HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

H.B. NO. 2893

A BILL FOR AN ACT

RELATING TO INTRA-COUNTY FERRY SERVICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the residents of West Maui are served by only one highway and one small airport. Residents on the island of Lanai have only one feasible means of transport to Maui - by intra-county ferry from Lanai to Lahaina. However, the Lahaina small boat harbor is already overused and is shared by commercial fishing activities and cruise ships that add to already congested surface traffic.

The legislature finds that an alternate ferry route from Lanai to Maalaea harbor will not only provide more convenient travel for residents of Lanai and West Maui, but also ease the congestion in and around Lahaina and its boat harbor and will make an emergency ferry operations out of Lahaina a feasible reality as a component of an emergency transportation system should the only highway in West Maui be closed. However, any ferry route to and from Maalaea harbor and Lahaina requires priority assigning of mooring space. In addition, the added fuel costs of this route would require an exemption from the fuel tax for fuel purchases for the ferry service.

The purpose of this Act is to provide priority assignment of mooring space for a new ferry route from Maalaea harbor to Lahaina and to provide an exemption from the fuel tax for fuel purchases for the ferry service.

SECTION 2. Any other law to the contrary notwithstanding, the department of land and natural resources shall assign priority mooring space to any intra-county ferry service regulated by the public utilities commission that serves a county:

(1) With a population of less than five hundred thousand residents; and

(2) That includes at least three islands inhabited by permanent residents.

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

"**§243-4 License taxes**[~~.~~]**; exemption.** (a) This section shall not apply to the sale of liquid fuel sold or used in the State for ultimate use by an intra-county ferry service that serves a county with a population of less than five hundred thousand residents and that includes at least three islands inhabited by permanent residents.

[~~(a)~~] (b) Every distributor, in addition to any other taxes provided by law, shall 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 imposed are as follows:

(1) For each gallon of diesel oil, 2 cents;

(2) For each gallon of gasoline or other aviation fuel sold for use in or used for airplanes, 2 cents;

(3) For each gallon of naphtha sold for use in a power-generating facility, 1 cent;

(4) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1), (2), and (3), 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, 17 cents state

tax, and in addition thereto an amount, to be known as the "city and county of Honolulu 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), (2), and (3), 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, 17 cents state tax, and in addition thereto an amount, to be known as the "county of Hawaii fuel tax", as shall be levied pursuant to section 243-5;

(6) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1), (2), and (3), 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, 17 cents state tax, and in addition thereto an amount, to be known as the "county of Maui fuel tax", as shall be levied pursuant to section 243-5; and

(7) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1), (2), and (3), 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, 17 cents state tax, and in addition thereto an 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 any other evidence as the department may require, that liquid fuel, other than fuel mentioned in paragraphs (1), (2), and (3), 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 adopt rules to administer such refunds.

[~~(b)~~] (c) Every distributor of diesel oil, in addition to the tax required by subsection [~~(a),~~] (b), shall pay a license tax to the department for each gallon of 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 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 an 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 an 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 an 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 an 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 a form that the department shall prescribe, to the distributor or if the distributor who uses diesel oil signs the 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. If 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 adopt rules to administer the refunding of such taxes.

[~~(c)~~] (d) The tax shall not be collected in respect to any benzol, benzene, toluol, xylol, or alternative fuel sold for use other than for operating internal combustion engines. With respect to these products, other than alternative fuels, the department, by rule, shall provide for the reporting and payment of the tax and for the keeping of records in such a manner as to collect, for each gallon of each 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 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 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;

(2) Every distributor, in addition to the tax required under paragraph (1) of this subsection, shall pay a license tax to the department for each gallon of 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 proportional to that of the rates applicable to diesel oil in subsection [~~(b),~~] (c), rounded to the nearest one-tenth of a cent, as follows:

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

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

(C) Biodiesel, 0.25 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 one-quarter 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)~~] (c) in respect of the tax on diesel oil;

(3) If any user of alternative fuel furnishes to the distributor a certificate, in a form that the department shall prescribe or if the distributor who uses alternative fuel signs the certificate, certifying that the 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

subsection shall not be applicable; provided that no certificate shall be required if the alternative fuel is used for fuel and heating purposes in the home. If a certificate is not or cannot be furnished and the 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 the foregoing paragraphs. The department shall adopt rules to administer the refunding of these taxes.

[~~(d)~~] (e) 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. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2008; provided that the amendments made to section 243-4, Hawaii Revised Statutes, by section 3 of this Act shall not be repealed

when that section is repealed and reenacted on December 31, 2009 by section 5(1) of Act 103, Session Laws of Hawaii 2007.

INTRODUCED BY: _____

Mele Carroll

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JAN 22 2008

H.B. NO. 2893

Report Title:
Intra-County Ferry; Mooring Space; Priority; Fuel Tax Exemption

Description:
Requires department of land and natural resources to assign priority mooring space to intra-county ferries serving a county with 500,000 or less people and at least 3 islands inhabited by permanent residents. Exempts distributors from fuel tax for fuel sold for ultimate use by the intra-county ferry service.