

ACT 205

S.B. NO. 2863

A Bill for an Act Relating to Environmental Protection.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 128D-2, Hawaii Revised Statutes, is amended to read as follows:

“§128D-2 Environmental response revolving fund[.]; uses. (a) There is created within the state treasury an environmental response revolving fund, which shall consist of moneys appropriated to the fund by the legislature, moneys paid to the fund as a result of departmental compliance proceedings, moneys paid to the fund pursuant to court-ordered awards or judgments, moneys paid to the fund in court-approved or out-of-court settlements, all interest attributable to investment of money deposited in the fund, moneys generated by the environmental response tax established in section 243-3.5, and moneys allotted to the fund from other sources; provided that when the total balance of the fund exceeds \$7,000,000, the department of health shall notify the department of taxation of this fact in writing within ten days. The department of taxation then shall notify all distributors liable for collecting the tax imposed by section 243-3.5 of this fact in writing, and the imposition of the tax shall be discontinued beginning the first day of the second month following the month in which notice is given to the department of taxation. If the total balance of the fund thereafter declines to less than \$3,000,000, the department of health shall notify the department of taxation which then shall notify all distributors liable for collecting the tax imposed by section 243-3.5 of this fact in writing, and the imposition of the tax shall be reinstated beginning the first day of the second month following the month in which notice is given to the department of taxation.

(b) Moneys from the fund shall be expended by the department for response actions, including removal and remedial actions, consistent with this chapter; provided that the revenues generated by the "environmental response tax" and deposited into the environmental response revolving fund:

- (1) Shall be used:
 - (A) For oil spill planning, prevention, preparedness, education, research, training, removal, and remediation; and
 - (B) For direct support for county used oil recycling programs; and
- (2) May also be used to address concerns related to drinking water, underground storage tanks, including support for the underground storage tank program of the department and funding for the acquisition by the State of a soil remediation site and facility."

SECTION 2. Section 243-3.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§243-3.5]]~~ **Environmental response tax**~~[: uses.~~ (a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed at times provided in section 128D-2 a state environmental response tax of 5 cents on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user, other than a refiner, of petroleum product~~[: provided that~~ cents¹ of the tax on each barrel shall be used pursuant to section 128D-2 to address concerns relating to drinking water. The tax imposed by this subsection shall be paid by the distributor of the petroleum product.

(b) Each distributor subject to the tax imposed by subsection (a), on or before the last day of each calendar month, shall file with the director, on forms prescribed, prepared, and furnished by the director, a return statement of the tax under this section for which the distributor is liable for the preceding month. The form and payment of the tax shall be transmitted to the department of taxation in the appropriate district.

(c) Notwithstanding section 248-8 to the contrary, the environmental response tax collected under this section shall be paid over to the director of finance for deposit into the environmental response revolving fund established by section 128D-2.

(d) Every distributor shall keep in the State and preserve for five years a record in such form as the department of taxation shall prescribe showing the total number of barrels and the fractional part of barrels of petroleum product sold by the distributor during any calendar month. The record shall show such other data and figures relevant to the enforcement and administration of this chapter as the department may require."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 1994.)

Note

1. So in original.