
A BILL FOR AN ACT

RELATING TO INTRA-COUNTY FERRY SERVICE.

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

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

8 The legislature finds that an alternative ferry route from
9 Lana'i to Ma'alaea harbor will not only provide more convenient
10 travel for residents of Lana'i and West Maui, but also ease the
11 congestion in and around Lahaina and its boat harbor and will
12 make emergency ferry operations out of Lahaina a feasible
13 reality as a component of an emergency transportation system
14 should the only highway in West Maui be closed. However, any
15 ferry route to and from Ma'alaea harbor and Lahaina requires
16 priority assigning of mooring space. In addition, the added



1 fuel costs of this route would require an exemption from the
2 fuel tax for fuel purchases for the ferry service.

3 The purpose of this Act is to provide priority assignment
4 of mooring space for a new ferry route from Ma'alaea harbor to
5 Lahaina and to provide an exemption from the fuel tax for fuel
6 purchases for the ferry service.

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

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

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

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

18 "§243-4 License taxes[-]; rates and exemptions. (a) This
19 section shall not apply to the sale of liquid fuel sold or used
20 in the State for ultimate use by an intra-county ferry service
21 that serves a county with a population of less than five hundred



1 thousand residents and that includes at least three islands
2 inhabited by permanent residents.

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

- 15 (1) For each gallon of diesel oil, 2 cents;
- 16 (2) For each gallon of gasoline or other aviation fuel
17 sold for use in or used for airplanes, 2 cents;
- 18 (3) For each gallon of naphtha sold for use in a power-
19 generating facility, 1 cent;
- 20 (4) For each gallon of liquid fuel, other than fuel
21 mentioned in paragraphs (1), (2), and (3), and other
22 than an alternative fuel, sold or used in the city and



1 county of Honolulu, or sold in any county for ultimate
2 use in the city and county of Honolulu, 17 cents state
3 tax, and in addition thereto an amount, to be known as
4 the "city and county of Honolulu fuel tax", as shall
5 be levied pursuant to section 243-5;

6 (5) For each gallon of liquid fuel, other than fuel
7 mentioned in paragraphs (1), (2), and (3), and other
8 than an alternative fuel, sold or used in the county
9 of Hawaii, or sold in any county for ultimate use in
10 the county of Hawaii, 17 cents state tax, and in
11 addition thereto an amount, to be known as the "county
12 of Hawaii fuel tax", as shall be levied pursuant to
13 section 243-5;

14 (6) For each gallon of liquid fuel, other than fuel
15 mentioned in paragraphs (1), (2), and (3), and other
16 than an alternative fuel, sold or used in the county
17 of Maui, or sold in any county for ultimate use in the
18 county of Maui, 17 cents state tax, and in addition
19 thereto an amount, to be known as the "county of Maui
20 fuel tax", as shall be levied pursuant to section
21 243-5; and



1 (7) 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 Kauai, or sold in any county for ultimate use in
5 the county of Kauai, 17 cents state tax, and in
6 addition thereto an amount, to be known as the "county
7 of Kauai 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)~~] (c) Every distributor of diesel oil, in addition to
19 the tax required by subsection [~~(a)~~], (b), shall pay a license
20 tax to the department for each gallon of diesel oil sold or used
21 by the distributor for operating a motor vehicle or motor



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

3 (1) For each gallon of diesel oil sold or used in the city
4 and county of Honolulu, or sold in any other county
5 for ultimate use in the city and county of Honolulu,
6 15 cents state tax, and in addition thereto an amount,
7 to be known as the "city and county of Honolulu fuel
8 tax", as shall be levied pursuant to section 243-5;

9 (2) For each gallon of diesel oil sold or used in the
10 county of Hawaii, or sold in any other county for
11 ultimate use in the county of Hawaii, 15 cents state
12 tax, and in addition thereto an amount, to be known as
13 the "county of Hawaii fuel tax", as shall be levied
14 pursuant to section 243-5;

15 (3) For each gallon of diesel oil sold or used in the
16 county of Maui, or sold in any other county for
17 ultimate use in the county of Maui, 15 cents state
18 tax, and in addition thereto an amount, to be known as
19 the "county of Maui fuel tax", as shall be levied
20 pursuant to section 243-5; and

21 (4) For each gallon of diesel oil sold or used in the
22 county of Kauai, or sold in any other county for



1 ultimate use in the county of Kauai, 15 cents state
2 tax, and in addition thereto an amount, to be known as
3 the "county of Kauai fuel tax", as shall be levied
4 pursuant to section 243-5.

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

18 [~~(e)~~] (d) The tax shall not be collected in respect to any
19 benzol, benzene, toluol, xylol, or alternative fuel sold for use
20 other than for operating internal combustion engines. With
21 respect to these products, other than alternative fuels, the
22 department, by rule, shall provide for the reporting and payment



1 of the tax and for the keeping of records in such a manner as to
2 collect, for each gallon of each product sold for use in
3 internal combustion engines for the generation of power, or so
4 used, the same tax or taxes as apply to each gallon of diesel
5 oil. With respect to alternative fuels, the only tax collected
6 shall be that provided in paragraphs (1), (2), and (3) of this
7 subsection. This subsection shall not apply to aviation fuel
8 sold for use in or used for airplanes.

- 9 (1) Every distributor of any alternative fuel for
10 operation of an internal combustion engine shall pay a
11 license tax to the department of one-quarter of 1 cent
12 for each gallon of alternative fuel sold or used by
13 the distributor;
- 14 (2) Every distributor, in addition to the tax required
15 under paragraph (1) of this subsection, shall pay a
16 license tax to the department for each gallon of
17 alternative fuel sold or used by the distributor for
18 operating a motor vehicle or motor vehicles upon the
19 public highways of the State at a rate proportional to
20 that of the rates applicable to diesel oil in
21 subsection ~~[(b),]~~ (c), rounded to the nearest one-
22 tenth of a cent, as follows:



- 1 (A) Ethanol, 0.145 times the rate for diesel;
2 (B) Methanol, 0.11 times the rate for diesel;
3 (C) Biodiesel, 0.25 times the rate for diesel;
4 (D) Liquefied petroleum gas, 0.33 times the rate for
5 diesel; and

- 6 (E) For other alternative fuels, the rate shall be
7 based on the energy content of the fuels as
8 compared to diesel fuel, using a lower heating
9 value of one hundred thirty thousand British
10 thermal units per gallon as a standard for
11 diesel, so that the tax rate, on an energy
12 content basis, is equal to one-quarter the rate
13 for diesel fuel.

14 The taxes so paid shall be paid into the state
15 treasury and deposited in special funds or paid over
16 in the same manner as provided in subsection ~~[(b)]~~ (c)
17 in respect of the tax on diesel oil;

- 18 (3) If any user of alternative fuel furnishes to the
19 distributor a certificate, in a form that the
20 department shall prescribe or if the distributor who
21 uses alternative fuel signs the certificate,
22 certifying that the alternative fuel is for use in



1 operating a motor vehicle or motor vehicles in areas
2 other than upon the public highways of the State, the
3 tax as provided by paragraphs (1) and (2) of this
4 subsection shall not be applicable; provided that no
5 certificate shall be required if the alternative fuel
6 is used for fuel and heating purposes in the home. If
7 a certificate is not or cannot be furnished and the
8 alternative fuel is in fact used for operating an
9 internal combustion engine or operating a motor
10 vehicle or motor vehicles in areas other than upon the
11 public highways of the State, the user thereof may
12 obtain a refund of all taxes thereon imposed by the
13 foregoing paragraphs. The department shall adopt
14 rules to administer the refunding of these taxes.

15 [~~(d)~~] (e) No tax shall be collected in respect to any
16 liquid fuel, including diesel oil and liquefied petroleum gas,
17 shown to the satisfaction of the department to have been sold
18 for use in and actually delivered to, or sold in, the county of
19 Kalawao."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2008;
2 provided that the amendments made to section 243-4, Hawaii
3 Revised Statutes, by section 3 of this Act shall not be repealed
4 when that section is repealed and reenacted on December 31, 2009
5 by section 5(1) of Act 103, Session Laws of Hawaii 2007.



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.
(SD1)

