



GOV. MSG. NO. 980

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 26, 2007

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:

This is to inform you that on June 26, 2007, the following bill was signed into law:

HB1757 HD1 SD3 CD2

A BILL FOR AN ACT RELATING TO
TRANSPORTATION.
(ACT 209)

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle".

LINDA LINGLE

Approved by the Governor

on JUN 26 2007

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

ACT 209
H.B. NO. 1757
H.D. 1
S.D. 3
C.D. 2

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

PART I

SECTION 1. Section 291-37, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person ~~[guilty of emitting]~~ who omits to perform any of the ~~[required]~~ acts~~[r]~~ required by, or ~~[committing]~~ who commits any of the ~~[prohibited]~~ acts ~~[ef]~~ prohibited by, sections 291-2 to 291-33, or ~~[the]~~ any rules adopted to enforce those sections, shall be guilty of a violation ~~[of this chapter]~~ and shall be fined not less than \$25 nor more than \$1,800~~[r]~~, except as otherwise provided.

Any person ~~[guilty of emitting]~~ who omits to perform any of the ~~[required]~~ acts~~[r]~~ required by, or ~~[committing]~~ who commits any of the ~~[prohibited]~~ acts ~~[ef]~~ prohibited by, section 291-34, 291-35, or 291-36 shall be fined in accordance with the following tables:

The fine for a ~~[first]~~

If the excess weight is:

violation shall be:

100 to 1,500 pounds

~~[\$125]~~ \$250



| | | |
|----|--------------------------------|-----------------------------------|
| 1 | 1,501 to 2,000 pounds | [130] <u>260</u> |
| 2 | 2,001 to 2,500 pounds | [140] <u>280</u> |
| 3 | 2,501 to 3,000 pounds | [160] <u>320</u> |
| 4 | 3,001 to 3,500 pounds | [180] <u>360</u> |
| 5 | 3,501 to 4,000 pounds | [200] <u>400</u> |
| 6 | 4,001 to 4,500 pounds | [225] <u>450</u> |
| 7 | 4,501 to 5,000 pounds | [250] <u>500</u> |
| 8 | 5,001 to 5,500 pounds | [275] <u>550</u> |
| 9 | 5,501 to 6,000 pounds | [300] <u>600</u> |
| 10 | 6,001 to 6,500 pounds | [330] <u>660</u> |
| 11 | 6,501 to 7,000 pounds | [360] <u>720</u> |
| 12 | 7,001 to 7,500 pounds | [390] <u>780</u> |
| 13 | 7,501 to 8,000 pounds | [420] <u>840</u> |
| 14 | 8,001 to 8,500 pounds | [455] <u>910</u> |
| 15 | 8,501 to 9,000 pounds | [490] <u>980</u> |
| 16 | 9,001 to 9,500 pounds | [525] <u>1050</u> |
| 17 | 9,501 to 10,000 pounds | [560] <u>1120</u> |
| 18 | 10,001 pounds and over | [580] <u>1160</u> |
| 19 | If the excess dimension is: | The fine shall be: |
| 20 | Up to 5 feet | [\$ 25] <u>\$ 50</u> |
| 21 | Over 5 feet and up to 10 feet | [50] <u>100</u> |
| 22 | Over 10 feet and up to 15 feet | [75] <u>150</u> |



1 Over 15 feet [100] 200

2 ~~[For the purpose of the imposition of a fine or penalty herein,~~
3 ~~evidence of prior offenses shall be admissible.~~

4 ~~For a second violation within one year of the first, the~~
5 ~~fine for excess weight shall be not less than twice the fine~~
6 ~~listed in the excess weight table above and not more than~~
7 ~~\$1,200. For a third or subsequent violation for excess weight~~
8 ~~previously cited under this section within one year, the fine~~
9 ~~shall not be less than triple the fine listed in the excess~~
10 ~~weight table above and not more than \$1,800.]~~

11 For the purposes of this section, "person" means the driver
12 of the vehicle unless the driver is an employee in the scope and
13 course of employment, in which case "person" means the employer
14 of the driver. In the case of the transportation of a sealed
15 container or transportation by flatrack, "person" means:

- 16 (1) The individual or company the cargo is consigned to;
- 17 or
- 18 (2) The individual or company located in the State
- 19 shipping the cargo.

20 The consignee or the shipper shall not be cited if the power
21 units' drive axle group is overweight, and the weight is not



1 more than that allowed for a tandem axle with any applicable
2 tolerances.

3 All penalties imposed and collected for violations of
4 sections 291-33 to 291-36 shall be paid into the state highway
5 fund.

6 The department of transportation [~~is authorized to~~] shall
7 institute a system where the fine, based on the tables in this
8 subsection, may be mailed in when the citation or penalty is not
9 to be contested. This system shall include an ability for the
10 owner of the vehicle or combination of vehicles to request the
11 operator be held harmless and the citation be transferred to
12 that owner of the vehicle or combination of vehicles."

13 PART II

14 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§237- Exemption of sale of alcohol fuels. (a) There
18 shall be exempted from and excluded from the measure of the
19 taxes imposed by this chapter all of the gross income or gross
20 proceeds arising from the sale of alcohol fuels, as defined in
21 subsection (b), for consumption or use by the purchaser and not
22 for resale.



1 (b) For the purposes of this section, "alcohol fuels"
2 means neat biomass-derived alcohol liquid fuel or a petroleum-
3 derived fuel and alcohol liquid fuel mixture consisting of at
4 least ten volume per cent denatured biomass-derived alcohol
5 commercially usable as a fuel to power aircraft, seacraft,
6 spacecraft, motor vehicles, or other motorized vehicles.

7 (c) A producer, wholesaler, or retailer of alcohol fuels
8 shall pass any savings realized from this exemption on to the
9 end consumer. Any producer or wholesaler who violates this
10 subsection shall be subject to a fine of \$100,000.

11 Notwithstanding any law to the contrary, a violation of this
12 subsection shall be deemed an unfair or deceptive act or
13 practice in violation of and enforceable under chapter 480.

14 (d) The director of taxation shall adopt rules pursuant to
15 chapter 91 necessary to administer this section."

16 SECTION 3. Section 243-4, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Every distributor [~~shall~~], in addition to any other
19 taxes provided by law, shall pay a license tax to the department
20 of taxation for each gallon of liquid fuel refined,
21 manufactured, produced, or compounded by the distributor and
22 sold or used by the distributor in the State or imported by the



1 distributor, or acquired by the distributor from persons who are
2 not licensed distributors, and sold or used by the distributor
3 in the State. Any person who sells or uses any liquid fuel
4 knowing that the distributor from whom it was originally
5 purchased has not paid and is not paying the tax thereon shall
6 pay such tax as would have applied to such sale or use by the
7 distributor. The rates of tax hereby imposed are as follows:

- 8 (1) For each gallon of diesel oil, [~~1-cent~~] 2 cents;
- 9 (2) For each gallon of gasoline or other aviation fuel
10 sold for use in or used for airplanes, [~~1-cent~~] 2
11 cents;
- 12 (3) For each gallon of liquid fuel other than fuel
13 mentioned in paragraphs (1) and (2), and other than an
14 alternative fuel, sold or used in the city and county
15 of Honolulu, or sold in any county for ultimate use in
16 the city and county of Honolulu, [~~16~~] 17 cents state
17 tax, and in addition thereto such amount, to be known
18 as the "city and county of Honolulu fuel tax", as
19 shall be levied pursuant to section 243-5;
- 20 (4) For each gallon of liquid fuel other than fuel
21 mentioned in paragraphs (1) and (2), and other than an
22 alternative fuel, sold or used in the county of



1 Hawaii, or sold in any county for ultimate use in the
2 county of Hawaii, [~~16~~] 17 cents state tax, and in
3 addition thereto such amount, to be known as the
4 "county of Hawaii fuel tax", as shall be levied
5 pursuant to section 243-5;

6 (5) For each gallon of liquid fuel other than fuel
7 mentioned in paragraphs (1) and (2), and other than an
8 alternative fuel, sold or used in the county of Maui,
9 or sold in any county for ultimate use in the county
10 of Maui, [~~16~~] 17 cents state tax, and in addition
11 thereto such amount, to be known as the "county of
12 Maui fuel tax", as shall be levied pursuant to section
13 243-5; and

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



1 If it is shown to the satisfaction of the department, based
2 upon proper records and from such other evidence as the
3 department may require, that liquid fuel other than fuel
4 mentioned in paragraphs (1) and (2) is used for agricultural
5 equipment that does not operate upon the public highways of the
6 State, the user thereof may obtain a refund of all taxes thereon
7 imposed by this section in excess of 1 cent per gallon. The
8 department shall adopt rules to administer such refunds."

9 PART III

10 SECTION 4. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun, before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2007;
16 provided that section 2 of this Act shall be repealed on
17 June 30, 2009.

APPROVED this 26 day of JUN , 2007



GOVERNOR OF THE STATE OF HAWAII

