

JAN 22 2008

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## A BILL FOR AN ACT

RELATING TO INTRA-COUNTY FERRY SERVICE.

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

1           SECTION 1. The legislature finds that the residents of  
2 West Maui are served by only one highway and one small airport.  
3 Residents on the island of Lanai have only one feasible means of  
4 transport to Maui - by intra-county ferry from Lanai to Lahaina.  
5 However, the Lahaina small boat harbor is already overused and  
6 is shared by commercial fishing activities and cruise ships that  
7 add to already congested surface traffic.

8           The legislature finds that an alternate ferry route from  
9 Lanai to Maalaea harbor will not only provide more convenient  
10 travel for residents of Lanai and West Maui, but also ease the  
11 congestion in and around Lahaina and its boat harbor and will  
12 make an emergency ferry operations out of Lahaina a feasible  
13 reality as a component of an emergency transportation system  
14 should the only highway in West Maui be closed. However, any  
15 ferry route to and from Maalaea harbor and Lahaina requires  
16 priority assigning of mooring space. In addition, the added  
17 fuel costs of this route would require an exemption from the  
18 fuel tax for fuel purchases for the ferry service.



1           The purpose of this Act is to provide priority assignment  
2 of mooring space for a new ferry route from Maalaea harbor to  
3 Lahaina and to provide an exemption from the fuel tax for fuel  
4 purchases for the ferry service.

5           SECTION 2. Any other law to the contrary notwithstanding,  
6 the department of land and natural resources shall assign  
7 priority mooring space to any intra-county ferry service  
8 regulated by the public utilities commission that serves a  
9 county:

- 10           (1) With a population of less than five hundred thousand  
11 residents; and  
12           (2) That includes at least three islands inhabited by  
13 permanent residents.

14           SECTION 3. Section 243-4, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "**§243-4 License taxes**~~[r]~~; **exemption.** (a) This section  
17 shall not apply to the sale of liquid fuel sold or used in the  
18 State for ultimate use by an intra-county ferry service that  
19 serves a county with a population of less than five hundred  
20 thousand residents and that includes at least three islands  
21 inhabited by permanent residents.



1        [~~a~~] (b) Every distributor, in addition to any other  
2 taxes provided by law, shall pay a license tax to the department  
3 of taxation for each gallon of liquid fuel refined,  
4 manufactured, produced, or compounded by the distributor and  
5 sold or used by the distributor in the State or imported by the  
6 distributor, or acquired by the distributor from persons who are  
7 not licensed distributors, and sold or used by the distributor  
8 in the State. Any person who sells or uses any liquid fuel,  
9 knowing that the distributor from whom it was originally  
10 purchased has not paid and is not paying the tax thereon, shall  
11 pay such tax as would have applied to such sale or use by the  
12 distributor. The rates of tax imposed are as follows:

- 13        (1) For each gallon of diesel oil, 2 cents;
- 14        (2) For each gallon of gasoline or other aviation fuel  
15                sold for use in or used for airplanes, 2 cents;
- 16        (3) For each gallon of naphtha sold for use in a power-  
17                generating facility, 1 cent;
- 18        (4) For each gallon of liquid fuel, other than fuel  
19                mentioned in paragraphs (1), (2), and (3), and other  
20                than an alternative fuel, sold or used in the city and  
21                county of Honolulu, or sold in any county for ultimate  
22                use in the city and county of Honolulu, 17 cents state



1 tax, and in addition thereto an amount, to be known as  
2 the "city and county of Honolulu fuel tax", as shall  
3 be levied pursuant to section 243-5;

4 (5) For each gallon of liquid fuel, other than fuel  
5 mentioned in paragraphs (1), (2), and (3), and other  
6 than an alternative fuel, sold or used in the county  
7 of Hawaii, or sold in any county for ultimate use in  
8 the county of Hawaii, 17 cents state tax, and in  
9 addition thereto an amount, to be known as the "county  
10 of Hawaii fuel tax", as shall be levied pursuant to  
11 section 243-5;

12 (6) For each gallon of liquid fuel, other than fuel  
13 mentioned in paragraphs (1), (2), and (3), and other  
14 than an alternative fuel, sold or used in the county  
15 of Maui, or sold in any county for ultimate use in the  
16 county of Maui, 17 cents state tax, and in addition  
17 thereto an amount, to be known as the "county of Maui  
18 fuel tax", as shall be levied pursuant to section 243-  
19 5; and

20 (7) For each gallon of liquid fuel, other than fuel  
21 mentioned in paragraphs (1), (2), and (3), and other  
22 than an alternative fuel, sold or used in the county



1 of Kauai, or sold in any county for ultimate use in  
2 the county of Kauai, 17 cents state tax, and in  
3 addition thereto an amount, to be known as the "county  
4 of Kauai fuel tax", as shall be levied pursuant to  
5 section 243-5.

6 If it is shown to the satisfaction of the department, based  
7 upon proper records and from any other evidence as the  
8 department may require, that liquid fuel, other than fuel  
9 mentioned in paragraphs (1), (2), and (3), is used for  
10 agricultural equipment that does not operate upon the public  
11 highways of the State, the user thereof may obtain a refund of  
12 all taxes thereon imposed by this section in excess of 1 cent  
13 per gallon. The department shall adopt rules to administer such  
14 refunds.

15 [~~(b)~~] (c) Every distributor of diesel oil, in addition to  
16 the tax required by subsection [~~(a)~~] (b), shall pay a license  
17 tax to the department for each gallon of diesel oil sold or used  
18 by the distributor for operating a motor vehicle or motor  
19 vehicles upon public highways of the State. The rates of the  
20 additional tax imposed are as follows:

- 21 (1) For each gallon of diesel oil sold or used in the city  
22 and county of Honolulu, or sold in any other county



1 for ultimate use in the city and county of Honolulu,  
2 15 cents state tax, and in addition thereto an amount,  
3 to be known as the "city and county of Honolulu fuel  
4 tax", as shall be levied pursuant to section 243-5;

5 (2) For each gallon of diesel oil sold or used in the  
6 county of Hawaii, or sold in any other county for  
7 ultimate use in the county of Hawaii, 15 cents state  
8 tax, and in addition thereto an amount, to be known as  
9 the "county of Hawaii fuel tax", as shall be levied  
10 pursuant to section 243-5;

11 (3) For each gallon of diesel oil sold or used in the  
12 county of Maui, or sold in any other county for  
13 ultimate use in the county of Maui, 15 cents state  
14 tax, and in addition thereto an amount, to be known as  
15 the "county of Maui fuel tax", as shall be levied  
16 pursuant to section 243-5; and

17 (4) For each gallon of diesel oil sold or used in the  
18 county of Kauai, or sold in any other county for  
19 ultimate use in the county of Kauai, 15 cents state  
20 tax, and in addition thereto an amount, to be known as  
21 the "county of Kauai fuel tax", as shall be levied  
22 pursuant to section 243-5.



1        If any user of diesel oil furnishes a certificate, in a  
2 form that the department shall prescribe, to the distributor or  
3 if the distributor who uses diesel oil signs the certificate,  
4 certifying that the diesel oil is for use in operating a motor  
5 vehicle or motor vehicles in areas other than upon the public  
6 highways of the State, the tax as provided in paragraphs (1) to  
7 (4) shall not be applicable. If a certificate is not or cannot  
8 be furnished and the diesel oil is in fact for use for operating  
9 a motor vehicle or motor vehicles in areas other than upon  
10 public highways of the State, the user thereof may obtain a  
11 refund of all taxes thereon imposed by the foregoing paragraphs.  
12 The department shall adopt rules to administer the refunding of  
13 such taxes.

14        [~~e~~] (d) The tax shall not be collected in respect to any  
15 benzol, benzene, toluol, xylol, or alternative fuel sold for use  
16 other than for operating internal combustion engines. With  
17 respect to these products, other than alternative fuels, the  
18 department, by rule, shall provide for the reporting and payment  
19 of the tax and for the keeping of records in such a manner as to  
20 collect, for each gallon of each product sold for use in  
21 internal combustion engines for the generation of power, or so  
22 used, the same tax or taxes as apply to each gallon of diesel



1 oil. With respect to alternative fuels, the only tax collected  
2 shall be that provided in paragraphs (1), (2), and (3) of this  
3 subsection. This subsection shall not apply to aviation fuel  
4 sold for use in or used for airplanes.

5 (1) Every distributor of any alternative fuel for  
6 operation of an internal combustion engine shall pay a  
7 license tax to the department of one-quarter of 1 cent  
8 for each gallon of alternative fuel sold or used by  
9 the distributor;

10 (2) Every distributor, in addition to the tax required  
11 under paragraph (1) of this subsection, shall pay a  
12 license tax to the department for each gallon of  
13 alternative fuel sold or used by the distributor for  
14 operating a motor vehicle or motor vehicles upon the  
15 public highways of the State at a rate proportional to  
16 that of the rates applicable to diesel oil in  
17 subsection ~~[(b),]~~ (c), rounded to the nearest one-  
18 tenth of a cent, as follows:

- 19 (A) Ethanol, 0.145 times the rate for diesel;  
20 (B) Methanol, 0.11 times the rate for diesel;  
21 (C) Biodiesel, 0.25 times the rate for diesel;





1 (D) Liquefied petroleum gas, 0.33 times the rate for  
2 diesel; and

3 (E) For other alternative fuels, the rate shall be  
4 based on the energy content of the fuels as  
5 compared to diesel fuel, using a lower heating  
6 value of one hundred thirty thousand British  
7 thermal units per gallon as a standard for  
8 diesel, so that the tax rate, on an energy  
9 content basis, is equal to one-quarter the rate  
10 for diesel fuel.

11 The taxes so paid shall be paid into the state  
12 treasury and deposited in special funds or paid over  
13 in the same manner as provided in subsection ~~[(b)]~~ (c)  
14 in respect of the tax on diesel oil;

15 (3) If any user of alternative fuel furnishes to the  
16 distributor a certificate, in a form that the  
17 department shall prescribe or if the distributor who  
18 uses alternative fuel signs the certificate,  
19 certifying that the alternative fuel is for use in  
20 operating a motor vehicle or motor vehicles in areas  
21 other than upon the public highways of the State, the  
22 tax as provided by paragraphs (1) and (2) of this



1 subsection shall not be applicable; provided that no  
2 certificate shall be required if the alternative fuel  
3 is used for fuel and heating purposes in the home. If  
4 a certificate is not or cannot be furnished and the  
5 alternative fuel is in fact used for operating an  
6 internal combustion engine or operating a motor  
7 vehicle or motor vehicles in areas other than upon the  
8 public highways of the State, the user thereof may  
9 obtain a refund of all taxes thereon imposed by the  
10 foregoing paragraphs. The department shall adopt  
11 rules to administer the refunding of these taxes.

12 [~~(d)~~] (e) No tax shall be collected in respect to any  
13 liquid fuel, including diesel oil and liquefied petroleum gas,  
14 shown to the satisfaction of the department to have been sold  
15 for use in and actually delivered to, or sold in, the county of  
16 Kalawao."

17 SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2008;  
20 provided that the amendments made to section 243-4, Hawaii  
21 Revised Statutes, by section 3 of this Act shall not be repealed



1 when that section is repealed and reenacted on December 31, 2009  
2 by section 5(1) of Act 103, Session Laws of Hawaii 2007.  
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INTRODUCED BY:

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**Report Title:**

Intra-County Ferry; Mooring Space; Priority; Fuel Tax Exemption

**Description:**

Requires department of land and natural resources to assign priority mooring space to intra-county ferries serving a county with 500,000 or less people and at least 3 islands inhabited by permanent residents. Exempts distributors from fuel tax for fuel sold for ultimate use by the intra-county ferry service.

