

JAN 24 2007

A BILL FOR AN ACT

RELATING TO WINDFALL PROFITS EARNED BY ENERGY COMPANIES.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Windfall Profits Tax. (a) In addition to any
5 other applicable tax imposed pursuant to this chapter, there is
6 imposed on the producers and distributors of energy and energy-
7 products doing business in Hawaii, a windfall profits tax, that
8 shall be applicable to profits earned from Hawaii business
9 operations to the extent that such profits exceed twice the
10 national industry average profit margins for such companies, as
11 determined by the windfall profits advisory panel. The tax
12 shall be equal to 50% applied to the profits deemed to be
13 excessive in accordance with this section.

14 (b) Moneys collected pursuant to this section shall be
15 apportioned to the counties according to the number of vehicles
16 registered in each respective county. Each county shall receive
17 such apportioned share on an annual basis.



1 (c) For purposes of this section:

2 "National industry average profit margin" means the average
3 profit margin of energy-related production and distribution
4 companies in the United States as disclosed in industry reports,
5 Moody's Investment Service, corporate annual reports or any
6 other industry analytical source reports;

7 "Profit margin" means the ratio of cost of goods sold to
8 gross sales expressed as a percentage;

9 "Cost of goods sold" includes the cost of raw materials,
10 i.e. oil, plus maintenance costs and operating expenses";

11 "Producers and distributors of energy and energy-related
12 products" includes individuals, partnerships, limited
13 partnerships, joint ventures, trusts, associations,
14 corporations, chapter S corporations, or any other entity that
15 is engaged in the business of producing, refining, importing,
16 and distributing electricity, biofuel, natural gas, and
17 petroleum related products to retailers or individuals.

18 "Retailer" includes individuals, partnerships, limited
19 partnerships, joint ventures, trusts, associations,
20 corporations, chapter S corporations, or any other entity that
21 is engaged in the business of selling energy and energy-related
22 products to the consuming public.



1 (d) There is established within the department of commerce
2 and consumer affairs' division of consumer advocacy an advisory
3 board consisting of five individuals. The members of the board
4 shall be appointed by the governor from a list of eligible
5 candidates submitted by the director of consumer advocacy, in
6 accordance with Article V, Section 6 of the state constitution.
7 The members of the board shall be: director of consumer
8 advocacy, who shall serve as its chairman; two unaffiliated
9 consumers of electricity and other energy-related products, who
10 shall be members of the public at large; an energy retailer, who
11 shall be engaged in the business of selling products to the
12 consuming public; and a seller of energy products, who shall be
13 either a producer, refiner or importer of energy-related
14 products for resale. The members of the board shall serve
15 without compensation but shall be reimbursed for expenses,
16 including travel expenses, actually incurred in the performance
17 of their duties under this chapter.

18 (e) The chairman of the board shall establish rules and
19 guidelines for the board including the methodology to be used to
20 calculate industry average profit margins.

21 (1) The duties of the board shall include:



1 (A) Review and analysis of national energy industry
2 sales data; and

3 (B) Establishing national industry average profit
4 margins.

5 (2) The board shall meet once during the fourth quarter of
6 each year.

7 (3) Meetings shall be conducted in accordance with
8 Robert's Rules of Order.

9 (4) A simple majority of votes shall be required for
10 decision making purposes.

11 (f) The director of consumer advocacy shall publish the
12 advisory panel's "national industry average profit margin"
13 determination for public review.

14 (g) Any distributor of energy-related products violating
15 this part, shall be subject to the fines and penalties provided
16 in §231-39, Hawaii Revised Statutes.

17 SECTION 2. New statutory material is underscored.

18
19
20
21
22



1 SECTION 3. This Act shall take effect on July 1, 2007.

2

INTRODUCED BY:

Y. L. L.

Yvonne Chun Calland

3

4

Donna
Paul Manning
Hali Gosh



Report Title:

Windfall Profits Tax

Description:

Imposes a windfall profits tax equal to 50% of the amount of the profits earned by energy-related production and distribution companies doing business in Hawaii when deemed to be excessive. Profits earned by a company would be considered "excessive" when these exceed twice the national average profit margin for such companies. Establishes a panel of advisors who would analyze industry figures to determine an average industry profit margin for such companies. Apportions taxes collected pursuant to this measure to the counties according to the number of vehicles registered in each.

