

JAN 24 2007

A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 SECTION 1. The legislature finds that Hawaii's dependence
2 on petroleum for about ninety per cent of its energy needs is
3 more than any other state in the nation. This makes the State
4 extremely vulnerable to any oil embargo, supply disruption,
5 international market dysfunction, and many other factors beyond
6 the control of the State. Furthermore, the continued
7 consumption of conventional petroleum fuel negatively impacts
8 the environment. At the same time, Hawaii has among the most
9 abundant renewable energy resources in the world, in the form of
10 solar, geothermal, wind, biomass, and ocean energy assets.

11 The legislature also finds that increased energy efficiency
12 and use of renewable energy resources would increase Hawaii's
13 energy self-sufficiency, achieving broad societal benefits,
14 including increased energy security, resistance to increases in
15 oil prices, environmental sustainability, economic development,
16 and job creation.



1 To shape Hawaii's energy future and achieve the goal of
2 energy self-sufficiency for the State of Hawaii, our efforts
3 must continue on all fronts, integrating new and evolving
4 technologies, seizing upon economic opportunities to become more
5 energy efficient and economically diversified, and providing
6 incentives and assistance to address barriers.

7 The purpose of this Act is to encourage further production
8 and use of biofuels in Hawaii by:

- 9 (1) Establishing biofuel processing facilities as a
10 permitted use in designated agricultural districts
11 under chapter 205, Hawaii Revised Statutes;
- 12 (2) Establishing an energy feedstock program within the
13 department of agriculture to encourage the production
14 of energy feedstock in Hawaii and establish a baseline
15 percentage of energy feedstock to be grown in the
16 State to meet the its energy requirements
- 17 (3) Establishing a baseline price of \$2 per gallon for the
18 purchase of ethanol from an ethanol production
19 facility;
- 20 (4) Requiring rental car companies in Hawaii with fleets
21 of fifty cars or more to purchase flexible or



1 alternative fuel vehicles beginning January 1, 2008;

2 and

3 (5) Requiring the department of transportation to include
4 biofuel storage and transmission infrastructure in all
5 harbor improvement master plans.

6 **PART I. BIOFUEL PROCESSING FACILITIES**

7 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) Agricultural districts shall include:

10 (1) Activities or uses as characterized by the cultivation
11 of crops, orchards, forage, and forestry;

12 (2) Farming activities or uses related to animal
13 husbandry, and game and fish propagation;

14 (3) Aquaculture, which means the production of aquatic
15 plant and animal life within ponds and other bodies of
16 water;

17 (4) Wind generated energy production for public, private,
18 and commercial use;

19 (5) Biofuel production as described in section
20 205-4.5(a)(15) for public, private, and commercial
21 use;



- 1 [~~(5)~~] (6) Bona fide agricultural services and uses that
2 support the agricultural activities of the fee or
3 leasehold owner of the property and accessory to any
4 of the above activities, whether or not conducted on
5 the same premises as the agricultural activities to
6 which they are accessory, including but not limited to
7 farm dwellings as defined in section 205-4.5(a)(4),
8 employee housing, farm buildings, mills, storage
9 facilities, processing facilities, vehicle and
10 equipment storage areas, roadside stands for the sale
11 of products grown on the premises, and plantation
12 community subdivisions as defined in section
13 205-4.5(a)(12);
- 14 [~~(6)~~] (7) Wind machines and wind farms;
- 15 [~~(7)~~] (8) Small-scale meteorological, air quality, noise,
16 and other scientific and environmental data collection
17 and monitoring facilities occupying less than one-half
18 acre of land; provided that these facilities shall not
19 be used as or equipped for use as living quarters or
20 dwellings;
- 21 [~~(8)~~] (9) Agricultural parks;



1 [~~(9)~~] (10) Agricultural tourism conducted on a working
2 farm, or a farming operation as defined in section
3 165-2, for the enjoyment, education, or involvement of
4 visitors; provided that the agricultural tourism
5 activity is accessory and secondary to the principal
6 agricultural use and does not interfere with
7 surrounding farm operations; and provided further that
8 this paragraph shall apply only to a county that has
9 adopted ordinances regulating agricultural tourism
10 under section 205-5; and

11 [~~(10)~~] (11) Open area recreational facilities.

12 Agricultural districts shall not include golf courses and golf
13 driving ranges, except as provided in section 205-4.5(d).

14 Agricultural districts include areas that are not used for, or
15 that are not suited to, agricultural and ancillary activities by
16 reason of topography, soils, and other related characteristics."

17 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) Within the agricultural district, all lands with soil
20 classified by the land study bureau's detailed land
21 classification as overall (master) productivity rating class A
22 or B shall be restricted to the following permitted uses:



- 1 (1) Cultivation of crops, including but not limited to
2 flowers, vegetables, foliage, fruits, forage, and
3 timber;
- 4 (2) Game and fish propagation;
- 5 (3) Raising of livestock, including but not limited to
6 poultry, bees, fish, or other animal or aquatic life
7 that are propagated for economic or personal use;
- 8 (4) Farm dwellings, employee housing, farm buildings, or
9 activities or uses related to farming and animal
10 husbandry. "Farm dwelling", as used in this
11 paragraph, means a single-family dwelling located on
12 and used in connection with a farm, including clusters
13 of single-family farm dwellings permitted within
14 agricultural parks developed by the State, or where
15 agricultural activity provides income to the family
16 occupying the dwelling;
- 17 (5) Public institutions and buildings that are necessary
18 for agricultural practices;
- 19 (6) Public and private open area types of recreational
20 uses, including day camps, picnic grounds, parks, and
21 riding stables, but not including dragstrips,



- 1 airports, drive-in theaters, golf courses, golf
2 driving ranges, country clubs, and overnight camps;
- 3 (7) Public, private, and quasi-public utility lines and
4 roadways, transformer stations, communications
5 equipment buildings, solid waste transfer stations,
6 major water storage tanks, and appurtenant small
7 buildings such as booster pumping stations, but not
8 including offices or yards for equipment, material,
9 vehicle storage, repair or maintenance, treatment
10 plants, corporation yards, or other similar
11 structures;
- 12 (8) Retention, restoration, rehabilitation, or improvement
13 of buildings or sites of historic or scenic interest;
- 14 (9) Roadside stands for the sale of agricultural products
15 grown on the premises;
- 16 (10) Buildings and uses, including but not limited to
17 mills, storage, and processing facilities, maintenance
18 facilities, and vehicle and equipment storage areas
19 that are normally considered directly accessory to the
20 above mentioned uses and are permitted under section
21 205-2(d);
- 22 (11) Agricultural parks;



1 (12) Plantation community subdivisions, which as used in
2 this paragraph means a subdivision or cluster of
3 employee housing, community buildings, and acreage
4 established on land currently or formerly owned,
5 leased, or operated by a sugar or pineapple plantation
6 and in residential use by employees or former
7 employees of the plantation; provided that the
8 employees or former employees shall have a property
9 interest in the land;

10 [+] (13) [+] Agricultural tourism conducted on a working farm, or
11 a farming operation as defined in section 165-2, for
12 the enjoyment, education, or involvement of visitors;
13 provided that the agricultural tourism activity is
14 accessory and secondary to the principal agricultural
15 use and does not interfere with surrounding farm
16 operations; and provided further that this paragraph
17 shall apply only to a county that has adopted
18 ordinances regulating agricultural tourism under
19 section 205-5; [~~or~~]

20 [+] (14) [+] Wind energy facilities, including the appurtenances
21 associated with the production and transmission of
22 wind generated energy; provided that [~~such~~] the wind



1 energy facilities and appurtenances are compatible
2 with agriculture uses and cause minimal adverse impact
3 on agricultural land[-]; or

4 (15) Biofuel processing facilities, including the
5 appurtenances associated with the production,
6 collection, or cultivation of biomass crops,
7 agricultural residues, and oil crops; provided that
8 "biofuel processing facility" means a facility that
9 produces liquid or gaseous fuels from organic sources
10 such as biomass crops, agricultural residues, and oil
11 crops, including palm, canola, soybean, and waste
12 cooking oils; grease; food wastes; and animal residues
13 and wastes that can be used to generate energy."

14 **PART II. ENERGY FEEDSTOCK PRODUCTION**

15 SECTION 4. The legislature finds that there is
16 considerable interest in producing biofuels in Hawaii to meet
17 alternative energy mandates. Current law requires a ten per
18 cent ethanol content for gasoline. The demand for biofuel
19 production in Hawaii is steadily increasing, which has been the
20 catalyst for the creation of private entities to produce
21 biofuels in this State. However, there is a lack of feedstock
22 in Hawaii to produce biofuels, which means that private entities



1 must import feedstock. Because of the State's remoteness, it is
2 imperative for the State to be energy self-sufficient.
3 Feedstock is necessary to produce biofuels in order to attain
4 energy self-sufficiency. There are many crops that can grow in
5 tropical environments that may be ideal feedstock for bioenergy
6 production.

7 The purpose of this part is to develop an energy feedstock
8 program within the department of agriculture to encourage the
9 production of energy feedstock in Hawaii and establish a
10 baseline percentage of energy feedstock to be grown in the State
11 to meet its energy requirements.

12 SECTION 5. Chapter 141, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§141- Energy feedstock program. (a) There is
16 established within the department of agriculture an energy
17 feedstock program that shall:

18 (1) Maintain cognizance of actions taken by industry and
19 by federal, state, county, and private agencies in
20 activities relating to the production of energy
21 feedstock, and promote and support worthwhile energy
22 feedstock production activities in the State;



- 1 (2) Serve as an information clearinghouse for energy
2 feedstock production activities;
- 3 (3) Coordinate development projects to investigate and
4 solve biological and technical problems involved in
5 raising selected species with commercial energy
6 generating potential;
- 7 (4) Actively seek federal funding for energy feedstock
8 production activities;
- 9 (5) Undertake activities required to develop and expand
10 the energy feedstock production industry; and
- 11 (6) Perform other functions and activities as may be
12 assigned by law.
- 13 (b) The chairperson of the board of agriculture shall
14 consult and coordinate with the energy resources coordinator
15 under chapter 196 to establish objectives for the production of
16 energy feedstock. The chairperson and the coordinator shall
17 establish a baseline percentage of energy feedstock to be grown
18 in the State to provide for its energy needs.
- 19 (c) The chairperson of the board of agriculture shall also
20 consult and coordinate with research programs and activities at
21 the University of Hawaii that will assist in the further growth



1 and promotion of the energy feedstock production industry in
2 Hawaii.

3 (d) The chairperson of the board of agriculture may employ
4 temporary staff exempt from chapter 76. The board may adopt
5 rules pursuant to chapter 91 to effectuate the purposes of this
6 section."

7 **PART III. BASELINE PRICE FOR ETHANOL**

8 SECTION 6. Chapter 269, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 **"§269- Establishment of baseline price for ethanol. (a)**
12 The baseline price for the purchase of ethanol from an ethanol
13 production facility shall be established by the commission at
14 not more than \$2 per gallon; provided that the distributor of
15 ethanol shall resell a portion of the ethanol at not more than a
16 ten per cent mark-up, or \$2.20 per gallon, whichever is less.

17 (b) The prices in subsection (a) shall be subject to cost
18 of living adjustments as determined by the commission. The
19 commission may adjust the baseline price to reflect changes in
20 the economy and cost of living.

21 (c) The commission shall adopt rules pursuant to chapter
22 91 to effectuate the purposes of this section."



1 **PART IV. ALTERNATIVE FUEL RENTAL CAR FLEET**

2 SECTION 7. The legislature finds that Brazil was the first
3 country to become energy independent, in large part by taking
4 actions necessary for ethanol market development to occur.
5 Brazil thus provides Hawaii with examples of government actions
6 necessary to create an interim level of demand sufficient to
7 jump-start the State's ethanol industry, which would in turn
8 assist the ethanol industry in providing an indispensable
9 transitional fuel pending the development of a hydrogen-fuel
10 economy.

11 The legislature further finds that energy independence is a
12 national security issue and that Hawaii cannot become energy
13 independent without the development of an in-state market for
14 ethanol. To this end, the conversion of rental car fleets to
15 E85 flexible or alternative fuel vehicles could stimulate demand
16 for ethanol, speed the distribution of flexible fuel vehicles
17 among the general population in Hawaii, and reduce fuel costs
18 for consumers.

19 The purpose of this part is to create a demand for ethanol
20 by increasing the number of flexible or alternative fuel
21 vehicles in Hawaii.



1 SECTION 8. Chapter 437D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§437D- Flexible or alternative fuel vehicles. (a)**
5 Beginning January 1, 2008, and thereafter, any lessor with fifty
6 or more rental motor vehicles shall purchase only flexible or
7 alternative fuel vehicles when purchasing replacement or
8 additional vehicles.

9 (b) For the purposes of this section:

10 "Flexible or alternative fuel vehicle" means any vehicle
11 designed to run on E85 ethanol fuel, which is a mixture of
12 approximately eighty-five per cent ethyl alcohol and gasoline."

13 **PART V. BIOFUEL STORAGE FOR HARBORS**

14 SECTION 9. Chapter 266, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 **"§266- Biofuel storage and transmission infrastructure.**
18 The department of transportation shall include biofuel storage
19 and transmission infrastructure in all harbor improvement master
20 plans. For purposes of this section, "biofuel" means fuel from
21 non-petroleum plant or animal based sources that can be used for
22 the generation of power or heat."



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect upon its approval.

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INTRODUCED BY:

Russell Kohl
~~_____~~
~~_____~~



Report Title:

Biofuels; Omnibus Package

Description:

Allows biofuel processing facilities to be a permitted use in an agriculture district. Establishes an energy feedstock program to develop a baseline percentage of energy feedstock to be grown in the State. Establishes a baseline price for the purchase of ethanol from an ethanol production facility. Requires all rental cars purchased after 1/1/08 to be flexible or alternative fuel vehicles. Requires the department of transportation to include biofuel storage and transmission infrastructure in all harbor improvement plans.

