

S.B. NO. 1212

JAN 24 2013

A BILL FOR AN ACT

RELATING TO THE STATE FUEL TAX.

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

1 SECTION 1. Section 243-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§243-4 License taxes.** (a) Every distributor, in
4 addition to any other taxes provided by law, shall pay a license
5 tax to the department of taxation for each gallon of liquid fuel
6 refined, manufactured, produced, or compounded by the
7 distributor and sold or used by the distributor in the State or
8 imported by the distributor, or acquired by the distributor from
9 persons who are not licensed distributors, and sold or used by
10 the distributor in the State. Any person who sells or uses any
11 liquid fuel, knowing that the distributor from whom it was
12 originally purchased has not paid and is not paying the tax
13 thereon, shall pay such tax as would have applied to such sale
14 or use by the distributor. The rates of tax imposed are as
15 follows:

16 (1) For each gallon of diesel oil, 2 cents;

S.B. NO. 1212

- 1 (2) For each gallon of gasoline or other aviation fuel
2 sold for use in or used for airplanes, 2 cents;
- 3 (3) For each gallon of naphtha sold for use in a power-
4 generating facility, 2 cents;
- 5 (4) For each gallon of liquid fuel, other than fuel
6 mentioned in paragraphs (1), (2), and (3), and other
7 than an alternative fuel, sold or used in the city and
8 county of Honolulu, or sold in any county for ultimate
9 use in the city and county of Honolulu, [~~17 cents~~
10 ~~state tax,~~] a tax of per cent of the weighted
11 wholesale price per gallon of gasoline, and in
12 addition thereto an amount, to be known as the "city
13 and county of Honolulu fuel tax", as shall be levied
14 pursuant to section 243-5;
- 15 (5) For each gallon of liquid fuel, other than fuel
16 mentioned in paragraphs (1), (2), and (3), and other
17 than an alternative fuel, sold or used in the county
18 of Hawaii, or sold in any county for ultimate use in
19 the county of Hawaii, [~~17 cents state tax,~~] a tax of
20 per cent of the weighted wholesale price per
21 gallon of gasoline, and in addition thereto an amount,

S.B. NO. 1212

1 to be known as the "county of Hawaii fuel tax", as
2 shall be levied pursuant to section 243-5;

3 (6) For each gallon of liquid fuel, other than fuel
4 mentioned in paragraphs (1), (2), and (3), and other
5 than an alternative fuel, sold or used in the county
6 of Maui, or sold in any county for ultimate use in the
7 county of Maui, [~~17 cents state tax,~~] a tax of per
8 cent of the weighted wholesale price per gallon of
9 gasoline, and in addition thereto an amount, to be
10 known as the "county of Maui fuel tax", as shall be
11 levied pursuant to section 243-5; and

12 (7) For each gallon of liquid fuel, other than fuel
13 mentioned in paragraphs (1), (2), and (3), and other
14 than an alternative fuel, sold or used in the county
15 of Kauai, or sold in any county for ultimate use in
16 the county of Kauai, [~~17 cents state tax,~~] a tax of
17 per cent of the weighted wholesale price per
18 gallon of gasoline, and in addition thereto an amount,
19 to be known as the "county of Kauai fuel tax", as
20 shall be levied pursuant to section 243-5.

21 If it is shown to the satisfaction of the department, based
22 upon proper records and from any other evidence as the

1 department may require, that liquid fuel, other than fuel
2 mentioned in paragraphs (1), (2), and (3), is used for
3 agricultural equipment that does not operate upon the public
4 highways of the State, the user thereof may obtain a refund of
5 all taxes thereon imposed by this section in excess of 1 cent
6 per gallon. The department shall adopt rules to administer such
7 refunds.

8 (b) For purposes of subsection (a), the weighted wholesale
9 price per gallon of gasoline shall be determined by the public
10 utilities commission on a monthly basis and shall be equal to
11 the sum of the amounts derived in paragraphs (1), (2), and (3),
12 divided by the total number of gallons of all three grades of
13 gasoline sold:

14 (1) The average wholesale price per gallon of regular
15 unleaded gasoline sold statewide during the month
16 multiplied by the number of gallons of regular
17 unleaded gasoline sold;

18 (2) The average wholesale price per gallon of mid-grade
19 gasoline sold statewide during the month multiplied by
20 the number of gallons of mid-grade gasoline sold; and

1 (3) The average wholesale price per gallon of premium
2 gasoline sold statewide during the month multiplied by
3 the number of gallons of premium gasoline sold.

4 ~~[(b)]~~ (c) Every distributor of diesel oil, in addition to
5 the tax required by subsection (a), shall pay a license tax to
6 the department for each gallon of diesel oil sold or used by the
7 distributor for operating a motor vehicle or motor vehicles upon
8 public highways of the State. The rates of the additional tax
9 imposed are as follows:

10 (1) For each gallon of diesel oil sold or used in the city
11 and county of Honolulu, or sold in any other county
12 for ultimate use in the city and county of Honolulu,
13 ~~[15 cents state tax,]~~ a tax of _____ per cent of the
14 average wholesale price per gallon of diesel oil, and
15 in addition thereto an amount, to be known as the
16 "city and county of Honolulu fuel tax", as shall be
17 levied pursuant to section 243-5;

18 (2) For each gallon of diesel oil sold or used in the
19 county of Hawaii, or sold in any other county for
20 ultimate use in the county of Hawaii, ~~[15 cents state~~
21 ~~tax,]~~ a tax of _____ per cent of the average wholesale
22 price per gallon of diesel oil, and in addition thereto

S.B. NO. 1212

1 an amount, to be known as the "county of Hawaii fuel
2 tax", as shall be levied pursuant to section 243-5;

3 (3) For each gallon of diesel oil sold or used in the
4 county of Maui, or sold in any other county for
5 ultimate use in the county of Maui, [~~15 cents state~~
6 ~~tax,~~] a tax of _____ per cent of the average wholesale
7 price per gallon of diesel oil, and in addition thereto
8 an amount, to be known as the "county of Maui fuel
9 tax", as shall be levied pursuant to section 243-5;
10 and

11 (4) For each gallon of diesel oil sold or used in the
12 county of Kauai, or sold in any other county for
13 ultimate use in the county of Kauai, [~~15 cents state~~
14 ~~tax,~~] a tax of _____ per cent of the average wholesale
15 price per gallon of diesel oil, and in addition thereto
16 an amount, to be known as the "county of Kauai fuel
17 tax", as shall be levied pursuant to section 243-5.

18 If any user of diesel oil furnishes a certificate, in a
19 form that the department shall prescribe, to the distributor or
20 if the distributor who uses diesel oil signs the certificate,
21 certifying that the diesel oil is for use in operating a motor
22 vehicle or motor vehicles in areas other than upon the public

1 highways of the State, the tax as provided in paragraphs (1) to
2 (4) shall not be applicable. If a certificate is not or cannot
3 be furnished and the diesel oil is in fact for use for operating
4 a motor vehicle or motor vehicles in areas other than upon
5 public highways of the State, the user thereof may obtain a
6 refund of all taxes thereon imposed by the foregoing
7 paragraphs. The department shall adopt rules to administer the
8 refunding of such taxes.

9 (d) For purposes of subsection (c), the average wholesale
10 price per gallon of diesel oil shall be determined by the public
11 utilities commission on a monthly basis.

12 [~~e~~] (e) The tax shall not be collected in respect to any
13 benzol, benzene, toluol, xylol, or alternative fuel sold for use
14 other than for operating internal combustion engines. With
15 respect to these products, other than alternative fuels, the
16 department, by rule, shall provide for the reporting and payment
17 of the tax and for the keeping of records in such a manner as to
18 collect, for each gallon of each product sold for use in
19 internal combustion engines for the generation of power, or so
20 used, the same tax or taxes as apply to each gallon of diesel
21 oil. With respect to alternative fuels, the only tax collected
22 shall be that provided in paragraphs (1), (2), and (3) [~~of this~~

1 ~~subsection]~~. This subsection shall not apply to aviation fuel
2 sold for use in or used for airplanes.

3 (1) Every distributor of any alternative fuel for
4 operation of an internal combustion engine shall pay a
5 license tax to the department of one-quarter of 1 cent
6 for each gallon of alternative fuel sold or used by
7 the distributor;

8 (2) Every distributor, in addition to the tax required
9 under paragraph (1) [~~of this subsection~~], shall pay a
10 license tax to the department for each gallon of
11 alternative fuel sold or used by the distributor for
12 operating a motor vehicle or motor vehicles upon the
13 public highways of the State at a rate proportional to
14 that of the rates applicable to diesel oil in
15 subsection [~~(b)~~] (c), rounded to the nearest one-tenth
16 of a cent, as follows:

- 17 (A) Ethanol, 0.145 times the rate for diesel;
18 (B) Methanol, 0.11 times the rate for diesel;
19 (C) Biodiesel, 0.25 times the rate for diesel;
20 (D) Liquefied petroleum gas, 0.33 times the rate for
21 diesel; and

1 (E) For other alternative fuels, the rate shall be
2 based on the energy content of the fuels as
3 compared to diesel fuel, using a lower heating
4 value of one hundred thirty thousand British
5 thermal units per gallon as a standard for
6 diesel, so that the tax rate, on an energy
7 content basis, is equal to one-quarter the rate
8 for diesel fuel.

9 The taxes so paid shall be paid into the state
10 treasury and deposited in special funds or paid over
11 in the same manner as provided in subsection (c) in
12 respect of the tax on diesel oil;

13 (3) If any user of alternative fuel furnishes to the
14 distributor a certificate, in a form that the
15 department shall prescribe or if the distributor who
16 uses alternative fuel signs the certificate,
17 certifying that the alternative fuel is for use in
18 operating a motor vehicle or motor vehicles in areas
19 other than upon the public highways of the State, the
20 tax as provided by paragraphs (1) and (2) [~~of this~~
21 ~~subsection~~] shall not be applicable; provided that no
22 certificate shall be required if the alternative fuel

1 is used for fuel and heating purposes in the home. If
2 a certificate is not or cannot be furnished and the
3 alternative fuel is in fact used for operating an
4 internal combustion engine or operating a motor
5 vehicle or motor vehicles in areas other than upon the
6 public highways of the State, the user thereof may
7 obtain a refund of all taxes thereon imposed by the
8 foregoing paragraphs. The department shall adopt
9 rules to administer the refunding of these taxes.

10 [~~(d)~~] (f) No tax shall be collected in respect to any
11 liquid fuel, including diesel oil and liquefied petroleum gas,
12 shown to the satisfaction of the department to have been sold
13 for use in and actually delivered to, or sold in, the county of
14 Kalawao."

15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act, upon its approval, shall take effect
18 on July 1, 2013; provided that the amendments made by this Act
19 to section 243-4, Hawaii Revised Statutes, shall not be repealed
20 when that section is repealed and reenacted on December 31,
21 2015, pursuant to section 5 of Act 103, Session Laws of Hawaii

S.B. NO. 1212


1 2007, as amended by section 3 of Act 198, Session Laws of Hawaii
2 2009, and by section 1 of Act 188, Session Laws of Hawaii 2012.

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INTRODUCED BY: 
BY REQUEST

Report Title:

State Fuel Tax

Description:

Assesses the State Fuel Tax based on a percentage of the weighted wholesale price per gallon of gasoline and average wholesale price per gallon of diesel.

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

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO THE STATE FUEL TAX.

PURPOSE: Assesses the state fuel tax based on a percentage of the weighted wholesale price per gallon of gasoline and average wholesale price per gallon of diesel to provide revenues for the State Highway Fund.

MEANS: Amend section 243-4, Hawaii Revised Statutes.

JUSTIFICATION: This bill will change the methodology of assessing the state fuel tax based on a percentage of the weighted wholesale price per gallon of gasoline and average wholesale price per gallon of diesel in the state fuel tax per gallon of diesel oil, gasoline and other liquid fuel in each county to the state highway fund. Moving from a cents-per-gallon to a percentage tax would result in collection of a similar amount of revenues currently collected and raises revenues to pay for increased highway needs.

Impact to the public: A change in the methodology of assessing the state fuel tax will affect the estimated cost to the average driver depending on the weighted wholesale price and percentage amount to be used to calculate the cost to the public.

Impact on the department and other agencies: The state fuel tax is the major revenue source for the State Highway Fund. It is also the major source of pledged revenues for the Highway Revenue Bonds. The changes to assess the State fuel tax based on a percentage of the wholesale price of gasoline and diesel fuel as proposed will help maintain the fuel tax revenues deposited into the State Highway Fund.

The highways financial plan relies on the state fuel tax to support the continued operations and maintenance of the State Highway System. Appropriations from the State Highway Fund are used for the construction, operations and maintenance of the State Highway System.

Maintaining this primary source of revenues for the State Highway Fund is necessary to enable the Department to construct, operate and maintain the State Highway System. The failure of the State to properly maintain the State Highway System may result in sanctions by the FHWA including the loss of federal funds.

The revenues also enable the DOT to provide state matching funds for the highways federal-aid program. The availability of state matching funds will result in attracting its share for federal funds. The normal federal share for projects on the interstate system is 90 percent and for other eligible roadways it is 80 percent.

GENERAL FUND: The state fuel tax is not deposited into the general fund.

OTHER FUNDS: The revenues from the state fuel tax will be deposited into the State Highway Fund.

PPBS PROGRAM DESIGNATION: TRN 595.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: July 1, 2013