

---

---

# A BILL FOR AN ACT

RELATING TO BIODIESEL.

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

1           SECTION 1. Chapter 171, Hawaii Revised Statutes, is  
2 amended by adding a new subpart to part III to be appropriately  
3 designated and to read as follows:

4           "SUBPART . CROPS USED IN THE PRODUCTION OF BIODIESEL FUEL.

5           §171- Definitions. As used in this subpart:

6           "Biodiesel" means a vegetable oil-based fuel that meets  
7 ASTM International Standard D6751, "Standard Specifications for  
8 Biodiesel (B100) Fuel Blend Stock for Distillate Fuels", as  
9 amended.

10           "Eligible lessee" means a person who is:

11           (1) Engaged or proposing to engage in an agricultural use  
12           by growing qualifying crops; and

13           (2) Qualified to lease public lands under this chapter.

14           "Qualifying crops" means those agricultural crops planted,  
15 cultivated, harvested, or processed of such vegetable oil  
16 content that is suitable for bioconversion into biodiesel fuel,  
17 including soy, corn, bean, nut, olive, canola, sunflower, and  
18 other such crops and the seeds thereof.



1        §171-      Lease of agricultural lands for crops used in the  
2 production of biodiesel fuel.    The board may lease, at nominal  
3 consideration, by direct negotiation and without recourse to  
4 public auction, public agricultural lands with soil classified  
5 by the land study bureau's detailed land classification as  
6 overall (master) productivity rating class A or B to eligible  
7 lessees that commit to grow qualifying crops; provided that:  
8        (1)    The terms of the lease entered into between the board  
9           and a qualifying lessee shall incorporate appropriate  
10          restrictions on the use of land assuring the land is  
11          used for agricultural purposes and that qualifying  
12          crops are grown; provided that nothing in this subpart  
13          is intended to impact a qualifying lessee's use of the  
14          land for personal residence purposes if allowed by  
15          relevant land use laws; and  
16        (2)    The qualified crops grown on the leased public lands  
17          shall be sold, exchanged, bartered, traded, or  
18          otherwise transferred in exchange for consideration to  
19          oil seed processing facilities, biodiesel producers,  
20          or the department of agriculture under the energy  
21          feedstock program in section 141-9.





1           2.    By designating section 141-9 as part II and inserting  
2 a title before section 141-9 to read as follows:

3                           **"PART II.   ENERGY FEEDSTOCK PROGRAM"**

4           3.    By amending section 141-9 to read as follows:

5           "~~§~~141-9~~§~~   **Energy feedstock program.**   (a)  There is  
6 established within the department of agriculture an energy  
7 feedstock program that shall:

- 8           (1)  Maintain cognizance of actions taken by industry and  
9                by federal, state, county, and private agencies in  
10               activities relating to the production of energy  
11               feedstock, and promote and support worthwhile energy  
12               feedstock production activities in the ~~[State,]~~ state;
- 13           (2)  Serve as an information clearinghouse for energy  
14               feedstock production activities;
- 15           (3)  Coordinate development projects to investigate and  
16               solve biological and technical problems involved in  
17               raising selected species with commercial energy  
18               generating potential;
- 19           (4)  Actively seek federal funding for energy feedstock  
20               production activities;
- 21           (5)  Undertake activities required to develop and expand  
22               the energy feedstock production industry; and



1 (6) Perform other functions and activities as may be  
2 assigned by law, including monitoring the compliance  
3 provisions under section 205-4.5(a)(15).

4 (b) The feedstock program shall support, promote, and  
5 stimulate the development of a market for biodiesel feedstock  
6 crops grown in the state by:

7 (1) Purchasing biodiesel feedstock crops grown in the  
8 state that are offered by biodiesel feedstock  
9 producers at a price of up to 15 cents per pound above  
10 cost until December 31, 2018; provided that the total  
11 amount shall not exceed an aggregate total of \$  
12 per fiscal year;

13 (2) Purchasing biodiesel fuel and biodiesel fuel blends  
14 produced in the state using feedstock grown in the  
15 state that are offered by fuel producers at a fair and  
16 reasonable purchase price that shall take into  
17 consideration the expenses incurred by and profit  
18 margin of the producer; provided that the total amount  
19 shall not exceed an aggregate total of \$ per  
20 fiscal year; and



1        (3) Determining the disposition of the biodiesel feedstock  
2        crop and biodiesel fuel and biodiesel fuel blends  
3        purchased under this program.

4        (c) Lands used for the production of biodiesel feedstock  
5        crops shall be exempted from the real property tax.

6        [~~(b)~~] (d) The chairperson of the board of agriculture  
7 shall consult and coordinate with the energy resources  
8 coordinator under chapter 196 to establish milestones and  
9 objectives for the production of energy feedstock that is grown  
10 in the [~~State.~~] state. The chairperson and the coordinator  
11 shall report the State's progress toward meeting such milestones  
12 and objectives annually to the legislature[~~]~~ at least twenty  
13 days prior to the convening of each regular session. The report  
14 shall include:

15        (1) The amount of biodiesel feedstock crops purchased  
16        under this program and the cost expended;

17        (2) The amount of biodiesel fuel and biodiesel fuel blends  
18        purchased under this program and the cost expended;

19        and

20        (3) The disposition of the feedstock crops and biodiesel  
21        fuel and biodiesel fuel blends purchased under this  
22        program.



1           ~~(e)~~ (e) The chairperson of the board of agriculture  
2 shall also consult and coordinate with research programs and  
3 activities at the University of Hawaii that will assist in the  
4 further growth and promotion of the energy feedstock production  
5 industry in Hawaii.

6           ~~(f)~~ (f) The chairperson of the board of agriculture may  
7 employ temporary staff exempt from chapters 76 and 89. The  
8 board may adopt rules pursuant to chapter 91 to effectuate the  
9 purposes of this section.

10           (g) As used in this section,  
11           "Biodiesel" means a vegetable oil-based fuel that meets  
12 ASTM International Standard D6751, "Standard Specifications for  
13 Biodiesel (B100) Fuel Blend Stock for Distillate Fuels", as  
14 amended."

15           SECTION 4. Section 235-7, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17           "(a) There shall be excluded from gross income, adjusted  
18 gross income, and taxable income:

19           (1) Income not subject to taxation by the State under the  
20           Constitution and laws of the United States;



- 1           (2) Rights, benefits, and other income exempted from  
2           taxation by section 88-91, having to do with the state  
3           retirement system, and the rights, benefits, and other  
4           income, comparable to the rights, benefits, and other  
5           income exempted by section 88-91, under any other  
6           public retirement system;
- 7           (3) Any compensation received in the form of a pension for  
8           past services;
- 9           (4) Compensation paid to a patient affected with Hansen's  
10          disease employed by the State or the United States in  
11          any hospital, settlement, or place for the treatment  
12          of Hansen's disease;
- 13          (5) Except as otherwise expressly provided, payments made  
14          by the United States or this State, under an act of  
15          Congress or a law of this State, which by express  
16          provision or administrative regulation or  
17          interpretation are exempt from both the normal and  
18          surtaxes of the United States, even though not so  
19          exempted by the Internal Revenue Code itself;
- 20          (6) Any income expressly exempted or excluded from the  
21          measure of the tax imposed by this chapter by any  
22          other law of the State, it being the intent of this





1 chapter not to repeal or supersede any express  
2 exemption or exclusion;

3 (7) Income received by each member of the reserve  
4 components of the Army, Navy, Air Force, Marine Corps,  
5 or Coast Guard of the United States of America, and  
6 the Hawaii national guard as compensation for  
7 performance of duty, equivalent to pay received for  
8 forty-eight drills (equivalent of twelve weekends) and  
9 fifteen days of annual duty, at an:

10 (A) E-1 pay grade after eight years of service;  
11 provided that this subparagraph shall apply to  
12 taxable years beginning after December 31, 2004;

13 (B) E-2 pay grade after eight years of service;  
14 provided that this subparagraph shall apply to  
15 taxable years beginning after December 31, 2005;

16 (C) E-3 pay grade after eight years of service;  
17 provided that this subparagraph shall apply to  
18 taxable years beginning after December 31, 2006;

19 (D) E-4 pay grade after eight years of service;  
20 provided that this subparagraph shall apply to  
21 taxable years beginning after December 31, 2007;

22 and



- 1 (E) E-5 pay grade after eight years of service;  
2 provided that this subparagraph shall apply to  
3 taxable years beginning after December 31, 2008;
- 4 (8) Income derived from the operation of ships or aircraft  
5 if the income is exempt under the Internal Revenue  
6 Code pursuant to the provisions of an income tax  
7 treaty or agreement entered into by and between the  
8 United States and a foreign country; provided that the  
9 tax laws of the local governments of that country  
10 reciprocally exempt from the application of all of  
11 their net income taxes, the income derived from the  
12 operation of ships or aircraft that are documented or  
13 registered under the laws of the United States;
- 14 (9) The value of legal services provided by a prepaid  
15 legal service plan to a taxpayer, the taxpayer's  
16 spouse, and the taxpayer's dependents;
- 17 (10) Amounts paid, directly or indirectly, by a prepaid  
18 legal service plan to a taxpayer as payment or  
19 reimbursement for the provision of legal services to  
20 the taxpayer, the taxpayer's spouse, and the  
21 taxpayer's dependents;



1 (11) Contributions by an employer to a prepaid legal  
2 service plan for compensation (through insurance or  
3 otherwise) to the employer's employees for the costs  
4 of legal services incurred by the employer's  
5 employees, their spouses, and their dependents;

6 (12) Amounts received in the form of a monthly surcharge by  
7 a utility acting on behalf of an affected utility  
8 under section 269-16.3 shall not be gross income,  
9 adjusted gross income, or taxable income for the  
10 acting utility under this chapter. Any amounts  
11 retained by the acting utility for collection or other  
12 costs shall not be included in this exemption; ~~and~~

13 (13) One hundred per cent of the gain realized by a fee  
14 simple owner from the sale of a leased fee interest in  
15 units within a condominium project, cooperative  
16 project, or planned unit development to the  
17 association of apartment owners or the residential  
18 cooperative corporation of the leasehold units.

19 For purposes of this paragraph:

20 ~~["Fee simple owner" shall have the same meaning~~  
21 ~~as provided under section 516-1; provided that it~~  
22 ~~shall include legal and equitable owners;~~



1           ~~"Legal and equitable owner", and "leased fee~~  
2           ~~interest" shall have the same meanings as provided~~  
3           ~~under section 516-1; and~~

4           ~~"Condominium project" and "cooperative project"~~  
5           ~~shall have the same meanings as provided under section~~  
6           ~~514C-1;]~~

7           "Condominium project" and "cooperative project"  
8           shall have the same meanings as provided under section  
9           514C-1;

10          "Fee simple owner" shall have the same meaning as  
11          provided under section 516-1; provided that it shall  
12          include legal and equitable owners; and

13          "Legal and equitable owner", and "leased fee  
14          interest" shall have the same meanings as provided  
15          under section 516-1;

16          and

17          (14) One hundred per cent of income derived from an oil  
18          seed crushing facility that processes oil seed  
19          produced or grown in the state for biodiesel  
20          production in the state.



1           As used in this paragraph:

2                   "Biodiesel" means a vegetable oil-based fuel that  
3                   meets ASTM International Standard D6751, "Standard  
4                   Specifications for Biodiesel (B100) Fuel Blend Stock  
5                   for Distillate Fuels", as amended.

6                   "Biodiesel production facility" means a facility  
7                   that processes feedstock to produce biodiesel.

8                   "Feedstock" means the form of biomass as it is  
9                   processed in an oil seed crushing facility.

10                   "Oil seed crushing facility" means a separate and  
11                   distinct facility that processes oil seed that is  
12                   grown in the state, including soy, corn, bean, nut,  
13                   olive, canola, mustard, and sunflower and other such  
14                   crops and the seeds thereof, to be used as biomass to  
15                   produce biodiesel, and may not be integrated with a  
16                   biodiesel production facility."

17           SECTION 5. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19           SECTION 6. This Act shall take effect on July 1, 2008;  
20 provided that the real property tax provision in section 141-  
21 9(c), Hawaii Revised Statutes, as amended in section 3 of this



# H.B. NO. 340

1 Act shall apply to tax years beginning on January 1, 2009 and  
2 shall be repealed on December 31, 2018.

3

INTRODUCED BY:

Mele Carroll

W. J. Handley

JAN 23 2008



**Report Title:**

Biodiesel; Market Stimulation

**Description:**

Provides various market stimulation incentives for the development of biodiesel, including making state agricultural lands available for biodiesel fuel crops; establishing a state biodiesel feedstock crop and biodiesel fuel purchasing program; and creating tax exemptions for biomass crushing facilities and lands used for biodiesel feedstock crops.

