

ACT 143

H.B. NO. 1345

A Bill for an Act Relating to Energy Content of Fuels.

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

SECTION 1. The legislature finds that alternative transportation fuels could provide a substantial part of Hawaii's transportation energy demand and that local production of these fuels could diversify energy supplies while producing environmental and economic benefits to the public.

The legislature also finds that vehicles that operate on fuels containing less energy per gallon require more gallons of fuel to travel the same distance as those using fuels with more energy. However, motor fuels other than liquefied petroleum gas are currently taxed at the same per-gallon rate. Therefore, several alternative fuels are put at a disadvantage on a cost-per-mile basis and would bear a disproportionate share of the highway tax burden.

The legislature finds and declares that there is a need to remove unnecessary disincentives to the use of alternative fuels, by adjusting transportation fuel tax rates to reflect energy content of alternative fuels, and to provide an incentive to the use of these fuels by providing reduced tax rates for several years.

SECTION 2. Section 243-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Alternative fuel” means methanol, denatured ethanol, and other alcohols; mixtures containing eighty-five per cent or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; biodiesel; mixtures containing twenty per cent or more by volume of biodiesel with diesel or other fuels; fuels (other than alcohol) derived from biological materials; and any other fuel that is substantially not a petroleum product and that the governor determines would yield substantial energy security benefits or substantial environmental benefits.”

SECTION 3. Section 243-4, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) For each gallon of diesel oil, 1 cent[-];
- (2) For each gallon of gasoline or other aviation fuel sold for use in or used for airplanes, 1 cent[-];
- (3) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the city and county of Honolulu, or sold in any county for ultimate use in the city and county of Honolulu, 16 cents state tax, and in addition thereto such amount, to be known as the “city and county of Honolulu fuel tax”, as shall be levied pursuant to section 243-5[-];
- (4) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Hawaii, or sold in any county for ultimate use in the county of Hawaii, 16 cents state tax, and in addition thereto such amount, to be known as the “county of Hawaii fuel tax”, as shall be levied pursuant to section 243-5[-];
- (5) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Maui, or sold in any county for ultimate use in the county of Maui, 16 cents state tax, and in addition thereto such amount, to be known as the “county of Maui fuel tax”, as shall be levied pursuant to section 243-5[-]; and
- (6) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Kauai, or sold in any county for ultimate use in the county of Kauai, 16 cents state tax, and in addition thereto such amount, to be known as

the “county of Kauai fuel tax”, as shall be levied pursuant to section 243-5.

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

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

- (1) For each gallon of diesel oil sold or used in the city and county of Honolulu, or sold in any other county for ultimate use in the city and county of Honolulu, 15 cents state tax, and in addition thereto such amount, to be known as the “city and county of Honolulu fuel tax”, as shall be levied pursuant to section 243-5~~[-];~~;
- (2) For each gallon of diesel oil sold or used in the county of Hawaii, or sold in any other county for ultimate use in the county of Hawaii, 15 cents state tax, and in addition thereto such amount, to be known as the “county of Hawaii fuel tax”, as shall be levied pursuant to section 243-5~~[-];~~;
- (3) For each gallon of diesel oil sold or used in the county of Maui, or sold in any other county for ultimate use in the county of Maui, 15 cents state tax, and in addition thereto such amount, to be known as the “county of Maui fuel tax”, as shall be levied pursuant to section 243-5~~[-];~~ and
- (4) For each gallon of diesel oil sold or used in the county of Kauai, or sold in any other county for ultimate use in the county of Kauai, 15 cents state tax, and in addition thereto such amount, to be known as the “county of Kauai fuel tax”, as shall be levied pursuant to section 243-5.

If any user of diesel oil furnishes a certificate, in such form as the department shall prescribe, to the distributor, or the distributor who uses diesel oil signs such certificate, certifying that the diesel oil is for use in operating a motor vehicle or motor vehicles in areas other than upon the public highways of the State, the tax as provided in paragraphs (1) to (4) shall not be applicable. In the event a certificate is not or cannot be furnished and the diesel oil is in fact for use for operating a motor vehicle or motor vehicles in areas other than upon public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by the foregoing paragraphs. The department shall ~~prescribe~~ adopt rules to administer the refunding of such taxes.

(c) The tax shall not be collected in respect to any ~~[liquefied petroleum gas,] benzol, benzene, toluol, [or] xylol, or alternative fuel~~ sold for use other than for operating internal combustion engines. With respect to these products, other than ~~[liquefied petroleum gas,] alternative fuels,~~ the department by ~~[regulation]~~ rule shall provide for the reporting and payment of the tax and for the keeping of records in respect thereto, in such manner as to collect, for each gallon of such product sold for use in internal combustion engines for the generation of power, or so used, the same tax or taxes as apply to each gallon of diesel oil. With respect to ~~[liquefied petroleum gas,] alternative fuels,~~ the only tax collected shall be that provided in paragraphs (1), (2), and (3) of this subsection. This subsection shall not apply to aviation fuel sold for use in or used for airplanes.

- (1) Every distributor of any ~~[liquefied petroleum gas]~~ alternative fuel for operation of an internal combustion engine shall pay a license tax to the department of 1 cent for each gallon of such ~~[liquefied petroleum gas]~~ alternative fuel sold or used by the distributor.
- (2) Every distributor ~~[shall]~~, in addition to the tax required under paragraph (1) of this subsection, shall pay a license tax to the department for each gallon of ~~[liquefied petroleum gas]~~ alternative fuel sold or used by the distributor for operating a motor vehicle or motor vehicles upon the public highways of the State at a rate ~~[equal to two-thirds]~~ proportional to that of the rates applicable to diesel oil in subsection (b), rounded to the nearest [cent, and the] one-tenth of a cent, as follows:
 - (A) Ethanol, 0.29 times the rate for diesel;
 - (B) Methanol, 0.22 times the rate for diesel;
 - (C) Biodiesel, 0.50 times the rate for diesel;
 - (D) Liquefied petroleum gas, 0.33 times the rate for diesel; and
 - (E) For other alternative fuels, the rate shall be based on the energy content of the fuels as compared to diesel fuel, using a lower heating value of one hundred thirty thousand British thermal units per gallon as a standard for diesel, so that the tax rate, on an energy content basis, is equal to half the rate for diesel fuel.

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

- (3) If any user of ~~[liquefied petroleum gas]~~ alternative fuel furnishes to the distributor a certificate, in such form as the department shall prescribe, or the distributor who uses ~~[liquefied petroleum gas]~~ alternative fuel signs such certificate, certifying that the ~~[liquefied petroleum gas]~~ alternative fuel is for use in operating a motor vehicle or motor vehicles in areas other than upon the public highways of the State, the tax as provided by paragraphs (1) and (2) of this section shall not be applicable; provided that no certificate shall be required if the ~~[liquefied petroleum gas]~~ alternative fuel is used for fuel and heating purposes in the home. In the event a certificate is not or cannot be furnished and the ~~[liquefied petroleum gas]~~ alternative fuel is in fact used for operating an internal combustion engine or operating a motor vehicle or motor vehicles in areas other than upon the public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by such paragraphs. The department shall ~~[prescribe]~~ adopt rules [and regulations] to administer the refunding of such taxes imposed.

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

SECTION 4. Section 243-5, Hawaii Revised Statutes, is amended to read as follows:

“§243-5 County fuel tax. The amount of the “county of Hawaii fuel tax”, “city and county of Honolulu fuel tax”, “county of Maui fuel tax”, and “county of Kauai fuel tax”, respectively, shall be determined by resolution of the county or the city council of each county adopted in the manner provided by law relating to resolutions involving the expenditure of public money. The amount fixed by the resolution may be, per gallon, one or more cents or a fraction of a cent or both, or it may be zero. The amount fixed for alternative fuels may be proportional to the energy contents of the fuels, as determined by their lower heating values, times one-

half. No resolution shall be adopted until the county or the city council shall conduct a public hearing on the amount of tax proposed. Public notice of the hearing shall be given in the county at least twice within a period of thirty days immediately preceding the date of hearing. If the resolution is adopted, it shall take effect on the first day of the second month following the date of adoption of the resolution. The county or the city council shall notify the department of taxation of any county fuel tax changes within ten days after the resolution is adopted.

Until and unless otherwise provided by resolution adopted as above provided, the amount of the "county of Hawaii fuel tax" shall be [~~for the period July 1, 1955, to June 30, 1957, 1 cent per gallon and thereafter~~] zero, the amount of the "city and county of Honolulu fuel tax" shall be 2-1/2 cents per gallon, the amount of the "county of Maui fuel tax" shall be [~~for the period July 1, 1955, to June 30, 1957, 3 cents per gallon and thereafter~~] 2 cents per gallon, and the amount of the "county of Kauai fuel tax" shall be [~~for the period July 1, 1955, to June 30, 1957, 3 cents per gallon and thereafter~~] 2 cents per gallon."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2001.

(Approved May 24, 2001.)