

JAN 23 2008

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that a healthy inter-  
2 island airline industry is vital to the State's economy.  
3 Hawaii's inter-island airlines continue to face severe financial  
4 challenges. Fuel costs in particular have skyrocketed and grown  
5 volatile in recent years. In fact, for most airlines, the cost  
6 of fuel has surpassed labor as the leading operating cost.

7           Airline fuel that is purchased in a foreign-trade zone and  
8 used by airlines traveling out of the State of Hawaii is exempt  
9 from general excise and use taxes, however, airlines on  
10 intrastate flights are not exempt. To the extent that these  
11 general excise and use taxes apply to intrastate flights, they  
12 only exacerbate the economic problems that are faced by airlines  
13 operating within Hawaii.

14           The legislature finds that the effect of providing common  
15 carriers with an exemption from general excise and use taxes for  
16 fuel purchased from a foreign trade zone and used for inter-



1 island flights would be to create a level playing field for all  
2 airlines.

3 The purpose of this Act is to exempt common carriers that  
4 fly inter-island routes from up to \$3,800,000 of general excise  
5 and use taxes on fuel purchased for inter-island transportation.

6 SECTION 2. Section 237-24.75, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§237-24.75 Additional exemptions. In addition to the  
9 amounts exempt under section 237-24, this chapter shall not  
10 apply to:

- 11 (1) Amounts received as a beverage container deposit  
12 collected under chapter 342G, part VIII;
- 13 (2) Amounts received by the operator of the Hawaii  
14 convention center for reimbursement of costs or  
15 advances made pursuant to a contract with the Hawaii  
16 tourism authority under section 201B-7 ~~[+; and+]~~;
- 17 [+](3) Amounts received[+] by a professional employment  
18 organization from a client company equal to amounts  
19 that are disbursed by the professional employment  
20 organization for employee wages, salaries, payroll  
21 taxes, insurance premiums, and benefits, including  
22 retirement, vacation, sick leave, health benefits, and



1 similar employment benefits with respect to assigned  
2 employees at a client company; provided that this  
3 exemption shall not apply to a professional employment  
4 organization upon failure of the professional  
5 employment organization to collect, account for, and  
6 pay over any income tax withholding for assigned  
7 employees or any federal or state taxes for which the  
8 professional employment organization is responsible.

9 As used in this paragraph, "professional employment  
10 organization", "client company", and "assigned  
11 employee" shall have the meanings provided in section  
12 373K-1 [↔]; and

- 13 (4) Amounts aggregating not more than \$95,000,000 received  
14 annually from sales of aviation fuel, as defined in  
15 section 243-1, categorized as privileged foreign  
16 merchandise, non-privileged foreign merchandise,  
17 domestic merchandise, or zone-restricted merchandise,  
18 that is admitted into a foreign-trade zone under  
19 chapter 212 and is made directly to or is used by a  
20 common carrier for consumption or use in air  
21 transportation between islands in the State."



1 SECTION 3. Section 238-3, Hawaii Revised Statutes, is  
2 amended by amending subsection (g) to read as follows:

3 "(g) The tax imposed by this chapter shall not apply to  
4 [any] :

5 (1) Any intoxicating liquor as defined in chapter 244D and  
6 cigarettes and tobacco products as defined in chapter  
7 245, imported into the State and sold to any person or  
8 common carrier in interstate commerce, whether ocean-  
9 going or air, for consumption out-of-state by the  
10 person, crew, or passengers on the shipper's vessels  
11 or airplanes[-]; and

12 (2) Purchases aggregating not more than \$95,000,000  
13 annually of aviation fuel, as defined in section  
14 243-1, categorized as privileged foreign merchandise,  
15 non-privileged foreign merchandise, domestic  
16 merchandise, or zone-restricted merchandise, that is  
17 admitted into a foreign-trade zone under chapter 212  
18 and is made directly to or is used by a common carrier  
19 for consumption or use in air transportation between  
20 islands in the State."

21 SECTION 4. (a) There is established a joint legislative  
22 study group to review and track the effects of this Act on the



1 inter-island airline industry, including the profitability and  
2 sustainability of the airlines and cost of travel and shipping  
3 to residents. The study group shall also examine the loss of  
4 revenue to the State.

5 (b) The study group shall be exempt from chapter 92,  
6 Hawaii Revised Statutes.

7 (c) The members of the study group shall be appointed by  
8 the president of the senate and the speaker of the house of  
9 representatives. The chairs of the senate committee on  
10 transportation and international affairs, or similar committee,  
11 and the house committee on transportation, or similar committee,  
12 shall serve as co-chairs of the study group. Members of the  
13 group shall also include:

14 (1) The director of transportation or the director's  
15 designee;

16 (2) The director of taxation or the director's designee;  
17 and

18 (3) One representative from each airline providing inter-  
19 island service.

20 (d) Members of the study group shall receive no additional  
21 compensation for their services.



1 (e) The study group shall be established by November 5,  
2 2008, and shall cease to exist on November 2, 2010.

3 (f) The study group shall submit findings, including a  
4 recommendation concerning the extension of this Act or to make  
5 this Act permanent, to the legislature not later than twenty  
6 days prior to the convening of the regular session of 2011.


7 SECTION 5. This Act shall not be construed to imply that  
8 any law in effect prior to the effective date of this Act is  
9 inconsistent with this Act.

10 SECTION 6. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect on July 1, 2008, and  
13 shall be repealed on December 31, 2010; provided that sections  
14 237-24.75 and 238-3, Hawaii Revised Statutes, are reenacted in  
15 the form in which they read on the day before the effective date  
16 of this Act.

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INTRODUCED BY:

  
A handwritten signature in black ink is written over a horizontal line. The signature consists of a vertical stroke on the left, a horizontal stroke across the middle, and a large, sweeping flourish on the right that loops back under the horizontal stroke.

By Request

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**Report Title:**

General Excise and Use Taxes; Intrastate Aviation; Exemption

**Description:**

Provides an exemption for common carriers from general excise and use taxes on fuel used for intrastate air travel.

