

JAN 19 2007

A BILL FOR AN ACT

RELATING TO ETHANOL.

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

1 SECTION 1. (a) The legislature finds that Brazil was the
2 first country to become energy independent, in large part by
3 taking actions necessary for ethanol market development to
4 occur. Brazil thus provides Hawaii with examples of government
5 actions necessary to create an interim level of demand
6 sufficient to jump-start the State's ethanol industry, which
7 would in turn assist the ethanol industry in providing an
8 indispensable transitional fuel pending the development of a
9 hydrogen-fuel economy. Increased state action would also
10 fulfill existing legislative mandates to:

11 (1) Facilitate the long-term dedication of important
12 agricultural lands through the use of incentives; and

13 (2) Contribute to the State's economic base by producing
14 agricultural commodities for export or local
15 consumption.

16 (b) The legislature further finds that energy independence
17 is a national security issue and that Hawaii cannot become



1 energy independent without the development of an in-state market
2 for ethanol. To this end, the conversion of rental car fleets
3 to E85 flexible or alternative fuel vehicles could stimulate
4 demand for ethanol, speed the distribution of flexible fuel
5 vehicles among the general population in Hawaii, and reduce fuel
6 costs for consumers. For example, rental car companies
7 generally resell the vehicles in their fleets to private owners
8 after the vehicles have been used a short while. Development of
9 an ethanol market in Hawaii, and the resulting lower ethanol
10 prices, would motivate Hawaii residents to purchase these E85
11 flexible fuel rental vehicles. In addition, conversion of
12 rental fleets to E85 flexible fuel vehicles will assist the
13 United States automobile industry, as General Motors and Ford
14 Motor Company are the primary manufacturers of the four million
15 seven hundred fifty thousand flexible fuel vehicles already on
16 United States highways.

- 17 (c) The purpose of this Act is to:
- 18 (1) Create a demand for ethanol; and
- 19 (2) Increase the number of flexible fuel vehicles in
- 20 Hawaii.



1 SECTION 2. Chapter 196, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§196- Ethanol production; sales incentives. (a) The
5 State shall negotiate and enter into twenty-year contracts to:

6 (1) Purchase ethanol from a qualifying ethanol production
7 facility willing to sell ethanol to the State for not
8 more than \$2 per gallon; and

9 (2) Re-sell the ethanol to a distributor, which may buy
10 the ethanol at up to the \$2 per gallon cost; provided
11 that the distributor shall resell a portion of the
12 ethanol to the:

13 (A) State at not more than \$2.10 per gallon for use
14 in state vehicles; and

15 (B) Public at not more than a ten per cent mark-up,
16 or \$2.20 per gallon, whichever is less.

17 (b) The contract shall require that ethanol be sold to the
18 State without the State taking possession (i.e., delivered to
19 the State F.O.B. at a designated barge location, where a
20 distributor would take possession).

21 (c) The contract shall specify that the prices in
22 subsection (a) shall be subject to cost of living adjustments as



1 determined by the public utilities commission; provided that a
2 contract may be amended by agreement of the parties."

3 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§235- Gasoline-to-ethanol pump conversion tax credit.

7 (a) There shall be allowed to each taxpayer who is the owner,
8 developer, or lessee of any retail station, subject to the taxes
9 imposed by this chapter, a gasoline-to-ethanol pump conversion
10 tax credit that shall be deductible from the taxpayer's net
11 income tax liability, if any, imposed by this chapter for the
12 taxable year in which the credit is properly claimed; provided
13 that the credit shall be limited to one pump per retail station;
14 and provided further that the total number of pumps shall be
15 agreed to by the State in a manner that will ensure an
16 appropriate geographical distribution in the State. The amount
17 of the tax credit claimed under this section by the taxpayer in
18 all years for which the credit is available shall be limited to
19 per cent of the gasoline-to-ethanol pump conversion costs
20 incurred during the taxable year for which the credit is
21 claimed; provided that the costs shall not exceed \$ in



1 the aggregate for each retail station; and that the costs are
2 incurred before December 31, .

3 In the case of a partnership, S corporation, estate, or
4 trust, the tax credit allowable is for gasoline-to-ethanol pump
5 conversion incurred by the entity for the taxable year. The
6 cost upon which the tax credit is computed shall be determined
7 at the entity level.

8 If a deduction is taken under section 179 (with respect to
9 election to expense depreciable business assets) of the Internal
10 Revenue Code, no tax credit shall be allowed for that portion of
11 the gasoline-to-ethanol pump conversion for which the deduction
12 is taken.

13 The basis of eligible property for depreciation or
14 accelerated cost recovery system purposes for state income taxes
15 shall be reduced by the amount of credit allowable and claimed.
16 In the alternative, the taxpayer shall treat the amount of the
17 credit allowable and claimed as a taxable income item for the
18 taxable year in which it is properly recognized under the method
19 of accounting used to compute taxable income.

20 (b) The credit allowed under this section shall be claimed
21 against the net income tax liability, if any, imposed by this



1 chapter for the taxable year in which the tax credit is properly
2 claimed.

3 (c) If the tax credit under this section exceeds the
4 taxpayer's income tax liability, the excess of credit over
5 liability may be used as a credit against the taxpayer's income
6 tax liability in subsequent years until exhausted. All claims,
7 including amended claims, for a tax credit under this section
8 shall be filed on or before the end of the twelfth month
9 following the close of the taxable year for which the credit may
10 be claimed. Failure to comply with the foregoing provision
11 shall constitute a waiver of the right to claim the credit.

12 (d) The director of taxation shall prepare any forms that
13 may be necessary to claim a credit under this section. The
14 director may also require the taxpayer to furnish information to
15 ascertain the validity of the claim for credit made under this
16 section and may adopt rules necessary to effectuate the purposes
17 of this section pursuant to chapter 91.

18 (e) The tax credit allowed under this section shall be
19 available for taxable years beginning after December 31, _____,
20 and shall not be available for taxable years beginning after
21 December 31, _____.

22 (f) As used in this section:



1 "Gasoline-to-ethanol pump conversion cost" means any costs
2 incurred after December 31, , for plans, design,
3 construction, and equipment that is permanently affixed to the
4 facility in the State related to new construction, alterations,
5 or modifications to a retail station, and shall not include any
6 costs for which another credit was claimed under this chapter.

7 "Net income tax liability" means income tax liability
8 reduced by all other credits allowed under this chapter."

9 SECTION 4. Chapter 437D, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§437D- Flexible or alternative fuel vehicles. (a)
13 Beginning January 1, 2008, any lessor with fifty or more rental
14 motor vehicles shall purchase only flexible or alternative fuel
15 vehicles when purchasing replacement or additional vehicles.

16 (b) For the purposes of this section:

17 "Flexible or alternative fuel vehicle" means any vehicle
18 designed to run on E85 ethanol fuel, which is a mixture of
19 approximately eighty-five per cent ethyl alcohol and gasoline."

20 SECTION 5. New statutory material is underscored.



1 SECTION 6. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, .

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INTRODUCED BY:

Ray L. Hawn (BR)

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Report Title:

Ethanol; Sales Incentives; Pump Conversion Tax Credit

Description:

Provides additional incentives for ethanol production: requires the State to enter into twenty-year contracts to purchase and resell ethanol; establishes a tax credit for gasoline-to-ethanol pump conversions; requires rental car companies with more than fifty vehicles to purchase flexible fuel vehicles.

