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## A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

**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 shall, in  
4 addition to any other taxes provided by law, pay a license tax  
5 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 or biodiesel oil, 1 cent;



- 1           (2) For each gallon of gasoline or other aviation fuel  
2           sold for use in or used for airplanes, 1 cent;
- 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, the greater of  
10          16 cents state tax[7] or a tax of           per cent of  
11          the wholesale price to the retailer per gallon of  
12          liquid fuel; provided that if the tax based on the  
13          percentage of wholesale price is applied, the monetary  
14          amount of tax paid by a wholesaler on any gallon of  
15          liquid fuel sold to a retailer shall not be less than  
16          the monetary amount of tax paid per gallon of liquid  
17          fuel by the retailer to whom the wholesaler charges  
18          the highest price per gallon of liquid fuel, and in  
19          addition thereto an amount, to be known as the "city  
20          and county of Honolulu fuel tax", as shall be levied  
21          pursuant to section 243-5;



1           (5) For each gallon of liquid fuel, other than fuel  
2           mentioned in paragraphs (1), (2), and (3), and other  
3           than an alternative fuel, sold or used in the county  
4           of Hawaii, or sold in any county for ultimate use in  
5           the county of Hawaii, the greater of 16 cents state  
6           tax[7] or a tax of \_\_\_\_\_ per cent of the wholesale  
7           price to the retailer per gallon of liquid fuel;  
8           provided that if the tax based on the percentage of  
9           wholesale price is applied, the monetary amount of tax  
10          paid by a wholesaler on any gallon of liquid fuel sold  
11          to a retailer shall not be less than the monetary  
12          amount of tax paid per gallon of liquid fuel by the  
13          retailer to whom the wholesaler charges the highest  
14          price per gallon of liquid fuel, and in addition  
15          thereto an amount, to be known as the "county of  
16          Hawaii fuel tax", as shall be levied pursuant to  
17          section 243-5;

18          (6) For each gallon of liquid fuel, other than fuel  
19          mentioned in paragraphs (1), (2), and (3), and other  
20          than an alternative fuel, sold or used in the county  
21          of Maui, or sold in any county for ultimate use in the



1 county of Maui, the greater of 16 cents state tax[7]  
2 or a tax of per cent of the wholesale price to  
3 the retailer per gallon of liquid fuel; provided that  
4 if the tax based on the percentage of wholesale price  
5 is applied, the monetary amount of tax paid by a  
6 wholesaler on any gallon of liquid fuel sold to a  
7 retailer shall not be less than the monetary amount of  
8 tax paid per gallon of liquid fuel by the retailer to  
9 whom the wholesaler charges the highest price per  
10 gallon of liquid fuel, and in addition thereto an  
11 amount, to be known as the "county of Maui fuel tax",  
12 as shall be levied pursuant to section 243-5; and

13 (7) For each gallon of liquid fuel, other than fuel  
14 mentioned in paragraphs (1), (2), and (3), and other  
15 than an alternative fuel, sold or used in the county  
16 of Kauai, or sold in any county for ultimate use in  
17 the county of Kauai, the greater of 16 cents state  
18 tax[7] or a tax of per cent of the wholesale  
19 price to the retailer per gallon of liquid fuel;  
20 provided that if the tax based on the percentage of  
21 wholesale price is applied, the monetary amount of tax



1           paid by a wholesaler on any gallon of liquid fuel sold  
2           to a retailer shall not be less than the monetary  
3           amount of tax paid per gallon of liquid fuel by the  
4           retailer to whom the wholesaler charges the highest  
5           price per gallon of liquid fuel, and in addition  
6           thereto an amount, to be known as the "county of Kauai  
7           fuel tax", as shall be levied pursuant to  
8           section 243-5.

9           If it is shown to the satisfaction of the department, based  
10          upon proper records and from any other evidence as the  
11          department may require, that liquid fuel, other than fuel  
12          mentioned in paragraphs (1), (2), and (3), is used for  
13          agricultural equipment that does not operate upon the public  
14          highways of the State, the user thereof may obtain a refund of  
15          all taxes thereon imposed by this section in excess of 1 cent  
16          per gallon. The department shall adopt rules to administer such  
17          refunds.

18          (b) Every distributor of diesel or biodiesel oil, in  
19          addition to the tax required by subsection (a), shall pay a  
20          license tax to the department for each gallon of diesel or  
21          biodiesel oil sold or used by the distributor for operating a



1 motor vehicle or motor vehicles upon public highways of the  
2 State. The rates of the additional tax imposed are as follows:

3 (1) For each gallon of diesel or biodiesel oil sold or  
4 used in the city and county of Honolulu, or sold in  
5 any other county for ultimate use in the city and  
6 county of Honolulu, the greater of 15 cents state  
7 tax[7] or a tax of \_\_\_\_\_ per cent of the wholesale  
8 price to the retailer per gallon of diesel or  
9 biodiesel oil; provided that if the tax based on a  
10 percentage of wholesale price is applied, the monetary  
11 amount of tax paid by a wholesaler on any gallon of  
12 diesel or biodiesel oil sold to a retailer shall not  
13 be less than the monetary amount of tax paid per  
14 gallon of diesel or biodiesel oil by the retailer to  
15 whom the wholesaler charges the highest price per  
16 gallon of diesel or biodiesel oil, and in addition  
17 thereto an amount, to be known as the "city and county  
18 of Honolulu fuel tax", as shall be levied pursuant to  
19 section 243-5;

20 (2) For each gallon of diesel or biodiesel oil sold or  
21 used in the county of Hawaii, or sold in any other



1 county for ultimate use in the county of Hawaii, the  
2 greater of 15 cents state tax[7] or a tax of \_\_\_\_\_ per  
3 cent of the wholesale price to the retailer per gallon  
4 of diesel or biodiesel oil; provided that if the tax  
5 based on a percentage of wholesale price is applied,  
6 the monetary amount of tax paid by a wholesaler on any  
7 gallon of diesel or biodiesel oil sold to a retailer  
8 shall not be less than the monetary amount of tax paid  
9 per gallon of diesel or biodiesel oil by the retailer  
10 to whom the wholesaler charges the highest price per  
11 gallon of diesel or biodiesel oil, and in addition  
12 thereto an amount, to be known as the "county of  
13 Hawaii fuel tax", as shall be levied pursuant to  
14 section 243-5;

15 (3) For each gallon of diesel or biodiesel oil sold or  
16 used in the county of Maui, or sold in any other  
17 county for ultimate use in the county of Maui, the  
18 greater of 15 cents state tax, or a tax of \_\_\_\_\_ per  
19 cent of the wholesale price to the retailer per gallon  
20 of diesel or biodiesel oil; provided that if the tax  
21 based on a percentage of wholesale price is applied,



1           the monetary amount of tax paid by a wholesaler on any  
2           gallon of diesel or biodiesel oil sold to a retailer  
3           shall not be less than the monetary amount of tax paid  
4           per gallon of diesel or biodiesel oil by the retailer  
5           to whom the wholesaler charges the highest price per  
6           gallon of diesel or biodiesel oil, and in addition  
7           thereto an amount, to be known as the "county of Maui  
8           fuel tax", as shall be levied pursuant to section  
9           243-5; and

10           (4) For each gallon of diesel or biodiesel oil sold or  
11           used in the county of Kauai, or sold in any other  
12           county for ultimate use in the county of Kauai, the  
13           greater of 15 cents state tax[7] or a tax of           per  
14           cent of the wholesale price to the retailer per gallon  
15           of diesel or biodiesel oil; provided that if the tax  
16           based on a percentage of wholesale price is applied,  
17           the monetary amount of tax paid by a wholesaler on any  
18           gallon of diesel or biodiesel oil sold to a retailer  
19           shall not be less than the monetary amount of tax paid  
20           per gallon of diesel or biodiesel oil by the retailer  
21           to whom the wholesaler charges the highest price per





1           gallon of diesel or biodiesel oil, and in addition  
2           thereto an amount, to be known as the "county of Kauai  
3           fuel tax", as shall be levied pursuant to section  
4           243-5.

5           If any user of diesel or biodiesel oil furnishes a  
6           certificate, in a form that the department shall prescribe, to  
7           the distributor or if the distributor who uses diesel or  
8           biodiesel oil signs the certificate, certifying that the diesel  
9           or biodiesel oil is for use in operating a motor vehicle or  
10          motor vehicles in areas other than upon the public highways of  
11          the State, the tax as provided in paragraphs (1) to (4) shall  
12          not be applicable. If a certificate is not or cannot be  
13          furnished and the diesel or biodiesel oil is in fact for use for  
14          operating a motor vehicle or motor vehicles in areas other than  
15          upon public highways of the State, the user thereof may obtain a  
16          refund of all taxes thereon imposed by the foregoing paragraphs.  
17          The department shall adopt rules to administer the refunding of  
18          such taxes.

19          For the purposes of subsection (a) and this subsection, the  
20          term "wholesale price" means the amount a wholesaler of liquid



1 fuel, diesel oil, or biodiesel oil charges a retailer prior to  
2 the inclusion of any taxes.

3 (c) The tax shall not be collected in respect to any  
4 benzol, benzene, toluol, xylol, or alternative fuel sold for use  
5 other than for operating internal combustion engines. With  
6 respect to these products, other than alternative fuels, the  
7 department, by rule, shall provide for the reporting and payment  
8 of the tax and for the keeping of records in such a manner as to  
9 collect, for each gallon of each product sold for use in  
10 internal combustion engines for the generation of power, or so  
11 used, the same tax or taxes as apply to each gallon of diesel  
12 oil. With respect to alternative fuels, the only tax collected  
13 shall be that provided in paragraphs (1), (2), and (3) of this  
14 subsection. This subsection shall not apply to aviation fuel  
15 sold for use in or used for airplanes.

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



1           (2) Every distributor, in addition to the tax required  
2           under paragraph (1) of this subsection, shall pay a  
3           license tax to the department for each gallon of  
4           alternative fuel sold or used by the distributor for  
5           operating a motor vehicle or motor vehicles upon the  
6           public highways of the State at a rate proportional to  
7           that of the rates applicable to diesel oil in  
8           subsection (b), rounded to the nearest one-tenth of a  
9           cent, as follows:

10           (A) Ethanol, 0.145 times the rate for diesel;

11           (B) Methanol, 0.11 times the rate for diesel;

12           ~~[(C) Biodiesel, 0.25 times the rate for diesel;~~

13           ~~-(D)]~~ (C) Liquefied petroleum gas, 0.33 times the rate  
14           for diesel; and

15           ~~-(E)]~~ (D) For other alternative fuels, the rate shall  
16           be based on the energy content of the fuels as  
17           compared to diesel fuel, using a lower heating  
18           value of one hundred thirty thousand British  
19           thermal units per gallon as a standard for  
20           diesel, so that the tax rate, on an energy



1           content basis, is equal to one-quarter the rate  
2           for diesel fuel.

3           The taxes so paid shall be paid into the state  
4           treasury and deposited in special funds or paid over  
5           in the same manner as provided in subsection (b) in  
6           respect of the tax on diesel oil;

7           (3) If any user of alternative fuel furnishes to the  
8           distributor a certificate, in a form that the  
9           department shall prescribe or if the distributor who  
10          uses alternative fuel signs the certificate,  
11          certifying that the alternative fuel is for use in  
12          operating a motor vehicle or motor vehicles in areas  
13          other than upon the public highways of the State, the  
14          tax as provided by paragraphs (1) and (2) of this  
15          subsection shall not be applicable; provided that no  
16          certificate shall be required if the alternative fuel  
17          is used for fuel and heating purposes in the home. If  
18          a certificate is not or cannot be furnished and the  
19          alternative fuel is in fact used for operating an  
20          internal combustion engine or operating a motor  
21          vehicle or motor vehicles in areas other than upon the



1 public highways of the State, the user thereof may  
2 obtain a refund of all taxes thereon imposed by the  
3 foregoing paragraphs. The department shall adopt  
4 rules to administer the refunding of these taxes.

5 (d) No tax shall be collected in respect to any liquid  
6 fuel, including diesel oil, biodiesel oil, and liquefied  
7 petroleum gas, shown to the satisfaction of the department to  
8 have been sold for use in and actually delivered to, or sold in,  
9 the county of Kalawao."

10 SECTION 2. Section 243-10, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§243-10 Statements and payments.** Each distributor and  
13 each person subject to section 243-4(b), on or before the  
14 twentieth day of each calendar month, shall file with the  
15 director of taxation, on forms prescribed, prepared, and  
16 furnished by the director, a statement, authenticated as  
17 provided in section 231-15, showing separately for each county  
18 and for the island of Lanai and the island of Molokai within  
19 which and whereon fuel is sold or used during each preceding  
20 month of the calendar year, the following:



- 1           (1) The total number of gallons of fuel refined,  
2           manufactured, or compounded by the distributor or  
3           person within the State and sold or used by the  
4           distributor or person, and if for ultimate use in  
5           another county or on either island, the name of that  
6           county or island;
- 7           (2) The total number of gallons of fuel acquired by the  
8           distributor or person during the month from persons  
9           not subject to the tax on the transaction or only  
10          subject to tax thereon at the rate of 1 cent per  
11          gallon, as the case may be, and sold or used by the  
12          distributor or person, and if for ultimate use in  
13          another county or on either island, the name of that  
14          county or island;
- 15          (3) The total number of gallons of fuel sold by the  
16          distributor or person to the United States or any  
17          department or agency thereof, or to any other person  
18          or entity, or used in any manner, the effect of which  
19          sale or use is to exempt the fuel from the tax imposed  
20          by this chapter;



1           (4) Additional information relative to the acquisition,  
2           purchase, manufacture, or importation into the State,  
3           and the sale, use, or other disposition, of diesel or  
4           biodiesel oil by the distributor or person during the  
5           month, as the department of taxation by rule shall  
6           prescribe.

7           At the time of submitting the foregoing report to the  
8           department, each distributor and person shall pay the tax on  
9           each gallon of fuel (including diesel or biodiesel oil) sold or  
10          used by the distributor or person in each county and on the  
11          island of Lanai and the island of Molokai during the preceding  
12          month, as shown by the statement and required by this chapter;  
13          provided that the tax shall not apply to any fuel exempted and  
14          so long as the same is exempted from the imposition of the tax  
15          by the Constitution or laws of the United States; and the tax  
16          shall be paid only once upon the same fuel; provided further  
17          that a licensed distributor shall be entitled, in computing the  
18          tax the licensed distributor is required to pay, to deduct from  
19          the gallons of fuel reported for the month for each county or  
20          for the island of Lanai or the island of Molokai, as the case  
21          may be, one gallon for each ninety-nine gallons of like liquid



1 fuel sold by retail dealers in that county or on that island  
2 during the month, as shown by certificates furnished by the  
3 retail dealers to the distributor and attached to the  
4 distributor's report. All taxes payable for any month shall be  
5 delinquent after the expiration of the twentieth day of the  
6 following month.

7 Statements filed under this section concerning the number  
8 of gallons of fuel refined, manufactured, compounded, imported,  
9 sold or used by the distributor or person are public records."

10 SECTION 3. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on January 1, 2020.

13

INTRODUCED BY:



JAN 24 2019





# H.B. NO. 1467

**Report Title:**

State Fuel Tax; Assessment Bases; Reporting

**Description:**

Changes 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.

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