



GOV. MSG. NO 703

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

May 2, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 2816 SD1 HD2

On May 1, 2008, Senate Bill No. 2816, entitled "A Bill for an Act Relating to Intra-County Ferry Service," became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The purpose of this bill is to provide priority assignment of mooring space from Maalaea Harbor to Lahaina for intra-county ferry service regulated by the Public Utilities Commission. This bill further exempts these ferries which serve counties under 500,000 in population from paying the State fuel tax on fuels used in their operations.

This bill raises a number of concerns. This bill would grant preferential mooring rights to ferry operators ahead of non-ferry vessels seeking the same limited space in Maalaea Harbor. According to the State Department of Land and Natural Resources, there is a waiting list of 134 persons requesting space at this small boat harbor. Some of the individuals on this list have been waiting upwards of 10 years to obtain a mooring. Thus, I am concerned at the fact that this measure gives the ferry vessels a legal right to be placed at the top of the list.

I am proud that my Administration has taken much needed steps to upgrade and improve small boat harbors in our state, including Maalaea Harbor. Construction is already underway to rebuild the harbor and is expected to continue through 2011. As a result, vessels will need to be shuttled to different locations and mooring space will be further constrained during this period of time. This initiative will make it harder to accommodate ferry operations covered by this bill. The Small Harbors Division has already indicated they will work with the ferry operators to try to accommodate them to the extent possible.

Despite these concerns, the State and my Administration recognize the importance of providing safe, efficient intra-state ferry service to our island populations. Thus, we provide

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certain benefits to intra-state commerce vessels that are regulated by the Public Utilities Commission. Further, the Legislature has recognized the public purposes of these types of operations by enacting Act 9 of 2001 that granted fee waivers to intra-state ferry operators.

As part of our ongoing efforts to improve the transport of passengers and cargo within our island community, I have, for the foregoing reasons, allowed Senate Bill No. 2816 to become law as Act 57, effective May 1, 2008, without my signature.

Sincerely,



LINDA LINGLE

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# 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 Lanai have only one feasible means of  
4 water transport to Maui--by intra-county ferry from Lanai to  
5 Lahaina. However, the Lahaina small boat harbor is already  
6 overused and is shared by commercial fishing activities and  
7 cruise ships that add to already congested surface traffic.

8           The legislature finds that an alternate ferry route from  
9 Lanai to Maalaea harbor will:

- 10           (1) Provide more convenient travel for the residents of  
11           Lanai and West Maui;
- 12           (2) Ease the congestion in and around Lahaina and its boat  
13           harbor; and
- 14           (3) Make emergency ferry operations out of Lahaina a  
15           feasible reality as a component of an emergency  
16           transportation system should the only highway in West  
17           Maui be closed.



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1 However, any ferry route to and from Maalaea harbor and Lahaina  
2 requires priority assigning of mooring space. In addition, the  
3 added fuel costs of this route would require an exemption from  
4 the fuel tax for fuel purchases for the ferry service.

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

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

- 14 (1) With a population of less than five hundred thousand  
15 residents; and
- 16 (2) That includes at least three islands inhabited by  
17 permanent residents.

18 SECTION 3. Section 243-7, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§243-7 Tax not applicable, when. (a) This chapter  
21 requiring the payment of license fees shall not be held or  
22 construed to apply to fuel imported into the [~~State~~] state in



1 interstate or foreign commerce while and so long as such fuel is  
2 beyond the taxing power of the State, nor to any such fuel  
3 exported or sold to the government of the United States or any  
4 department thereof for official use of the government, nor to  
5 any fuel exported or sold to another licensed distributor; but  
6 every distributor shall be required to report such imports,  
7 exports, and sales as provided by this chapter and in such  
8 detail as the department of taxation shall require.

9 (b) This chapter shall not apply to the sale of liquid  
10 fuel sold or used in the state for ultimate use by an intra-  
11 county ferry service that serves a county with a population of  
12 less than five hundred thousand residents and that includes at  
13 least three islands inhabited by permanent residents."

14 SECTION 4. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon approval and  
17 shall apply to taxable years beginning after December 31, 2007.

APPROVED this                      day of                      , 2008

GOVERNOR OF THE STATE OF HAWAII



