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To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Tuesday, February 26, 2019
Time: 11:00 A.M.
Place: Conference Room 308, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 1467, H.D. 1, Relating to Motor Vehicles

The Department of Taxation (Department) offers the following comments on H.B. 1467, H.D. 1, for the Committee's consideration.

H.B. 1467, H.D. 1, amends the State fuel tax by changing the mechanism for calculating fuel license tax rates and by subjecting biodiesel oil to the same tax rates and reporting requirements as diesel oil. A summary of key provisions are as follows:

- Amends section 243-4, Hawaii Revised Statutes (HRS), to change subsection (a)'s tax rates of certain categories of liquid fuel from a specified amount of cents per gallon to either a specified amount of cents per gallon, or an unspecified percentage of the wholesale price, whichever is greater;
- Provides that if the tax based on a percentage of wholesale price is applied instead of the tax based on a specified amount of cents per gallon, a wholesaler shall not pass on to a retailer any amount of tax per gallon greater than the amount of tax per gallon of liquid fuel that the wholesaler paid on the highest price per gallon of liquid fuel sold by the wholesaler to any retailer during the taxable year;
- Makes the additional tax rates and requirements imposed on diesel oil distributors by subsection (b) applicable to biodiesel oil distributors as well;
- Similarly amends the additional tax on diesel oil and biodiesel oil in subsection (b) by changing the rate from a specified amount of cents per gallon to either a specified amount of cents per gallon, or an unspecified percentage of the wholesale price, whichever is greater; with another provision requiring that if the tax based on a percentage of wholesale price is applied, a wholesaler shall not pass on to a retailer any amount of tax per gallon greater than the amount of tax per gallon of diesel or biodiesel oil that the wholesaler paid on the highest price per gallon of diesel or biodiesel oil sold by the wholesaler to any retailer during the taxable year;

- Defines "wholesale price" as the amount a wholesaler of liquid fuel, diesel oil, or biodiesel oil charges a retailer prior to the inclusion of any taxes;
- Repeals the separate preexisting rate for biodiesel distributors in subsection (c)(2);
- Prohibits the collecting of tax on biodiesel oil sold for use in Kalawao County;
- Amends section 243-10, HRS, to subject biodiesel oil distributors to monthly fuel tax reporting requirements; and
- Effective January 1, 2050.

The House Committee on Consumer Protection and Commerce amended the previous version of this measure by clarifying that if the state fuel tax based on the percentage of the wholesale price is applied, a wholesaler cannot pass on to a retailer any amount of the tax per gallon greater than the amount of tax per gallon that the wholesaler paid on the highest price per gallon sold by the wholesaler to any retailer during the taxable year. The Committee also amended the measure by clarifying that biodiesel should not be classified as an "alternative fuel" and by defecting the effective date to July 1, 2050.

While the Department appreciates the desire to adjust the fuel tax rate to the cost of fuel, the Department suggests a simple adjustment to the rate instead. The adjustment provided in this bill will create confusion for taxpayers and administrative challenges both in ensuring compliance and in educating taxpayers regarding the change in the law. The wholesale and retail prices of liquid fuels change frequently, and it will be difficult for the Department to verify that the correct amounts of taxes are assessed by distributors to wholesalers and retailers if the taxes are based on unique individual costs that were paid. A "choose the greater of the two" system adds an additional layer of complexity that may hamper effective tax administration.

By contrast, a rate change by a set amount is relatively easy for the Department to administer. Whether the rate change is flat or graduated, however, the Department will need to change its forms and instructions, and therefore respectfully requests that any effective date be made no earlier than January 1, 2020.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
FINANCE**

**Tuesday, February 26, 2019
11:00 AM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 1467, HOUSE DRAFT 1
RELATING TO MOTOR VEHICLES**

House Bill 1467, House Draft 1 proposes to change the assessment of the State Fuel Tax from a specified amount per gallon to the greater of a specified amount per gallon or an unspecified percentage of the wholesale price per gallon to the retailer. The bill also proposes to subject biodiesel oil to the same tax rates and reporting requirements as diesel oil. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and provides the following comments.**

Under Section 248-8, Hawaii Revised Statutes (HRS), 0.3% of the Highway Fuel Tax (Liquid Fuel Tax/State Fuel Tax), but not more than \$250,000 collected under Chapter 243, HRS, is allocated each fiscal year for the purposes of management, maintenance, and development of trails and trail accesses under the jurisdiction of the Department established under Section 198D-2, HRS.

Na Ala Hele (NAH), Hawaii Statewide Trail and Access Program, is designated to be the recipient of the \$250,000. NAH has nearly 3,500 miles of inventoried road and trails throughout the State, serving approximately 3 million visitors and residents alike. Keeping up with the rising demand for trail use remains a constant challenge. This funding source addresses maintenance and trail restoration projects throughout Hawaii. Not only are trails used by residents and visitors, but in many cases access for emergency and land management purposes too. As the general and visitor populations continue to grow, so do the needs to utilize these trails, which require ongoing maintenance to keep them from becoming dangerous to use.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Due to these consistent pressures on these trail systems, the Department requests that any increases in the State Fuel Tax proportionately increase the funds to NAH.

Thank you for the opportunity to comment on this measure.

HB-1467-HD-1

Submitted on: 2/23/2019 1:56:15 AM

Testimony for FIN on 2/26/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brodie Lockard	350Hawaii.org	Support	No

Comments:



Testimony of Jim Yates,
President of the Hawaii Petroleum Marketers Association

**IN OPPOSITION TO HB BILL 1467, HOUSE DRAFT 1,
RELATING TO MOTOR VEHICLES**

House Committee on Finance
The Honorable Sylvia Luke, Chair
The Honorable Ty Cullen, Vice Chair

Tuesday, February 26, 2019 at 11-00 a.m.
Hawaii State Capitol, Conference Room 308

Chair Luke, Vice Chair Cullen and members of the Committee,

I am Jim Yates, president of the Hawaii Petroleum Marketers Association (“HPMA”). HPMA is a non-profit trade association comprised of members who directly market liquid motor fuel products across the Hawaiian Islands. Our membership includes individuals and companies who operate as independent marketers, jobbers or distributors of petroleum products and who buy liquid motor fuel products at the wholesale level and sell or distribute products to retail customers, other wholesalers, and other bulk consumers. HPMA’s primary purpose is to protect and advance its members’ legislative and regulatory interests in Hawaii and Washington, DC.

HPMA is opposed to House Bill 1467, House Draft 1, Relating to Motor Vehicles for its lack of transparency and recommends that the State continue to use the current method of assessing a specified cents per gallon of fuel when increasing the tax.

HB 1467, HD 1 changes the assessment of the state fuel tax from a specified amount per gallon to the greater of a specified amount per gallon or an unspecified percentage of the wholesale price per gallon to the retailer. It also subjects biodiesel oil to the same tax rates and reporting requirements as diesel oil.

HPMA cites the following issues with this measure:

- Administering a “greater of” tax structure that includes a percentage-based tax would be burdensome, add complexity, and in the end, will increase costs for distributors, wholesalers, retailers, and, ultimately, all retail fuel customers in Hawaii.
- Taxes that vary from one retailer to another based in part on the retailer’s location could result in inequitable tax treatment.

Testimony in opposition to H.B. 1467, H.D. 1, Relating to Motor Vehicles
Presented by Jim Yates, President
Hawaii Petroleum Marketers Association
House Committee on Finance
Hawaii State Capitol, Room 308
Tuesday, February 26, 2019 at 11:00 a.m.
Page 2

- The proposed assessment process would make it difficult for the State to verify the accuracy of taxes being assessed, since taxes are based on the unique individual prices paid by the wholesalers and retailers.
- Relatively speaking, low- and middle-income families pay a greater share of their income in motor fuel taxes when compared to high-income consumers. While this bill is clearly designed to raise state fuel taxes, it will hurt those who can least afford it.
- An overly complex tax assessment process can beget errors and make unintended violators out of fuel distributors, wholesalers and retailers.

Ultimately, having such a complex process would be difficult for paying consumers to follow; hence, our contention that the measure lacks transparency. To raise funds for the State Highway Fund, it would be best to denote a specific cents-per-gallon increase.

Thank you for considering the HPMA's viewpoints in opposing HB 1467, HD 1, Relating to Motor Vehicles and for providing this opportunity to submit written testimony.



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Kahului, Hawaii 96732
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February 25, 2019

TESTIMONY IN OPPOSITION TO HB 1467

RELATING TO MOTOR VEHICLES

Chair Luke, Vice Chair Cullen
House Conference Room 308
February 26, 2019 11:00am

Pacific Biodiesel strongly opposes HB 1467

Hawaii was the first state in the nation to mandate being powered by 100% renewable energy. Additionally, all of the State's Mayors committed last year to a shared goal of 100% renewable ground transportation by the same timeline of 2045.

Biodiesel is an important, integral part of the renewables mix in our state. That's why it is perplexing and disappointing to see the introduction of this bill that seeks to add a 16-cent per gallon on-road fuel tax to biodiesel. *What does this say about the State of Hawaii's commitment to renewables?*

Below recaps our key points of concern with this bill:

- **This bill would REMOVE the on-road state fuel tax exemption for biodiesel yet KEEP exemptions/incentives for fossil "alternative fuels" that are NOT CLEAN** (the definition of alternative fuels in HRS §243-1 includes natural gas, coal-derived liquid fuels, liquified petroleum gas, and alcohols with gasoline or other fuels – these are fossil fuel options that are not “clean” by any definition).
- **The bill would put into place a very complex and complicated requirement to calculate the tax daily.** It would require daily computation of taxes that would be cumbersome to manage and track, for the State AND its fuel producers and distributors.
- **This shortsighted bill, if signed into law, would exacerbate the unyielding attack on biofuel producers in America** by the EPA and its stunning actions that disregard the intention of the Renewable Fuel Standard. It mirrors the Trump administration's mission to roll back support for renewables and protections for our natural environment that is undeniably in peril. We as a state and a nation simply will NOT curb our collective CO2 emissions if we perpetuate legislation like HB1467 that slams us into reverse when we MUST drive forward into a clean energy future fueled by renewables, especially locally produced options.

If this statewide on-road tax on biodiesel passes, without any other incentive for renewable fuel producers or customers by the State, it sends a strong signal that Hawaii is not committed to a clean energy future.

We urge you to hold HB 1467.

Mahalo,

A handwritten signature in black ink that reads "Robert O. King".

Robert King, President
Pacific Biodiesel Technologies, LLC

HB-1467-HD-1

Submitted on: 2/25/2019 10:07:56 AM

Testimony for FIN on 2/26/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Beth Mathias	Individual	Oppose	No

Comments:

TESTIMONY IN OPPOSITION TO HB 1467

The State of Hawaii has made a well-publicized commitment to 100% renewable energy. HB 1467 does the opposite.

HB 1467 would penalize consumers who support the State's commitment to 100% renewable energy by using biodiesel as well as the companies who currently provide, or plan to provide, our communities with this locally produced, renewable fuel.

If Hawaii is committed to a clean energy future, HB 1467 must not be passed.

Thank you,

Beth Mathias

Haiku, Maui



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

LATE

ON THE FOLLOWING MEASURE:

H.B. NO. 1467, H.D. 1, RELATING TO MOTOR VEHICLES.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Tuesday, February 26, 2019 **TIME:** 11:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Clare E. Connors, Attorney General, or
Mary Bahng Yokota, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General provides the following technical comment.

This bill:

- (1) Changes certain fuel tax rates from a specified rate to the greater of a specified rate or a percentage of the wholesale price per gallon to the retailer;
- (2) Requires distributors of biodiesel oil to pay a license tax under section 243-4(a), Hawaii Revised Statutes (HRS), and an additional license tax under section 243-4(b), HRS, at the same rates as distributors of diesel oil;
- (3) Eliminates an alternative fuel tax rate specifically for biodiesel under section 243-4(c), HRS; and
- (4) Subjects the distributors of biodiesel oil to the same reporting and payment requirements as distributors of diesel oil under section 243-10, HRS.

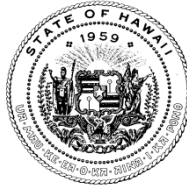
Under the bill, biodiesel oil would be subject to tax under subsections (a) and (b) of section 243-3, HRS, like diesel oil. Subsection (c) of the statute provides for taxes on alternative fuels. Although the bill eliminates the specific tax rate for biodiesel in subsection (c), paragraph (2) (page 11, line 12), biodiesel is not expressly excluded and

may be subject to tax under subsection (c) as “alternative fuel” or “other alternative fuels” because biodiesel is an “alternative fuel” as defined in section 243-1, HRS. According to Standing Committee Report No. 293 regarding this draft of the bill, the Committee on Consumer Protection and Commerce amended the measure by “[c]larifying that biodiesel should not be classified as an alternative fuel.” If the intent of the bill is not to tax biodiesel oil as an alternative fuel under subsection (c), assuming “biodiesel” is the same as “biodiesel oil,” we recommend that the bill be further clarified by adding a phrase to precede paragraphs (1), (2), and (3) of subsection (c) of section 243-3, HRS, on page 10, line 14, as follows:

With respect to alternative fuel other than biodiesel:

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

We respectfully ask that the bill be clarified as recommended above.



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

LATE

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 26, 2019
11:00 a.m.
State Capitol, Room 308

H.B. 1467, H.D. 1
RELATING TO MOTOR VEHICLES.

House Committee on Finance

The Department of Transportation (DOT) **supports** this bill.

The bill proposes to change the assessment of the state fuel tax from a specified cents per gallon to the greater of a specified cents per gallon or a specified percentage of the wholesale price per gallon to the retailer, subject to a minimum monetary amount of tax based upon the tax paid by certain retailers. Subjects biodiesel oil to the same tax rates and reporting requirements as diesel oil.

The potential increase in revenues for the State Highway Fund will improve the Department's ability to construct, operate and maintain the State Highway System. This would enable the Department to increase the highways capital improvement project and special maintenance programs. The improvement of maintenance of the system is required by FHWA, and federal funding may be impacted without proper maintenance.

The increase in revenues will allow DOT to provide more infrastructure enhancements for all users including pedestrians, bicyclists, transit users and motorists and would positively impact the department's ability to qualify state matching funds for the highways federal-aid program. The normal federal share for projects on the interstate system is 90 per cent and for other eligible roadways it is 80 per cent.

Thank you for the opportunity to provide testimony.