

JAN 17 2008

A BILL FOR AN ACT

RELATING TO GREENHOUSE GAS EMISSIONS.

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

1 SECTION 1. The purpose of this Act is to diminish the
2 emissions of greenhouse gases from new motor vehicles and
3 require the department of business, economic development, and
4 tourism to create and implement a clean vehicle incentive
5 program that would provide rebates to, and require surcharges
6 from, purchasers of new motor vehicles based on the vehicles'
7 greenhouse gas emissions. All surcharges collected under the
8 clean vehicle incentive program would be required to be
9 deposited into a clean vehicle incentive revolving fund and any
10 rebates under the program would be withdrawn from the revolving
11 fund. Moneys in the revolving fund would be continuously
12 appropriated to the department of business, economic
13 development, and tourism to fund and administer the clean
14 vehicle incentive program.

15 A clean vehicle incentive program is needed in Hawaii
16 because motor vehicles are one the largest sources of greenhouse
17 gas emissions. A reduction in greenhouse gases will have a



1 beneficial impact on Hawaii's environment and economy. Although
2 there has been some progress over the past decade in reducing
3 emissions on new motor vehicles, there is still substantial room
4 for improvement. One method to reduce emissions would be
5 through providing economic incentives that would encourage
6 consumers to purchase cleaner vehicles and also encourage
7 manufacturers to offer consumers new vehicles that emit lower
8 greenhouse gas emissions. Providing a one-time rebate or
9 surcharge on the purchase of new motor vehicles would be a
10 reasonable and appropriate way to either induce or discourage
11 the purchase, and manufacturing, of certain new motor vehicles.
12 The creation and implementation of a clean vehicle incentive
13 program will not create any new regulatory standard under the
14 law and it will likely have a positive effect on the increasing
15 problems associated with global warming.

16 SECTION 2. Chapter 196, Hawaii Revised Statutes, is
17 amended by adding a new part to be appropriately designated and
18 to read as follows:

19 **"PART . CLEAN VEHICLE INCENTIVE PROGRAM**

20 **§196-A Clean vehicle incentive program; established. (a)**

21 The clean vehicle incentive program shall consist of a one-time
22 rebate or one-time surcharge on the purchase of a new motor



1 vehicle that is intended to reduce greenhouse gas emissions from
2 new motor vehicles.

3 (b) The clean vehicle incentive program shall be
4 financially self-supporting and shall not reduce the State's
5 general fund revenues or increase the State's general fund
6 expenditures.

7 **§196-B Definitions.** For purposes of this part, the
8 following terms shall have the following meanings:

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

14 "Contributory pollutant" means an air toxic pollutant or
15 contaminant, including, but not limited to, black carbon, carbon
16 monoxide, and nitrous oxide, for which the department has
17 determined contributes to global warming.

18 "Criteria air pollutant" means an air pollutant for which
19 the United States Environmental Protection Agency has issued
20 primary or secondary national air quality standards pursuant to
21 sections 108 and 109 of the federal Clean Air Act (42 U.S.C.



1 Secs. 7408 and 7409), including carbon monoxide, lead, nitrogen
2 oxides, ozone, particulate matter, and sulfur dioxide.

3 "Dealer" means any person or business engaged in the
4 business of selling, buying, trading, exchanging, or dealing
5 motor vehicles and who expects to receive a profit, moneys,
6 fees, commission, or other valuable property from the purchaser
7 or seller of the motor vehicle.

8 "Department" means department of business, economic
9 development, and tourism.

10 "Greenhouse gas factor" means a dollar value, as determined
11 by the department assigned to carbon dioxide equivalent
12 emissions per mile from a motor vehicle. At the discretion of
13 the department, this may be expressed in dollars divided by
14 grams of carbon dioxide equivalent per mile (\$/g CO₂ -eq/mi).

15 "Greenhouse gases" means carbon dioxide,
16 hydrofluorocarbons, methane, oxides of nitrogen,
17 perfluorocarbons, sulfur hexafluoride, and any other gases that
18 the department determines contributes significantly to global
19 warming.

20 "Motor vehicle" and "vehicle" means a light- or medium-duty
21 passenger vehicle with a gross vehicle weight rating of ten
22 thousand pounds or less.



1 "Program" means the clean vehicle incentive program
2 established pursuant to this part.

3 "Revolving fund" means the clean vehicle incentive
4 revolving fund created by section 196-N.

5 "Zero band" means that portion of a linear scale of rebates
6 and surcharges in which vehicles are assigned neither a rebate
7 nor a surcharge.

8 **§196-C Requirements for program rebates.** (a) To receive
9 a clean vehicle incentive program rebate the purchaser of the
10 new motor vehicle and the dealer shall adhere to the following
11 requirements:

12 (1) A Hawaii resident who purchases a new motor vehicle in
13 a retail sale in Hawaii shall be eligible to receive a
14 clean vehicle incentive program rebate if:

15 (A) The new motor vehicle has a model year of 2011 or
16 later;

17 (B) The purchase of the new motor vehicle was made on
18 or after July 1, 2010; and

19 (C) The purchaser meets all other requirements for a
20 rebate that are identified by the department in
21 rules adopted for this part;



- 1 (2) The dealer shall clearly indicate on the purchase
2 receipt and contract, or lease agreement, the amount
3 of the rebate owed to the owner of the new motor
4 vehicle owner;
- 5 (3) In order to receive the rebate, the motor vehicle
6 owner shall file a claim on a form prescribed by the
7 department and made available to the owner by the
8 dealer at the time of purchase;
- 9 (4) The dealer shall facilitate and accept these claims
10 from the new motor vehicle owner and the dealer shall
11 submit these claims to the department in a time,
12 place, and manner determined by the department that
13 shall be accompanied by proof of vehicle purchase from
14 the dealer. The proof of purchase shall, at a
15 minimum, include all of the following:
- 16 (A) The date when the vehicle was purchased;
- 17 (B) The year, make, and model of the vehicle
18 purchased;
- 19 (C) The vehicle identification number; and
- 20 (D) The price paid for the vehicle;



1 (5) If requested by the owner of the new motor vehicle,
2 the department shall pay the rebate to the eligible
3 owner through an electronic funds transfer; and

4 (6) The department shall make every reasonable effort to
5 pay the rebate to the eligible new motor vehicle owner
6 within sixty days of receiving the rebate claim form.

7 No interest shall be paid on any rebate made pursuant
8 to this section.

9 (b) A purchaser of a new motor vehicle will be subjected
10 to paying the dealer a surcharge under the following conditions:

11 (1) Except as otherwise provided for in this part, a
12 person who purchases a new motor vehicle at a retail
13 sale, on or after July 1, 2010, that has a model year
14 of 2011 or later, shall pay an emissions surcharge, if
15 the new motor vehicle is subject to an emissions
16 surcharge, in the amount determined by the department
17 pursuant to rules adopted by the department under this
18 part;

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



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

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

9 **§196-D Rules; adoption.** (a) No later than July 1, 2009,
10 the department, in consultation with other agencies that the
11 department determines are appropriate, and after at least two
12 public workshops, shall adopt rules to create and implement a
13 clean vehicle incentive program as described in this part that
14 achieves the maximum feasible and cost-effective reduction of
15 greenhouse gas emissions from new motor vehicles.

16 (b) The rules shall, consistent with section 196-E,
17 establish a schedule of one-time clean vehicle rebates and one-
18 time emissions surcharges for all new motor vehicles not
19 otherwise excluded in this part.

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



1 **§196-E Determination of a rebate or surcharge.** (a) The
2 department shall calculate, using a linear scale, the rebate or
3 surcharge to be applied to every motor vehicle subject to the
4 program by comparing the new motor vehicle's emissions of
5 greenhouse gases with the greenhouse gas emissions of all
6 vehicles of the same model year.

7 (b) To calculate the rebate or surcharge pursuant to
8 subsection (a), the department shall determine the difference
9 between a new motor vehicle's emissions of greenhouse gases and
10 the average emissions of greenhouse gases of all vehicles
11 subject to the program, for a given model year. The difference
12 identified for each vehicle based on emissions of greenhouse
13 gases shall be multiplied by a greenhouse gases factor, to
14 determine the amount of the rebate or surcharge.

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

19 (1) Emissions of contributory pollutants as determined by
20 the department; or

21 (2) Emissions of criteria air pollutants based on rules
22 adopted by the department, if any.



1 (d) Based on the calculations made pursuant to subsections
2 (b) and (c), the department shall assign a rebate or surcharge
3 to every new motor vehicle subject to this program that reflects
4 its relative emissions of greenhouse gases and, at the
5 discretion of the department, its relative emissions of
6 contributory pollutants or criteria air pollutants, compared to
7 all vehicles for the same model year that are subject to the
8 program, and subject to all of the following:

9 (1) The department shall establish a zero band that
10 includes the midpoint of the linear scale and includes
11 not less than twenty per cent, nor more than twenty-
12 five per cent, of the fleet of a given model year.
13 New motor vehicles that fall within the zero band
14 shall not be assigned a rebate or a surcharge. The
15 zero band shall take into consideration the following:

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



1 (B) The department shall consider sales-weighted data
2 in determining the placement of the zero band and
3 the schedule of rebates and surcharges;

4 (2) The rebate and surcharge shall be not more than
5 \$2,500. Additionally, no rebate or surcharge shall
6 exceed the amount of the general excise tax on the
7 purchase price of the new motor vehicle;

8 (3) No rebate or surcharge shall be less than \$100. New
9 motor vehicles that would otherwise be assigned a
10 rebate or surcharge of less than \$100 shall be placed
11 in the zero band; and

12 (4) The department may round up or down the assigned
13 rebate and surcharge amounts to the nearest \$25 for
14 each new motor vehicle.

15 (e) When setting the schedule of rebates and surcharges
16 for vehicles of a given model year, the department shall
17 consider previous years sales data and projected sales of new
18 motor vehicles in order to ensure that the program is providing
19 buyers with an incentive to reduce greenhouse gas emissions and
20 also that the program is financially self-supporting.

21 **§196-F Minimum requirements for the program to be**
22 **considered financially self-supporting.** (a) The schedule of



1 rebates and surcharges shall be designed to ensure that the
2 program will be financially self-supporting and will generate
3 adequate revenues to do all of the following:

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

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

8 (3) Provide for a reserve within the program equal to
9 approximately fifteen per cent of the estimated
10 rebates to ensure the revolving fund, to the extent
11 possible, will have a positive balance at the end of
12 each fiscal year.

13 (b) If the department determines that the amount of the
14 reserve specified in paragraph (a)(3) is either excessive or
15 inadequate at the fifteen per cent level to meet the
16 requirements of paragraphs (a)(1) and (a)(2), the department may
17 reduce or increase the size of the reserve.

18 (c) Once the schedule of rebates and surcharges is set for
19 vehicles in a specified model year, the schedule may be adjusted
20 no more than once per model year to meet the requirements of
21 this section. Any adjustments pursuant to this section shall
22 become operative on the first day of the first month that



1 commences at least ninety days after the department formally
2 adopts the adjustment to the schedule.

3 (d) The department shall make annual or biennial
4 adjustments to the schedule of surcharges and rebates, and the
5 placement of the zero band, based on recent and anticipated
6 changes in new motor vehicle sales to ensure that the program
7 continues to generate adequate revenues to meet the requirements
8 of subsection (a).

9 **§196-G Schedule of rebates, surcharges, and adjustments.**

10 (a) The schedule of rebates and surcharges, as adjusted
11 annually or biennially, shall take effect no earlier than July 1
12 of each subsequent year, and be applied to new motor vehicles of
13 the following model year. The department may make adjustments
14 biennially only if the department finds that biennial
15 adjustments meet both of the following criteria:

16 (1) The department determines that the program will remain
17 financially self-supporting and is not in jeopardy of
18 running a deficit; and

19 (2) The department determines that it is in the best
20 interests of achieving the goals of the program to not
21 make adjustments more often than once every two years.



1 (b) In the first year of the program, the department may
2 delay implementation of the rebate eligibility for up to sixty
3 days after the surcharges initially take effect in order to
4 ensure that adequate moneys are available to fund and administer
5 the program's rebates.

6 **§196-H Motor vehicle value.** The value of the new motor
7 vehicle that will be used to assign a rebate or surcharge shall
8 include any applicable fees and costs, but shall not include any
9 general excise taxes.

10 **§196-I Motor vehicles purchased outside of Hawaii.** (a)
11 Any person who purchases a new motor vehicle outside of Hawaii
12 whose vehicle is subject to the tax imposed under chapter 238
13 and whose vehicle would otherwise have been subject to an
14 emissions surcharge shall pay the surcharge and register the
15 vehicle by applying to the director of finance of the county
16 where the vehicle is to be operated pursuant to section 286-41,
17 within twelve months of returning to Hawaii with the vehicle.

18 (b) The surcharge shall be paid to the director of finance
19 of the county where the vehicle is to be operated at the time of
20 the vehicle's initial registration in Hawaii. The department
21 and the director of finance of the applicable county shall
22 cooperate to ensure the efficient transfer of surcharge revenues



1 to the clean vehicles incentive revolving fund established under
2 section 196-N and to develop other procedures to implement this
3 subsection.

4 (c) Other than vehicles subject to subsection (a),
5 vehicles purchased outside of Hawaii shall not be eligible for a
6 rebate.

7 **§196-J Leases of motor vehicles for one year or more.** (a)

8 Any Hawaii resident who leases a new motor vehicle from a dealer
9 for a term of one or more years, which would otherwise be
10 subject to an emissions surcharge, shall be assessed an
11 emissions surcharge. The surcharge may be amortized over the
12 life of the lease, but the applicable portion of the surcharge
13 shall be paid upon the execution of lease.

14 (b) Any Hawaii resident who leases a new motor vehicle
15 from a dealer for a term of one or more years, which would
16 otherwise be subject to a rebate, shall qualify for and receive
17 the rebate pursuant to section 196-C.

18 **§196-K Collection and payment; rules.** The department
19 shall adopt rules that cover how rebates shall be paid, how
20 surcharges shall be collected, and how any refunds from
21 surcharges are distributed.



1 **§196-L Public awareness of program.** (a) No later than
2 May 1, 2010, the department shall make available to the public,
3 including through the department's internet website, the
4 schedule of rebates and surcharges applicable in the fiscal year
5 following their publication. The updated schedule shall be made
6 available to the public at the time when it is updated.

7 (b) The department shall disseminate information to
8 dealers and consumers about the program, including, but not
9 limited to, the following:

10 (1) The department shall notify licensed dealers about
11 relevant details of the program, including
12 identifying, to the extent feasible, new motor
13 vehicles that are exempt from the program pursuant to
14 section 196-M and providing reasonable assistance to
15 help motor vehicle dealers carry out the program; and

16 (2) The department shall incorporate a public education
17 campaign on the program that seeks to inform and
18 encourage the public to purchase new motor vehicles
19 that have lower greenhouse gas emissions.

20 (c) Dealers shall be required to clearly display the
21 amount of the assigned rebate or surcharge for each new motor
22 vehicle available for sale at the dealers place of business,



1 including a description about the surcharge being limited to the
2 amount of general excise tax paid on the purchase price of the
3 new motor vehicle pursuant to section 196-E.

4 **§196-M Exempt motor vehicles.** (a) Notwithstanding any
5 other provision of this part, a new motor vehicle owner shall be
6 refunded the surcharge that would otherwise be applicable to the
7 person's new motor vehicle if that new motor vehicle is in any
8 of the following categories:

- 9 (1) Emergency vehicles purchased by the State or any of
10 the counties;
- 11 (2) Motor vehicles designed or specifically modified for
12 the purpose of transporting disabled persons;
- 13 (3) Vans purchased by public or private entities that are
14 primarily used for the purpose of vanpools;
- 15 (4) New motor vehicles that are purchased or leased by low
16 income residents of Hawaii, which shall be defined by
17 the department by rules adopted pursuant to this part;
18 or
- 19 (5) The new motor vehicle is not subject to the
20 inspection, emissions, and maintenance requirements of
21 the State.



1 (b) If a new motor vehicle is not identified as an exempt
2 vehicle by the department pursuant to this section, but the
3 purchaser of the vehicle believes that the purchaser qualifies
4 for an exemption pursuant to this section, the purchaser shall
5 pay the surcharge at the time of sale as required by this part,
6 however, the person may submit an application to the department
7 within ninety days after payment of the surcharge certifying
8 that the vehicle qualifies for the exemption. The department
9 shall notify the applicant within sixty days of receipt of the
10 application of its determination of whether an exemption will be
11 granted. If the department determines that the vehicle owner
12 qualifies for an exemption from the surcharge pursuant to this
13 section, the department shall reimburse the applicant for the
14 value of the surcharge from the revolving fund.

15 (c) The department shall prepare and make available to
16 dealers and the public, including on the department's internet
17 website, an application for purchasers of new motor vehicles who
18 are seeking reimbursement for a surcharge paid for an exempt
19 vehicle pursuant to subsection (b). The application shall
20 provide the opportunity for the purchaser to demonstrate that a
21 vehicle or vehicle purchaser, as applicable, qualifies for an
22 exemption, specify the period of time within which the purchaser



1 must apply for reimbursement, and provide reasonable means for
2 the applicant to challenge the department's finding if it
3 determines that a vehicle does not qualify for an exemption.

4 **§196-N Clean vehicle incentive revolving fund; created.**

5 (a) There is established in the state treasury the clean
6 vehicle incentive program revolving fund, to be administered by
7 the department, into which shall be deposited all emissions
8 surcharges collected pursuant to this part. Moneys in the
9 revolving fund shall be continuously appropriated without regard
10 to fiscal year and may only be used to pay for the following:

- 11 (1) Clean vehicle rebates;
- 12 (2) Refunds of emissions surcharges as provided in this
13 part;
- 14 (3) Administrative costs of the department for carrying
15 out its responsibilities pursuant to this part; or
- 16 (4) Reimbursing the counties for costs incurred due to
17 carrying out responsibilities pursuant to section
18 196-I.

19 (b) Notwithstanding any law to the contrary, including any
20 provision of section 342B-32, for the initial implementation of
21 this part, the director of finance is authorized to transfer
22 into the revolving fund a sufficient amount of moneys from the



1 clean air special fund established pursuant to section 342B-32,
2 to enable the program to be implemented. The transfer of moneys
3 shall be in the form of a loan that shall be repaid, with
4 interest, from moneys in the revolving fund by June 30, 2011.

5 **§196-O Emissions data collection.** The department may
6 regularly collect from motor vehicle manufacturers' adequate
7 data to calculate a vehicle's emissions of greenhouse gases to
8 carry out this part.

9 **§196-P Alternative fuel vehicles.** In adopting rules
10 pursuant to subsections (a) and (b) of section 196-D, the
11 department shall determine the manner for which to account for
12 vehicles that run on an alternative fuel. The department may
13 develop procedures that provide for a refund of a surcharge if a
14 department-approved after-market alternative fuel conversion
15 device is installed on a new motor vehicle within six months of
16 original purchase.

17 **§196-Q Department reporting requirements.** No later than
18 January 1, 2013, and every three years thereafter, the
19 department shall provide the legislature with a report that does
20 all of the following:

21 (1) Describes the effectiveness of the program in reducing
22 emissions of greenhouse gases from new motor vehicles;



1 (2) Identifies any adjustments made to the schedule of
2 rebates and surcharges and the reasons for the
3 adjustments; and

4 (3) Recommends changes that may be needed to meet the
5 goals of the program or to enhance the effectiveness
6 of the program's purpose."

7 SECTION 3. In codifying the new sections added by
8 section 2 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new sections in this Act.

11 SECTION 4. This Act shall take effect on July 1, 2008.

12

INTRODUCED BY: *Joe Miller Jr*



Report Title:

Motor Vehicle Emissions; Greenhouse Gases; Energy Conservation

Description:

Creates a clean motor vehicle incentive program aimed at reducing greenhouse gas emissions from new motor vehicles by providing rebates or surcharges to purchasers of new motor vehicles. Establishes a clean motor vehicle incentive revolving fund.

