

STAND. COM. REP. NO. 540 -08

Honolulu, Hawaii  
FEB 15, 2008

RE: H.B. No. 2860  
H.D. 2

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred H.B. No. 2860, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this bill is to exempt aviation fuel purchased by a common carrier for use in intrastate transportation from within a foreign trade zone from the general excise tax (GET) and use tax.

Aloha Airlines, Aloha Airlines Pilots' Union, Hawaii Fueling Facilities Corporation, Hawaii Chapter of the March of Dimes, Transport Workers Union, International Association of Machinists and Aerospace Workers District 141, Hawaiian Airlines, and The Chamber of Commerce of Hawaii testified in support of this bill. The Department of Business, Economic Development, and Tourism supported the intent of this measure. The Department of Taxation (DOTAX), Attorney General, and a concerned individual commented on this measure.

A healthy inter-island airline industry is vital to the State's economy. Hawaii's inter-island airlines continue to face severe financial challenges. Fuel costs in particular have skyrocketed and grown volatile in recent years. Your Committee finds that this measure attempts to create a level playing field and create a fairer market for all airlines since sales of fuel sold from a foreign-trade zone for use by airlines traveling out

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of the State of Hawaii are exempt from general excise and use taxes, while fuel purchased from a foreign-trade zone that is used for inter-island travel is not exempt from these taxes.

However, your Committee notes the concerns raised by DOTAX and the Attorney General regarding this measure including the placement of the GET and use tax exemption in a more appropriate section of statute. Accordingly, your Committee has amended this measure by:

- (1) Using the term "inter-island" rather than "intrastate" to better define the travel method of the common carriers to which the provisions of this bill apply;
- (2) Adding a new section to Hawaii's GET Law to provide an exemption for aviation fuel sold from a foreign trade zone for use by a common carrier for consumption or use in air transportation for inter-island travel;
- (3) Amending the definition of "Use" under Hawaii's Use Tax Law to exclude the use of aviation fuel categorized as privileged foreign merchandise, non-privileged foreign merchandise, domestic merchandise, or zone-restricted merchandise, that is admitted into a foreign-trade zone and is used by a common air carrier for consumption in inter-island air transportation;
- (4) Deleting the provisions amending Hawaii's Foreign Trade Zone Law as this chapter contains provisions solely applicable to interstate or foreign commerce; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2860, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2860, H.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committee on Transportation,

  
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JOSEPH M. SOUKI, Chair



