

A Bill for an Act Relating to the Definition of Renewable Energy Producer.

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

SECTION 1. Act 102, Session Laws of Hawaii 2002, relating to leasing of public lands for renewable energy purposes, authorized the board of land and natural resources to lease public lands to renewable energy producers through direct negotiation. The intent of Act 102, Session Laws of Hawaii 2002, was to encourage the development of renewable energy projects and to reduce the State's dependency on fossil fuels.

The inclusion of biofuels in the definition of renewable energy recognized the value of this important renewable energy technology. The current law, however, does not take into consideration that, unlike other renewable energy technologies, biofuel production does not require its fuel production facilities to be located at the same location as the energy source. In fact, due to generally different requirements for industrial and agricultural zoned districts, it is often advantageous to separate biofuel production facilities from the sources of its feedstock. The growing and production of the plant and animal materials that constitute the feedstock for biofuel production is an inseparable part of that production process.

Accordingly, the legislature finds that, as an integral part of the production of biofuels as a renewable energy source, growers and producers of plant or animal materials used primarily for the production of biofuels or other fuels should be allowed to lease public lands through direct negotiation.

The purpose of this Act is to amend the definition of "renewable energy producer" under section 171-95, Hawaii Revised Statutes, to include growers and producers of plant or animal materials used primarily for the production of biofuels or other fuels, so that they will be eligible for direct leases of public land.

SECTION 2. Section 171-95, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) For the purposes of this section, "renewable energy producer" means [any]:

- (1) Any producer of electrical or thermal energy produced by wind, solar energy, hydropower, landfill gas, waste-to-energy, ocean thermal energy conversion, cold seawater, wave energy, biomass, including municipal solid waste, biofuels or fuels derived from organic sources, hydrogen fuels derived primarily from renewable energy, or fuel cells where the fuel is derived primarily from renewable sources that sell all of the net power produced from the demised premises to an electric utility company regulated under chapter 269 or that sells all of the thermal energy it produces to customers of district cooling systems~~[-Up]~~; provided that up to twenty-five per cent of the power produced by a renewable energy producer and sold to the utility or to district cooling system customers may be derived from fossil fuels[-]; or
- (2) Any grower or producer of plant or animal materials used primarily for the production of biofuels or other fuels; provided that nothing herein is intended to prevent the waste product or byproduct of the plant or animal material grown or produced for the production of biofuel, other fuels, electrical energy, or thermal energy, from being used for other useful purposes."

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

SECTION 4. This Act shall take effect upon its approval.
(Approved May 21, 2008.)