaii clean vehicle incentive program.

20 The sum appropriated shall be expended by the department of
21 health for the purposes of this Act.



1 SECTION 4. This Act shall take effect on July 1, 2009.

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Report Title:

Environmental Protection; Motor Vehicles; Greenhouse Gases

Description:

Establishes the Hawaii clean vehicle incentive program to encourage consumers to purchase motor vehicles with low greenhouse gas emissions. Creates special fund to receive surcharges and fund rebates.

