
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 " 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 Specification 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 having
15 vegetable oil content that is suitable for bioconversion into
16 biodiesel fuel, including soy, corn, bean, nut, olive, canola,
17 sunflower, and 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, by direct
3 negotiation and without recourse to public auction, public
4 agricultural lands; provided that:

- 5 (1) The terms of the lease entered into between the board
6 and a qualifying lessee shall incorporate appropriate
7 restrictions on the use of the land, assuring that the
8 land is used for agricultural purposes and that
9 qualifying crops are grown; provided that nothing in
10 this subpart is intended to impact a qualifying
11 lessee's use of the land for personal residence
12 purposes if allowed by relevant land use laws; and
13 (2) The qualified crops grown on the leased public lands
14 shall be sold, exchanged, bartered, traded, or
15 otherwise transferred in exchange for consideration to
16 oil seed processing facilities, biodiesel producers,
17 or the department of agriculture under the energy
18 feedstock program in section 141-9."

19 SECTION 2. Section 103D-1012, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Notwithstanding any other law to the contrary,
22 contracts for the purchase of diesel fuel or boiler fuel shall



1 be awarded to the lowest responsible and responsive bidders,
2 with preference given to bids for biofuels or blends of biofuel
3 and petroleum fuel[-]; provided that where the fuel is for use
4 in state vehicles with diesel engines, preference shall be given
5 to biodiesel blends that contain up to twenty per cent biodiesel
6 that is produced in the state from feedstock grown in the
7 state."

8 SECTION 3. Chapter 141, Hawaii Revised Statutes, is
9 amended as follows

10 1. By designating sections 141-1 to 141-8 as part I and
11 adding a title before section 141-1 to read:

12 **"PART I. GENERAL PROVISIONS"**

13 2. By designating section 141-9 as part II and adding a
14 title before section 141-9 to read:

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

16 3. By amending section 141-9 to read:

17 "[+]§141-9[+] **Energy feedstock program.** (a) There is
18 established within the department of agriculture an energy
19 feedstock program that shall:

20 (1) Maintain cognizance of actions taken by industry and
21 by federal, state, county, and private agencies in
22 activities relating to the production of energy



1 feedstock, and promote and support worthwhile energy
2 feedstock production activities in the [~~State~~] state;

3 (2) Serve as an information clearinghouse for energy
4 feedstock production activities;

5 (3) Coordinate development projects to investigate and
6 solve biological and technical problems involved in
7 raising selected species with commercial energy
8 generating potential;

9 (4) Actively seek federal funding for energy feedstock
10 production activities;

11 (5) Undertake activities required to develop and expand
12 the energy feedstock production industry; and

13 (6) Perform other functions and activities as may be
14 assigned by law, including monitoring [~~the~~] compliance
15 with the provisions [under] of section 205-4.5(a)(15).

16 (b) The energy feedstock program shall support, promote,
17 and stimulate the development of a market for biodiesel
18 feedstock crops grown in the state by:

19 (1) Purchasing biodiesel feedstock crops grown in the
20 state that are offered by biodiesel feedstock
21 producers at a price of up to 15 cents per pound above



1 cost until December 31, 2018; provided that the total
2 amount expended shall not exceed an aggregate total of
3 \$ _____ per fiscal year;

4 (2) Purchasing biodiesel fuel and biodiesel fuel blends
5 that are produced in the state using feedstock grown
6 in the state and offered by fuel producers at a fair
7 and reasonable purchase price that shall take into
8 consideration the expenses incurred by and profit
9 margin of the producer; provided that the total amount
10 expended shall not exceed an aggregate total of \$
11 _____ per fiscal year; and

12 (3) Determining the disposition of the biodiesel feedstock
13 crop and biodiesel fuel and biodiesel fuel blends
14 purchased under this program.

15 [~~(b)~~] (c) The chairperson of the board of agriculture
16 shall consult and coordinate with the energy resources
17 coordinator under chapter 196 to establish milestones and
18 objectives for the production of energy feedstock that is grown
19 in the [~~State.~~] state. The chairperson and the coordinator
20 shall report the State's progress toward meeting such milestones
21 and objectives annually to the legislature[~~]~~ at least twenty



1 days prior to the convening of each regular session. The report
2 shall include:

3 (1) The amount of biodiesel feedstock crops purchased
4 under the energy feedstock program and the cost
5 expended;

6 (2) The amount of biodiesel fuel and biodiesel fuel blends
7 purchased under the energy feedstock program and the
8 cost expended; and

9 (3) The disposition of the feedstock crops and biodiesel
10 fuel and biodiesel fuel blends purchased under the
11 energy feedstock program.

12 [~~e~~] (d) The chairperson of the board of agriculture
13 shall also consult and coordinate with research programs and
14 activities at the University of Hawaii that will assist in the
15 further growth and promotion of the energy feedstock production
16 industry in Hawaii.

17 [~~d~~] (e) The chairperson of the board of agriculture may
18 employ temporary staff exempt from chapters 76 and 89. The
19 board may adopt rules pursuant to chapter 91 to effectuate the
20 purposes of this section.

21 (f) As used in this section, "biodiesel" means a vegetable
22 oil-based fuel that meets ASTM International Standard D6751,



1 "Standard Specification for Biodiesel (B100) Fuel Blend Stock
2 for Distillate Fuels", as amended."

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

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

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

9 (2) Rights, benefits, and other income exempted from
10 taxation by section 88-91, having to do with the state
11 retirement system, and the rights, benefits, and other
12 income, comparable to the rights, benefits, and other
13 income exempted by section 88-91, under any other
14 public retirement system;

15 (3) Any compensation received in the form of a pension for
16 past services;

17 (4) Compensation paid to a patient affected with Hansen's
18 disease employed by the State or the United States in
19 any hospital, settlement, or place for the treatment
20 of Hansen's disease;

21 (5) Except as otherwise expressly provided, payments made
22 by the United States or this State, under an act of



1 Congress or a law of this State, which by express
2 provision or administrative regulation or
3 interpretation are exempt from both the normal and
4 surtaxes of the United States, even though not so
5 exempted by the Internal Revenue Code itself;

6 (6) Any income expressly exempted or excluded from the
7 measure of the tax imposed by this chapter by any
8 other law of the State, it being the intent of this
9 chapter not to repeal or supersede any express
10 exemption or exclusion;

11 (7) Income received by each member of the reserve
12 components of the Army, Navy, Air Force, Marine Corps,
13 or Coast Guard of the United States of America, and
14 the Hawaii national guard as compensation for
15 performance of duty, equivalent to pay received for
16 forty-eight drills (equivalent of twelve weekends) and
17 fifteen days of annual duty, at an:

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



- 1 (B) E-2 pay grade after eight years of service;
- 2 provided that this subparagraph shall apply to
- 3 taxable years beginning after December 31, 2005;
- 4 (C) E-3 pay grade after eight years of service;
- 5 provided that this subparagraph shall apply to
- 6 taxable years beginning after December 31, 2006;
- 7 (D) E-4 pay grade after eight years of service;
- 8 provided that this subparagraph shall apply to
- 9 taxable years beginning after December 31, 2007;
- 10 and
- 11 (E) E-5 pay grade after eight years of service;
- 12 provided that this subparagraph shall apply to
- 13 taxable years beginning after December 31, 2008;
- 14 (8) Income derived from the operation of ships or aircraft
- 15 if the income is exempt under the Internal Revenue
- 16 Code pursuant to the provisions of an income tax
- 17 treaty or agreement entered into by and between the
- 18 United States and a foreign country; provided that the
- 19 tax laws of the local governments of that country
- 20 reciprocally exempt from the application of all of
- 21 their net income taxes, the income derived from the



- 1 operation of ships or aircraft that are documented or
2 registered under the laws of the United States;
- 3 (9) The value of legal services provided by a prepaid
4 legal service plan to a taxpayer, the taxpayer's
5 spouse, and the taxpayer's dependents;
- 6 (10) Amounts paid, directly or indirectly, by a prepaid
7 legal service plan to a taxpayer as payment or
8 reimbursement for the provision of legal services to
9 the taxpayer, the taxpayer's spouse, and the
10 taxpayer's dependents;
- 11 (11) Contributions by an employer to a prepaid legal
12 service plan for compensation (through insurance or
13 otherwise) to the employer's employees for the costs
14 of legal services incurred by the employer's
15 employees, their spouses, and their dependents;
- 16 (12) Amounts received in the form of a monthly surcharge by
17 a utility acting on behalf of an affected utility
18 under section 269-16.3 shall not be gross income,
19 adjusted gross income, or taxable income for the
20 acting utility under this chapter. Any amounts
21 retained by the acting utility for collection or other
22 costs shall not be included in this exemption; ~~and~~



1 (13) One hundred per cent of the gain realized by a fee
2 simple owner from the sale of a leased fee interest in
3 units within a condominium project, cooperative
4 project, or planned unit development to the
5 association of apartment owners or the residential
6 cooperative corporation of the leasehold units.

7 For purposes of this paragraph:

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

11 ~~"Legal and equitable owner", and "leased fee~~
12 ~~interest" shall have the same meanings as provided~~
13 ~~under section 516-1; and]~~

14 "Condominium project" and "cooperative project"
15 shall have the same meanings as provided under section
16 514C-1;

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

20 "Legal and equitable owner", and "leased fee
21 interest" shall have the same meanings as provided
22 under section 516-1;



1 and
2 (14) One hundred per cent of income derived from the
3 operation of an oil seed crushing facility that
4 processes oil seed produced or grown in the state for
5 biodiesel production in the state.

6 As used in this paragraph:

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

11 "Biodiesel production facility" means a facility
12 that processes feedstock to produce biodiesel.

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

15 "Oil seed crushing facility" means a facility
16 that processes oil seed that is grown in the state,
17 including soy, corn, bean, nut, olive, canola,
18 mustard, and sunflower and other such crops and the
19 seeds thereof, to be used as biomass to produce
20 biodiesel, and that is not integrated with a biodiesel
21 production facility."



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2008;
4 provided that the amendments made to section 235-7(a), Hawaii
5 Revised Statutes, by section 4 of this Act, shall not be
6 repealed when that section is repealed and reenacted on January
7 1, 2013 pursuant to section 3 of Act 166, Session Laws of Hawaii
8 2007.



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 oil seed crushing facilities and lands used for biodiesel feedstock crops. (HB3410 HD1)

