

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO BIODIESEL.

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

1           SECTION 1. Chapter 171, Hawaii Revised Statutes, is  
2 amended by adding a new subpart to part III to be appropriately  
3 designated and to read as follows:

4           "           Crops Used in the Production of Biodiesel Fuel

5           §171-       Definitions. As used in this subpart:

6           "Biodiesel" means a vegetable oil-based fuel that meets  
7 ASTM International Standard D6751, "Standard Specification for  
8 Biodiesel Fuel (B100) Blend Stock for Distillate Fuels", as  
9 amended.

10          "Eligible lessee" means a person who is:

- 11           (1) Engaged or proposing to engage in an agricultural use  
12               by growing qualified crops; and  
13           (2) Qualified to lease public lands under this chapter.

14          "Qualified crops" means those agricultural crops having  
15 vegetable oil content that is suitable for bioconversion into  
16 biodiesel fuel, including soy, corn, bean, nut, olive, canola,  
17 sunflower, and other crops and their seeds.



1           §171-     Lease of agricultural lands for crops used in the  
2 production of biodiesel fuel. The board may lease, by direct  
3 negotiation and without recourse to public auction, public  
4 agricultural lands to eligible lessees; provided that:

5           (1) The terms of the lease entered into between the board  
6 and an eligible lessee shall incorporate appropriate  
7 restrictions on the use of the land, ensuring that the  
8 land is used for agricultural purposes and that  
9 qualified crops are grown; provided further that  
10 nothing in this subpart shall affect an eligible  
11 lessee's use of the land for personal residence  
12 purposes, if allowed by relevant land use laws; and

13           (2) The qualified crops grown on the leased public lands  
14 shall be sold, exchanged, bartered, traded, or  
15 otherwise transferred in exchange for consideration to  
16 oil seed processing facilities or biodiesel  
17 producers."

18           SECTION 2. Section 103D-1012, Hawaii Revised Statutes, is  
19 amended by amending subsections (a), (b), and (c) to read as  
20 follows:

21           "(a) Notwithstanding any other law to the contrary,  
22 contracts for the purchase of diesel fuel or boiler fuel shall



1 be awarded to the lowest responsible and responsive bidders,  
2 with preference given to bids for [~~biofuels or blends of biofuel~~  
3 ~~and petroleum fuel.~~] biodiesel blends that contain up to twenty  
4 per cent biodiesel that is produced in the State from feedstock  
5 grown in the State.

6 (b) When purchasing fuel for use in diesel engines, the  
7 preference shall be [~~five~~]:

8 (1) Fifty cents per gallon of [~~one hundred per cent~~  
9 ~~biodiesel. For blends containing both biodiesel and~~  
10 ~~petroleum based diesel, the preference shall be~~  
11 ~~applied only to the biodiesel portion of the blend.~~]  
12 twenty per cent biodiesel (B20);

13 (2) Twenty-five cents per gallon of ten per cent biodiesel  
14 (B10); and

15 (3) Twelve and one-half cents per gallon of five per cent  
16 biodiesel (B5).

17 The preference shall be applied only to the biodiesel portion of  
18 the blend.

19 (c) When purchasing fuel for use in boilers, the  
20 preference shall be [~~five~~]:

21 (1) Fifty cents per gallon of [~~one hundred per cent~~  
22 ~~biofuel. For blends containing both biofuel and~~



1 ~~petroleum-based boiler fuel, the preference shall be~~  
2 ~~applied only to the biofuel portion of the blend.]~~

3 twenty per cent biodiesel (B20);

4 (2) Twenty-five cents per gallon of ten per cent biodiesel  
5 (B10); and

6 (3) Twelve and one-half cents per gallon of five per cent  
7 biodiesel (B5).

8 The preference shall be applied only to the biofuel portion of  
9 the blend."

10 SECTION 3. Section 235-7, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) There shall be excluded from gross income, adjusted  
13 gross income, and taxable income:

14 (1) Income not subject to taxation by the State under the  
15 Constitution and laws of the United States;

16 (2) Rights, benefits, and other income exempted from  
17 taxation by section 88-91, having to do with the state  
18 retirement system, and the rights, benefits, and other  
19 income, comparable to the rights, benefits, and other  
20 income exempted by section 88-91, under any other  
21 public retirement system;



- 1           (3) Any compensation received in the form of a pension for  
2           past services;
- 3           (4) Compensation paid to a patient affected with Hansen's  
4           disease employed by the State or the United States in  
5           any hospital, settlement, or place for the treatment  
6           of Hansen's disease;
- 7           (5) Except as otherwise expressly provided, payments made  
8           by the United States or this State, under an act of  
9           Congress or a law of this State, which by express  
10          provision or administrative regulation or  
11          interpretation are exempt from both the normal and  
12          surtaxes of the United States, even though not so  
13          exempted by the Internal Revenue Code itself;
- 14          (6) Any income expressly exempted or excluded from the  
15          measure of the tax imposed by this chapter by any  
16          other law of the State, it being the intent of this  
17          chapter not to repeal or supersede any express  
18          exemption or exclusion;
- 19          (7) Income received by each member of the reserve  
20          components of the Army, Navy, Air Force, Marine Corps,  
21          or Coast Guard of the United States of America, and  
22          the Hawaii national guard as compensation for



1 performance of duty, equivalent to pay received for  
2 forty-eight drills (equivalent of twelve weekends) and  
3 fifteen days of annual duty, at an:

4 (A) E-1 pay grade after eight years of service;  
5 provided that this subparagraph shall apply to  
6 taxable years beginning after December 31, 2004;

7 (B) E-2 pay grade after eight years of service;  
8 provided that this subparagraph shall apply to  
9 taxable years beginning after December 31, 2005;

10 (C) E-3 pay grade after eight years of service;  
11 provided that this subparagraph shall apply to  
12 taxable years beginning after December 31, 2006;

13 (D) E-4 pay grade after eight years of service;  
14 provided that this subparagraph shall apply to  
15 taxable years beginning after December 31, 2007;

16 and

17 (E) E-5 pay grade after eight years of service;  
18 provided that this subparagraph shall apply to  
19 taxable years beginning after December 31, 2008;

20 (8) Income derived from the operation of ships or aircraft  
21 if the income is exempt under the Internal Revenue  
22 Code pursuant to the provisions of an income tax



1 treaty or agreement entered into by and between the  
2 United States and a foreign country; provided that the  
3 tax laws of the local governments of that country  
4 reciprocally exempt from the application of all of  
5 their net income taxes, the income derived from the  
6 operation of ships or aircraft that are documented or  
7 registered under the laws of the United States;

8 (9) The value of legal services provided by a prepaid  
9 legal service plan to a taxpayer, the taxpayer's  
10 spouse, and the taxpayer's dependents;

11 (10) Amounts paid, directly or indirectly, by a prepaid  
12 legal service plan to a taxpayer as payment or  
13 reimbursement for the provision of legal services to  
14 the taxpayer, the taxpayer's spouse, and the  
15 taxpayer's dependents;

16 (11) Contributions by an employer to a prepaid legal  
17 service plan for compensation (through insurance or  
18 otherwise) to the employer's employees for the costs  
19 of legal services incurred by the employer's  
20 employees, their spouses, and their dependents;

21 (12) Amounts received in the form of a monthly surcharge by  
22 a utility acting on behalf of an affected utility



1 under section 269-16.3 shall not be gross income,  
2 adjusted gross income, or taxable income for the  
3 acting utility under this chapter. Any amounts  
4 retained by the acting utility for collection or other  
5 costs shall not be included in this exemption; [and]

6 (13) One hundred per cent of the gain realized by a fee  
7 simple owner from the sale of a leased fee interest in  
8 units within a condominium project, cooperative  
9 project, or planned unit development to the  
10 association of owners under chapter 514A or 514B, or  
11 the residential cooperative corporation of the  
12 leasehold units.

13 For purposes of this paragraph:

14 ~~["Fee simple owner" shall have the same meaning~~  
15 ~~as provided under section 516-1; provided that it~~  
16 ~~shall include legal and equitable owners;~~

17 ~~"Legal and equitable owner", and "leased fee~~  
18 ~~interest" shall have the same meanings as provided~~  
19 ~~under section 516-1; and]~~

20 "Condominium project" and "cooperative project"  
21 shall have the same meanings as provided under section  
22 514C-1.



1           "Fee simple owner" shall have the same meaning as  
2           provided under section 516-1; provided that it shall  
3           include legal and equitable owners.

4           "Legal and equitable owner" and "leased fee  
5           interest" shall have the same meanings as provided  
6           under section 516-1; and

7           (14) One hundred per cent of income derived from the  
8           operation of an oil seed crushing facility that  
9           processes oil seed produced or grown in the State for  
10           biodiesel production in the State.

11           As used in this paragraph:

12           "Biodiesel" means a vegetable oil-based fuel that  
13           meets ASTM International Standard D6751, "Standard  
14           Specification for Biodiesel Fuel (B100) Blend Stock  
15           for Distillate Fuels", as amended.

16           "Biodiesel production facility" means a facility  
17           that processes feedstock to produce biodiesel.

18           "Oil seed crushing facility" means a facility  
19           that processes oil seed that is grown in the State,  
20           including soy, corn, bean, nut, olive, canola,  
21           mustard, and sunflower and other crops and their  
22           seeds, to be used as biomass to produce biodiesel."



1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on January 1, 2010;  
4 provided that the amendments made to section 235-7(a), Hawaii  
5 Revised Statutes, by section 3 of this Act, shall not be  
6 repealed when that section is repealed and reenacted on  
7 January 1, 2013, pursuant to section 3 of Act 166, Session Laws  
8 of Hawaii 2007.

9

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**Report Title:**

Biodiesel; Market Stimulation

**Description:**

Provides various market stimulation incentives for the development of biodiesel, including making state agricultural lands available for biodiesel fuel crops.

