A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

SECTION 1. 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 imposed are as follows:

(1) For each gallon of diesel or biodiesel 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 naphtha sold for use in a power-
generating facility, 2 cents;
(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, the greater of
16 cents state tax or a tax of per cent of
the wholesale price to the retailer per gallon of
liquid fuel; provided that if the tax based on the
percentage of wholesale price is applied, the monetary
amount of tax paid by a wholesaler on any gallon of
liquid fuel sold to a retailer shall not be less than
the monetary amount of tax paid per gallon of liquid
fuel by the retailer to whom the wholesaler charges
the highest price per gallon of liquid fuel, 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, the greater of 16 cents state tax[7] or a tax of ________ per cent of the wholesale price to the retailer per gallon of liquid fuel; provided that if the tax based on the percentage of wholesale price is applied, the monetary amount of tax paid by a wholesaler on any gallon of liquid fuel sold to a retailer shall not be less than the monetary amount of tax paid per gallon of liquid fuel by the retailer to whom the wholesaler charges the highest price per gallon of liquid fuel, 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, the greater of 16 cents state tax[\textsuperscript{7}] or a tax of \textsuperscript{8} per cent of the wholesale price to the retailer per gallon of liquid fuel; provided that if the tax based on the percentage of wholesale price is applied, the monetary amount of tax paid by a wholesaler on any gallon of liquid fuel sold to a retailer shall not be less than the monetary amount of tax paid per gallon of liquid fuel by the retailer to whom the wholesaler charges the highest price per gallon of liquid fuel, 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, the greater of 16 cents state tax[\textsuperscript{7}] or a tax of \textsuperscript{9} per cent of the wholesale price to the retailer per gallon of liquid fuel; provided that if the tax based on the percentage of wholesale price is applied, the monetary amount of tax
paid by a wholesaler on any gallon of liquid fuel sold
to a retailer shall not be less than the monetary
amount of tax paid per gallon of liquid fuel by the
retailer to whom the wholesaler charges the highest
price per gallon of liquid fuel, and in addition
thereafter 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) Every distributor of diesel or biodiesel oil, in
addition to the tax required by subsection (a), shall pay a
license tax to the department for each gallon of diesel or
biodiesel 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 or biodiesel 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, the greater of 15 cents state tax or a tax of per cent of the wholesale price to the retailer per gallon of diesel or biodiesel oil; provided that if the tax based on a percentage of wholesale price is applied, the monetary amount of tax paid by a wholesaler on any gallon of diesel or biodiesel oil sold to a retailer shall not be less than the monetary amount of tax paid per gallon of diesel or biodiesel oil by the retailer to whom the wholesaler charges the highest price per gallon of diesel or biodiesel oil, 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 or biodiesel oil sold or used in the county of Hawaii, or sold in any other
county for ultimate use in the county of Hawaii, the greater of 15 cents state tax or a tax of per cent of the wholesale price to the retailer per gallon of diesel or biodiesel oil; provided that if the tax based on a percentage of wholesale price is applied, the monetary amount of tax paid by a wholesaler on any gallon of diesel or biodiesel oil sold to a retailer shall not be less than the monetary amount of tax paid per gallon of diesel or biodiesel oil by the retailer to whom the wholesaler charges the highest price per gallon of diesel or biodiesel oil, 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;

For each gallon of diesel or biodiesel oil sold or used in the county of Maui, or sold in any other county for ultimate use in the county of Maui, the greater of 15 cents state tax, or a tax of per cent of the wholesale price to the retailer per gallon of diesel or biodiesel oil; provided that if the tax based on a percentage of wholesale price is applied,
the monetary amount of tax paid by a wholesaler on any
gallon of diesel or biodiesel oil sold to a retailer
shall not be less than the monetary amount of tax paid
per gallon of diesel or biodiesel oil by the retailer
to whom the wholesaler charges the highest price per
gallon of diesel or biodiesel oil, and in addition
therein 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 or biodiesel oil sold or
used in the county of Kauai, or sold in any other
county for ultimate use in the county of Kauai, the
greater of 15 cents state tax[1] or a tax of ______ per
cent of the wholesale price to the retailer per gallon
of diesel or biodiesel oil; provided that if the tax
based on a percentage of wholesale price is applied,
the monetary amount of tax paid by a wholesaler on any
gallon of diesel or biodiesel oil sold to a retailer
shall not be less than the monetary amount of tax paid
per gallon of diesel or biodiesel oil by the retailer
to whom the wholesaler charges the highest price per
1 gallon of diesel or biodiesel oil, 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 or biodiesel oil furnishes a
certificate, in a form that the department shall prescribe, to
the distributor or if the distributor who uses diesel or
biodiesel oil signs the certificate, certifying that the diesel
or biodiesel 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 or biodiesel 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.

For the purposes of subsection (a) and this subsection, the
term "wholesale price" means the amount a wholesaler of liquid
fuel, diesel oil, or biodiesel oil charges a retailer prior to
the inclusion of any taxes.

(c) 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), 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

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) 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) No tax shall be collected in respect to any liquid
fuel, including diesel oil, biodiesel 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 2. Section 243-10, Hawaii Revised Statutes, is
amended to read as follows:

"§243-10 Statements and payments. Each distributor and
each person subject to section 243-4(b), on or before the
twentieth day of each calendar month, shall file with the
director of taxation, on forms prescribed, prepared, and
furnished by the director, a statement, authenticated as
provided in section 231-15, showing separately for each county
and for the island of Lanai and the island of Molokai within
which and whereon fuel is sold or used during each preceding
month of the calendar year, the following:
(1) The total number of gallons of fuel refined, manufactured, or compounded by the distributor or person within the State and sold or used by the distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;

(2) The total number of gallons of fuel acquired by the distributor or person during the month from persons not subject to the tax on the transaction or only subject to tax thereon at the rate of 1 cent per gallon, as the case may be, and sold or used by the distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;

(3) The total number of gallons of fuel sold by the distributor or person to the United States or any department or agency thereof, or to any other person or entity, or used in any manner, the effect of which sale or use is to exempt the fuel from the tax imposed by this chapter;
(4) Additional information relative to the acquisition, purchase, manufacture, or importation into the State, and the sale, use, or other disposition, of diesel or biodiesel oil by the distributor or person during the month, as the department of taxation by rule shall prescribe.

At the time of submitting the foregoing report to the department, each distributor and person shall pay the tax on each gallon of fuel (including diesel or biodiesel oil) sold or used by the distributor or person in each county and on the island of Lanai and the island of Molokai during the preceding month, as shown by the statement and required by this chapter; provided that the tax shall not apply to any fuel exempted and so long as the same is exempted from the imposition of the tax by the Constitution or laws of the United States; and the tax shall be paid only once upon the same fuel; provided further that a licensed distributor shall be entitled, in computing the tax the licensed distributor is required to pay, to deduct from the gallons of fuel reported for the month for each county or for the island of Lanai or the island of Molokai, as the case may be, one gallon for each ninety-nine gallons of like liquid.
fuel sold by retail dealers in that county or on that island
during the month, as shown by certificates furnished by the
retail dealers to the distributor and attached to the
distributor's report. All taxes payable for any month shall be
delinquent after the expiration of the twentieth day of the
following month.

Statements filed under this section concerning the number
of gallons of fuel refined, manufactured, compounded, imported,
sold or used by the distributor or person are public records."

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

SECTION 4. This Act shall take effect on January 1, 2020.

INTRODUCED BY:

JAN 2 4 2019
Report Title:
State Fuel Tax; Assessment Bases; Reporting

Description:
Changes the assessment of the state fuel tax from a specified cents per gallon to the greater of a specified cents per gallon or a specified percentage of the wholesale price per gallon to the retailer, subject to a minimum monetary amount of tax based upon the tax paid by certain retailers. Subjects biodiesel oil to the same tax rates and reporting requirements as diesel oil.

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