

JAN 23 2008

A BILL FOR AN ACT

RELATING TO BIODIESEL.

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

1 SECTION 1. Chapter 171, Hawaii Revised Statutes, is
2 amended by adding a new subpart to part III to be appropriately
3 designated and to read as follows:

4 "SUBPART . CROPS USED IN THE PRODUCTION OF BIODIESEL FUEL.

5 §171- Definitions. As used in this subpart:

6 "Biodiesel" means a vegetable oil-based fuel that meets
7 ASTM International Standard D6751, "Standard Specifications for
8 Biodiesel (B100) Fuel Blend Stock for Distillate Fuels", as
9 amended.

10 "Eligible lessee" means a person who is:

- 11 (1) Engaged or proposing to engage in an agricultural use
12 by growing qualifying crops; and
13 (2) Qualified to lease public lands under this chapter.

14 "Qualifying crops" means those agricultural crops planted,
15 cultivated, harvested, or processed of such vegetable oil
16 content that is suitable for bioconversion into biodiesel fuel,



1 including soy, corn, bean, nut, olive, canola, sunflower, and
2 other such crops and the seeds thereof.

3 §171- Lease of agricultural lands for crops used in the
4 production of biodiesel fuel. The board may lease, at nominal
5 consideration, by direct negotiation and without recourse to
6 public auction, public agricultural lands with soil classified
7 by the land study bureau's detailed land classification as
8 overall (master) productivity rating class A or B to eligible
9 lessees that commit to grow qualifying crops; provided that:

10 (1) The terms of the lease entered into between the board
11 and a qualifying lessee shall incorporate appropriate
12 restrictions on the use of land assuring the land is
13 used for agricultural purposes and that qualifying
14 crops are grown; provided that nothing in this subpart
15 is intended to impact a qualifying lessee's use of the
16 land for personal residence purposes if allowed by
17 relevant land use laws; and

18 (2) The qualified crops grown on the leased public lands
19 shall be sold, exchanged, bartered, traded, or
20 otherwise transferred in exchange for consideration to
21 oil seed processing facilities, biodiesel producers,



1 or the department of agriculture under the energy
2 feedstock program in section 141-9.

3 §171- **Rulemaking.** The board may adopt rules in
4 accordance with chapter 91 to effectuate the purposes of this
5 subpart."

6 SECTION 2. Section 103D-1012, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Notwithstanding any other law to the contrary,
9 contracts for the purchase of diesel fuel or boiler fuel shall
10 be awarded to the lowest responsible and responsive bidders,
11 with preference given to bids for biofuels or blends of biofuel
12 and petroleum fuel[-]; provided that for use in state vehicles
13 with diesel engines, preference shall be given to biodiesel
14 blends up to twenty per cent produced in the state from
15 feedstock grown in the state."

16 SECTION 3. Chapter 141, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By designating sections 141-1 to 141-8 as part I and
19 inserting a title before section 141-1 to read as follows:

20 **"PART I. GENERALLY"**



1 2. By designating section 141-9 as part II and inserting
2 a title before section 141-9 to read as follows:

3 **"PART II. ENERGY FEEDSTOCK PROGRAM"**

4 3. By amending section 141-9 to read as follows:

5 "~~+~~§141-9~~+~~ **Energy feedstock program.** (a) There is
6 established within the department of agriculture an energy
7 feedstock program that shall:

- 8 (1) Maintain cognizance of actions taken by industry and
9 by federal, state, county, and private agencies in
10 activities relating to the production of energy
11 feedstock, and promote and support worthwhile energy
12 feedstock production activities in the ~~[State,]~~ state;
- 13 (2) Serve as an information clearinghouse for energy
14 feedstock production activities;
- 15 (3) Coordinate development projects to investigate and
16 solve biological and technical problems involved in
17 raising selected species with commercial energy
18 generating potential;
- 19 (4) Actively seek federal funding for energy feedstock
20 production activities;
- 21 (5) Undertake activities required to develop and expand
22 the energy feedstock production industry; and



1 (6) Perform other functions and activities as may be
2 assigned by law, including monitoring the compliance
3 provisions under section 205-4.5(a)(15).

4 (b) The feedstock program shall support, promote, and
5 stimulate the development of a market for biodiesel feedstock
6 crops grown in the state by:

7 (1) Purchasing biodiesel feedstock crops grown in the
8 state that are offered by biodiesel feedstock
9 producers at a price of up to 15 cents per pound above
10 cost until December 31, 2018; provided that the total
11 amount shall not exceed an aggregate total of \$
12 per fiscal year;

13 (2) Purchasing biodiesel fuel and biodiesel fuel blends
14 produced in the state using feedstock grown in the
15 state that are offered by fuel producers at a fair and
16 reasonable purchase price that shall take into
17 consideration the expenses incurred by and profit
18 margin of the producer; provided that the total amount
19 shall not exceed an aggregate total of \$ per
20 fiscal year; and



1 (3) Determining the disposition of the biodiesel feedstock
2 crop and biodiesel fuel and biodiesel fuel blends
3 purchased under this program.

4 (c) Lands used for the production of biodiesel feedstock
5 crops shall be exempted from the real property tax.

6 [~~(b)~~] (d) The chairperson of the board of agriculture
7 shall consult and coordinate with the energy resources
8 coordinator under chapter 196 to establish milestones and
9 objectives for the production of energy feedstock that is grown
10 in the [~~State.~~] state. The chairperson and the coordinator
11 shall report the State's progress toward meeting such milestones
12 and objectives annually to the legislature[~~+~~] at least twenty
13 days prior to the convening of each regular session. The report
14 shall include:

15 (1) The amount of biodiesel feedstock crops purchased
16 under this program and the cost expended;

17 (2) The amount of biodiesel fuel and biodiesel fuel blends
18 purchased under this program and the cost expended;
19 and

20 (3) The disposition of the feedstock crops and biodiesel
21 fuel and biodiesel fuel blends purchased under this
22 program.



1 [~~e~~] (e) The chairperson of the board of agriculture
2 shall also consult and coordinate with research programs and
3 activities at the University of Hawaii that will assist in the
4 further growth and promotion of the energy feedstock production
5 industry in Hawaii.

6 [~~d~~] (f) The chairperson of the board of agriculture may
7 employ temporary staff exempt from chapters 76 and 89. The
8 board may adopt rules pursuant to chapter 91 to effectuate the
9 purposes of this section.

10 (g) As used in this section,
11 "Biodiesel" means a vegetable oil-based fuel that meets
12 ASTM International Standard D6751, "Standard Specifications for
13 Biodiesel (B100) Fuel Blend Stock for Distillate Fuels", as
14 amended."

15 SECTION 4. Section 235-7, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) There shall be excluded from gross income, adjusted
18 gross income, and taxable income:

19 (1) Income not subject to taxation by the State under the
20 Constitution and laws of the United States;



- 1 (2) Rights, benefits, and other income exempted from
2 taxation by section 88-91, having to do with the state
3 retirement system, and the rights, benefits, and other
4 income, comparable to the rights, benefits, and other
5 income exempted by section 88-91, under any other
6 public retirement system;
- 7 (3) Any compensation received in the form of a pension for
8 past services;
- 9 (4) Compensation paid to a patient affected with Hansen's
10 disease employed by the State or the United States in
11 any hospital, settlement, or place for the treatment
12 of Hansen's disease;
- 13 (5) Except as otherwise expressly provided, payments made
14 by the United States or this State, under an act of
15 Congress or a law of this State, which by express
16 provision or administrative regulation or
17 interpretation are exempt from both the normal and
18 surtaxes of the United States, even though not so
19 exempted by the Internal Revenue Code itself;
- 20 (6) Any income expressly exempted or excluded from the
21 measure of the tax imposed by this chapter by any
22 other law of the State, it being the intent of this



1 chapter not to repeal or supersede any express
2 exemption or exclusion;

3 (7) Income received by each member of the reserve
4 components of the Army, Navy, Air Force, Marine Corps,
5 or Coast Guard of the United States of America, and
6 the Hawaii national guard as compensation for
7 performance of duty, equivalent to pay received for
8 forty-eight drills (equivalent of twelve weekends) and
9 fifteen days of annual duty, at an:

10 (A) E-1 pay grade after eight years of service;
11 provided that this subparagraph shall apply to
12 taxable years beginning after December 31, 2004;

13 (B) E-2 pay grade after eight years of service;
14 provided that this subparagraph shall apply to
15 taxable years beginning after December 31, 2005;

16 (C) E-3 pay grade after eight years of service;
17 provided that this subparagraph shall apply to
18 taxable years beginning after December 31, 2006;

19 (D) E-4 pay grade after eight years of service;
20 provided that this subparagraph shall apply to
21 taxable years beginning after December 31, 2007;
22 and



- 1 (E) E-5 pay grade after eight years of service;
- 2 provided that this subparagraph shall apply to
- 3 taxable years beginning after December 31, 2008;
- 4 (8) Income derived from the operation of ships or aircraft
- 5 if the income is exempt under the Internal Revenue
- 6 Code pursuant to the provisions of an income tax
- 7 treaty or agreement entered into by and between the
- 8 United States and a foreign country; provided that the
- 9 tax laws of the local governments of that country
- 10 reciprocally exempt from the application of all of
- 11 their net income taxes, the income derived from the
- 12 operation of ships or aircraft that are documented or
- 13 registered under the laws of the United States;
- 14 (9) The value of legal services provided by a prepaid
- 15 legal service plan to a taxpayer, the taxpayer's
- 16 spouse, and the taxpayer's dependents;
- 17 (10) Amounts paid, directly or indirectly, by a prepaid
- 18 legal service plan to a taxpayer as payment or
- 19 reimbursement for the provision of legal services to
- 20 the taxpayer, the taxpayer's spouse, and the
- 21 taxpayer's dependents;



- 1 (11) Contributions by an employer to a prepaid legal
2 service plan for compensation (through insurance or
3 otherwise) to the employer's employees for the costs
4 of legal services incurred by the employer's
5 employees, their spouses, and their dependents;
- 6 (12) Amounts received in the form of a monthly surcharge by
7 a utility acting on behalf of an affected utility
8 under section 269-16.3 shall not be gross income,
9 adjusted gross income, or taxable income for the
10 acting utility under this chapter. Any amounts
11 retained by the acting utility for collection or other
12 costs shall not be included in this exemption; ~~and~~
- 13 (13) One hundred per cent of the gain realized by a fee
14 simple owner from the sale of a leased fee interest in
15 units within a condominium project, cooperative
16 project, or planned unit development to the
17 association of apartment owners or the residential
18 cooperative corporation of the leasehold units.
19 For purposes of this paragraph:
- 20 ~~["Fee simple owner" shall have the same meaning~~
21 ~~as provided under section 516-1; provided that it~~
22 ~~shall include legal and equitable owners;~~



1 ~~"Legal and equitable owner", and "leased fee~~
2 ~~interest" shall have the same meanings as provided~~
3 ~~under section 516-1; and~~

4 ~~"Condominium project" and "cooperative project"~~
5 ~~shall have the same meanings as provided under section~~
6 ~~514C-1;]~~

7 "Condominium project" and "cooperative project"
8 shall have the same meanings as provided under section
9 514C-1;

10 "Fee simple owner" shall have the same meaning as
11 provided under section 516-1; provided that it shall
12 include legal and equitable owners; and

13 "Legal and equitable owner", and "leased fee
14 interest" shall have the same meanings as provided
15 under section 516-1;

16 and

17 (14) One hundred per cent of income derived from an oil
18 seed crushing facility that processes oil seed
19 produced or grown in the state for biodiesel
20 production in the state.



1 As used in this paragraph:

2 "Biodiesel" means a vegetable oil-based fuel that
3 meets ASTM International Standard D6751, "Standard
4 Specifications for Biodiesel (B100) Fuel Blend Stock
5 for Distillate Fuels", as amended.

6 "Biodiesel production facility" means a facility
7 that processes feedstock to produce biodiesel.

8 "Feedstock" means the form of biomass as it is
9 processed in an oil seed crushing facility.

10 "Oil seed crushing facility" means a separate and
11 distinct facility that processes oil seed that is
12 grown in the state, including soy, corn, bean, nut,
13 olive, canola, mustard, and sunflower and other such
14 crops and the seeds thereof, to be used as biomass to
15 produce biodiesel, and may not be integrated with a
16 biodiesel production facility."

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

19 SECTION 6. This Act shall take effect on July 1, 2008;
20 provided that the real property tax provision in section 141-
21 9(c), Hawaii Revised Statutes, as amended in section 3 of this



- 1 Act shall apply to tax years beginning on January 1, 2009 and
- 2 shall be repealed on December 31, 2018.
- 3

INTRODUCED BY: S. S. H.
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Report Title:

Biodiesel; Market Stimulation

Description:

Provides various market stimulation incentives for the development of biodiesel, including making state agricultural lands available for biodiesel fuel crops; establishing a state biodiesel feedstock crop and biodiesel fuel purchasing program; and creating tax exemptions for biomass crushing facilities and lands used for biodiesel feedstock crops.

