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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. Chapter 199, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§199-       Conservation and resource enforcement special  
5 fund. (a) There is established in the state treasury, the  
6 conservation and resource enforcement special fund into which  
7 shall be deposited the proceeds of the ocean resources surcharge  
8 established in section 237- .

9           (b) Moneys in the special fund shall be administered by  
10 the department of land and natural resources to support the  
11 activities of the division of conservation and resource  
12 enforcement. Moneys in the fund may be expended without  
13 legislative approval."

14          SECTION 2. Chapter 237, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17          "§237-       Ocean resources surcharge. (a) There shall be  
18 levied, assessed, and collected on all gross proceeds and gross



1 income from any commercial activity that utilizes the State's  
2 ocean resources, an ocean resources surcharge. The surcharge  
3 shall be equal to one per cent of the gross proceeds or gross  
4 income received by the commercial activity.

5 (b) For the purposes of this section,

6 "Commercial activity" means activity generated by a  
7 business that is subject to this chapter or chapter 200 that  
8 produces gross proceeds or gross income from its use of ocean  
9 resources.

10 "Ocean resources" means any natural resource that is within  
11 the State's jurisdiction and is related to the ocean such as  
12 marine life, habitat or environment, flora, fauna, or any other  
13 resource related to the ocean that is used for commercial  
14 purposes.

15 (c) Unless otherwise provided for, all provisions of this  
16 chapter shall apply to the surcharge.

17 (d) The director of taxation shall have all the rights and  
18 powers provided under this chapter and have the exclusive rights  
19 and power to determine the county or counties in which a person  
20 is engaged in business and, in the case of a person engaged in  
21 business in more than one county, the director shall determine,



1 through apportionment or other means, that portion of the  
2 surcharge conducted in each county.

3 (e) The surcharge shall be imposed on the gross proceeds  
4 or gross income of all written contracts that require the  
5 passing-on of the taxes imposed under this chapter; provided  
6 that if the gross proceeds or gross income are received as  
7 payments beginning in the taxable year in which the taxes become  
8 effective, on contracts entered into before June 30 of the year  
9 prior to the taxable year in which the taxes become effective,  
10 and the written contracts do not provide for the passing-on of  
11 increased rates of taxes, the ocean resources surcharge shall  
12 not be imposed on the gross proceeds or gross income covered  
13 under the written contracts.

14 The ocean resources surcharge shall be imposed on the gross  
15 proceeds or gross income from all contracts entered into on, or  
16 after June 30 of the year prior to the taxable year in which the  
17 tax become effective, regardless of whether the contract allows  
18 for the passing-on of any tax or any tax increases.

19 (f) No ocean resources surcharge shall be assessed on any:  
20 (1) Gross income or gross proceeds taxable under this  
21 chapter at the one-half per cent tax rate;



1       (2) Gross income or gross proceeds taxable under this  
2       chapter at the 0.15 per cent tax rate; or

3       (3) Transactions, amounts, persons, gross income, or gross  
4       proceeds exempt from tax under this chapter.

5       (g) Proceeds collected from the ocean resources surcharge  
6       shall be deposited into the conservation and resource  
7       enforcement special fund under section 199- , to finance  
8       activities of the division of conservation and resource  
9       enforcement.

10       (h) The director of taxation shall revise the general  
11       excise tax forms to provide for the clear and separate  
12       designation of the imposition and payment of the ocean resources  
13       surcharge.

14       (i) The taxpayer subject to this section shall designate  
15       the taxation district to which the ocean resources surcharge is  
16       assigned in accordance with rules adopted by the director of  
17       taxation under chapter 91. The taxpayer shall file a schedule  
18       with the taxpayer's periodic and annual general excise tax  
19       returns summarizing the amount of taxes assigned to each  
20       taxation district.

21       (j) The penalties under section 231-39 for failure to file  
22       a tax return shall be imposed on the amount of surcharge due on



1 the return being filed for the failure to file the schedule  
 2 required to accompany the return. In addition, there shall be  
 3 added to the tax an amount equal to ten per cent of the amount  
 4 of the surcharge and tax due on the return being filed for the  
 5 failure to file the schedule or the failure to correctly report  
 6 the assignment of the general excise tax by taxation district on  
 7 the schedule required under this subsection.

8 (k) All taxpayers who file on a fiscal year basis whose  
 9 fiscal year ends after December 31 of the year prior to the  
 10 taxable year in which the taxes become effective, shall file a  
 11 short period annual return for the period preceding January 1 of  
 12 the taxable year in which the taxes become effective. Each  
 13 fiscal year taxpayer shall also file a short period annual  
 14 return for the period starting on January 1 of the taxable year  
 15 in which the taxes become effective, and ending before January 1  
 16 of the following year."

17 SECTION 3. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval  
 19 and shall apply to taxable years beginning after December 31,  
 20 2010.

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INTRODUCED BY:

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 JAN 21 2011



**Report Title:**

Ocean Resources; Conservation; General Excise Tax; Surcharge;  
Division of Conservation and Resource Enforcement

**Description:**

Imposes a 1% general excise tax surcharge on any commercial activity that utilizes the State's ocean resources. Also, establishes a special fund for the surcharge to finance the activities of the division of conservation and resource enforcement.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

