

JAN 23 2008

A BILL FOR AN ACT

RELATING TO WATER.

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

1 SECTION 1. The legislature finds that the ancient Hawaiian
2 culture strongly recognized the value of clean water and
3 believed that without water there would be no life. The
4 legislature further finds that Hawaii's watersheds provide an
5 efficient and natural way of capturing and storing clean water.
6 Hawaii's watersheds and forests not only capture and purify
7 water, it protects the health of our reefs and beaches, cleans
8 and cools the air, and serves as a defense against flood,
9 drought, and climate change.

10 The cost of replicating any one of these essential and
11 ecological amenities through modern engineering technology is
12 improbable, if not cost prohibitive. Furthermore, a 1999 study
13 by the University of Hawaii estimated the value of the Koolau
14 mountain forests--one of twelve major watershed areas in the
15 State to be between \$7,400,000,000 and \$14,000,000,000.
16 Unfortunately, resources to assist in the management of the
17 State's ecological system as well as for data collection and
18 planning requirements have been in decline.



1 On the other hand, the bottled water industry generates an
2 estimated \$46,000,000,000 annually. The legislature finds that
3 in many instances, advertisements by the bottled water industry
4 are designed to undermine public confidence in the safety and
5 quality of municipal water supplies, despite the fact that in
6 the United States and Europe there is more quality regulation of
7 tap water than there is of bottled water.

8 Bottled water is also not environmentally friendly. Often
9 originating from tap water, bottled water is contained in
10 petroleum-based plastic bottles, are hauled long distances to be
11 sold for exorbitant prices, and disposed of in ever-shrinking
12 landfills. Bottled water may cost two hundred forty to ten
13 thousand times more than the same amount of tap water used with
14 a profit margin between fifty and two hundred per cent.

15 The purpose of this Act is to assess and collect a 5 cent
16 surcharge on all bottled water produced or distributed in the
17 State to protect and preserve Hawaii's watershed areas and to
18 fight invasive species.

19 SECTION 2. Chapter 194, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§194-A Invasive species special fund. (a) There is
2 established in the state treasury the invasive species special
3 fund, into which shall be deposited:

4 (1) Revenues from the bottled water special fund under
5 section 340E-B;

6 (2) Appropriations made by the legislature into the fund;

7 (3) Accrued interest from the fund; and

8 (4) Any other funding made by private or government
9 sources.

10 (b) Moneys in the invasive species special fund shall be
11 used to:

12 (1) Fund administrative, audit, and compliance expenses
13 associated with the fund; and

14 (2) Fulfill the purposes of this chapter as directed by
15 the invasive species council under section 194-2."

16 SECTION 3. Chapter 340E, Hawaii Revised Statutes, is
17 amended by adding two new sections to be appropriately
18 designated and to read as follows:

19 "§340E-A Bottled water surcharge. (a) Beginning on
20 October 1, 2008, every deposit beverage distributor shall pay to
21 the department, a bottled water surcharge on each container of
22 bottled water manufactured in, or imported into the State. The



1 surcharge shall be imposed only once on the same container of
2 bottled water. The surcharge shall be 5 cents per container of
3 bottled water.

4 (b) No county shall impose or collect any assessment or
5 surcharge on bottled water for the same or similar purpose that
6 is the subject of this section.

7 (c) The department may retain a reasonable portion of the
8 surcharge collected under this section for administrative
9 purposes before depositing the balance of the proceeds into the
10 bottled water special fund under section 340E-B.

11 (d) For the purposes of this section;
12 "Bottled water" means water that is individually bottled in
13 polyethylene terephthalate or high density polyethylene
14 containers and sold for public consumption.

15 "Deposit beverage distributor" has the same meaning as that
16 term is defined in section 342G-101.

17 **§340E-B Bottled water special fund.** (a) There is
18 established in the state treasury the bottled water special
19 fund, into which shall be deposited:

20 (1) All revenues generated from the bottled water
21 surcharge under section 340E-A;



1 (2) All appropriations made by the legislature into the
2 fund;

3 (3) All accrued interest from the fund; and

4 (4) Any other funding made by private or government
5 sources.

6 (b) Moneys in the bottled water special fund shall be used
7 as follows:

8 (1) Funding of administrative, audit, and compliance
9 expenses associated with this fund; and

10 (2) Fifty per cent of the balance remaining in the fund
11 after expenses under paragraph (1) are paid, shall be
12 deposited into the:

13 (A) Forest stewardship fund under section 195F-4; and

14 (B) Invasive species fund under section 194-A."

15 SECTION 4. Section 194-2, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) There is established the invasive species council for
18 the special purpose of providing policy level direction,
19 coordination, financing, and planning among state departments,
20 federal agencies, and international and local initiatives for
21 the control and eradication of harmful invasive species
22 infestations throughout the State and for preventing the



1 introduction of other invasive species that may be potentially
2 harmful. The council shall:

3 (1) Maintain a broad overview of the invasive species
4 problem in the State;

5 (2) Advise, consult, finance, and coordinate invasive
6 species-related efforts with and between the
7 departments of agriculture, land and natural
8 resources, health, and transportation, as well as
9 state, federal, international, and privately organized
10 programs and policies; provided that funds from the
11 invasive species special fund under section 194-A
12 shall be distributed to the various county invasive
13 species committees for the purposes of this chapter;

14 (3) Identify and prioritize each lead agency's
15 organizational and resource shortfalls with respect to
16 invasive species;

17 (4) After consulting with appropriate state agencies,
18 create and implement a plan that includes the
19 prevention, early detection, rapid response, control,
20 enforcement, and education of the public with respect
21 to invasive species, as well as fashion a mission



1 statement articulating the State's position against
2 invasive species;

3 (5) Coordinate and promote the State's position with
4 respect to federal issues, including:

5 (A) Quarantine preemption;

6 (B) International trade agreements that ignore the
7 problem of invasive species in Hawaii;

8 (C) First class mail inspection prohibition;

9 (D) Whether quarantine of domestic pests arriving
10 from the mainland should be provided by the
11 federal government;

12 (E) Coordinating efforts with federal agencies to
13 maximize resources and reduce or eliminate system
14 gaps and leaks, including deputizing the United
15 States Department of Agriculture's plant
16 protection and quarantine inspectors to enforce
17 Hawaii's laws;

18 (F) Promoting the amendment of federal laws as
19 necessary, including the Lacey Act Amendments of
20 1981, Title 16 United States Code sections
21 3371-3378; Public Law 97-79, and laws related to



- 1 inspection of domestic airline passengers,
2 baggage, and cargo; and
3 (G) Coordinating efforts and issues with the federal
4 Invasive Species Council and its National
5 Invasive Species Management Plan;
6 (6) Identify and record all invasive species present in
7 the State;
8 (7) Designate the department of agriculture, health, or
9 land and natural resources as the lead agency for each
10 function of invasive species control, including
11 prevention, rapid response, eradication, enforcement,
12 and education;
13 (8) Identify all state, federal, and other moneys expended
14 for the purposes of the invasive species problem in
15 the State;
16 (9) Identify all federal and private funds available to
17 the State to fight invasive species and advise and
18 assist state departments to acquire these funds;
19 (10) Advise the governor and legislature on budgetary and
20 other issues regarding invasive species;



- 1 (11) Provide annual reports on budgetary and other related
2 issues to the legislature twenty days prior to each
3 regular session;
- 4 (12) Include and coordinate with the counties in the fight
5 against invasive species to increase resources and
6 funding and to address county-sponsored activities
7 that involve invasive species;
- 8 (13) Review state agency mandates and commercial interests
9 that sometimes call for the maintenance of potentially
10 destructive alien species as resources for sport
11 hunting, aesthetic resources, or other values;
- 12 (14) Review the structure of fines and penalties to ensure
13 maximum deterrence for invasive species-related
14 crimes;
- 15 (15) Suggest appropriate legislation to improve the State's
16 administration of invasive species programs and
17 policies;
- 18 (16) Incorporate and expand upon the department of
19 agriculture's weed risk assessment protocol to the
20 extent appropriate for the council's invasive species
21 control and eradication efforts; and



1 (17) Perform any other function necessary to effectuate the
2 purposes of this [+]chapter[+]."

3 SECTION 5. Section 195F-4, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) There is established a special fund within the state
6 treasury known as the forest stewardship fund which shall be used
7 as follows:

8 (1) Payments shall be made by the board pursuant to
9 agreements entered into with qualified landowners to
10 further the purposes of this chapter;

11 (2) Moneys collected from:

12 (A) The harvest of non-native forest products from
13 forest reserves;

14 (B) The harvest of native forest products from
15 degraded forests as defined in section 186-5.5,
16 within forest reserves;

17 (C) The sale of forest products found dead and lying
18 on the ground;

19 (D) The sale of tree seedlings from state nurseries;

20 (E) The sale of any other products or services, or
21 anything of value derived from forest reserves
22 not described above; [~~or~~]



1 (F) Proceeds from the bottled water special fund
2 under section 340E-B; and
3 [~~(F)~~] (G) The imposition of fines or penalties for
4 violations of this chapter and chapters 183 and
5 185 or any rule adopted thereunder;
6 shall be used for: (i) replanting, managing, and
7 maintaining designated timber management areas; (ii)
8 enhancing the management of public forest reserves with
9 an emphasis on restoring degraded koa forests; [~~and~~]
10 (iii) developing environmental education and training
11 programs pertaining to sustainable forestry; and
12 managing and protecting watershed areas; provided that
13 the activities described in clauses (ii) and (iii) may
14 not be funded unless the activities described in
15 approved management plans pertaining to clause (i) are
16 adequately funded; and
17 (3) Moneys deposited into the fund as authorized by section
18 247-7 may also be used by the department to administer
19 the program and manage the forest reserve system."

20 SECTION 6. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so much
22 thereof as may be necessary for fiscal year 2008-2009 to be



1 deposited into the bottled water special fund under section
2 340E-B.

3 SECTION 7. In codifying the new sections added by this
4 Act, the revisor of statutes shall substitute appropriate
5 section numbers for the letters used in designating the new
6 sections in this Act.

7 SECTION 8. This Act shall take effect upon its approval;
8 provided that sections 6 and 7 shall take effect on July 1,
9 2008.

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INTRODUCED BY: Brian Kohler B/R



Report Title:

Taxation; Bottled Water

Description:

Imposes a 5 cent surcharge for bottled water produced or distributed in the State to protect watershed areas and to fight invasive species.

