

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. The legislature finds that Brazil was the first
2 country to become energy independent, in large part by taking
3 actions necessary for ethanol market development to occur.
4 Brazil thus provides Hawaii with examples of government actions
5 necessary to create an interim level of demand sufficient to
6 jump-start the State's ethanol industry, which would in turn
7 assist the ethanol industry in providing an indispensable
8 transitional fuel pending the development of a hydrogen-fuel
9 economy. Increased state action would also fulfill existing
10 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 The legislature further finds that energy independence is a
17 national security issue and that Hawaii cannot become energy



1 independent without the development of an instate market for
2 ethanol.

3 The purpose of this Act is to create a demand for ethanol
4 in Hawaii.

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

8 "§196- Ethanol production; sales incentives. (a) The
9 State shall negotiate and enter into twenty-year contracts to:

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

13 (2) Re-sell the ethanol to a distributor, which may buy
14 the ethanol at up to the \$2 per gallon cost; provided
15 that the distributor shall resell a portion of the
16 ethanol to the:

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

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

21 (b) The contract shall require that ethanol be sold to the
22 State without the State taking possession (i.e., delivered to



1 the State F.O.B. at a designated barge location, where a
2 distributor would take possession).

3 (c) The contract shall specify that the prices in
4 subsection (a) shall be subject to cost of living adjustments as
5 determined by the public utilities commission; provided that a
6 contract may be amended by agreement of the parties."

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

10 "§235- Gasoline-to-ethanol pump conversion tax credit.

11 (a) There shall be allowed to each taxpayer who is the owner,
12 developer, or lessee of any retail station, subject to the taxes
13 imposed by this chapter, a gasoline-to-ethanol pump conversion
14 tax credit that shall be deductible from the taxpayer's net
15 income tax liability, if any, imposed by this chapter for the
16 taxable year in which the credit is properly claimed; provided
17 that the credit shall be limited to one pump per retail station;
18 and provided further that the total number of pumps shall be
19 agreed to by the State in a manner that will ensure an
20 appropriate geographical distribution in the State. The amount
21 of the tax credit claimed under this section by the taxpayer in
22 all years for which the credit is available shall be limited to



1 per cent of the gasoline-to-ethanol pump conversion costs
2 incurred during the taxable year for which the credit is
3 claimed; provided that the costs shall not exceed \$ _____ in
4 the aggregate for each retail station; and that the costs are
5 incurred before December 31, _____ .

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

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

16 The basis of eligible property for depreciation or
17 accelerated cost recovery system purposes for state income taxes
18 shall be reduced by the amount of credit allowable and claimed.

19 In the alternative, the taxpayer shall treat the amount of the
20 credit allowable and claimed as a taxable income item for the
21 taxable year in which it is properly recognized under the method
22 of accounting used to compute taxable income.



1 (b) The credit allowed under this section shall be claimed
2 against the net income tax liability, if any, imposed by this
3 chapter for the taxable year in which the tax credit is properly
4 claimed.

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

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

20 (e) The tax credit allowed under this section shall be
21 available for taxable years beginning after December 31, _____,



1 and shall not be available for taxable years beginning after
2 December 31, _____.

3 (f) As used in this section:

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

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

12 SECTION 4. New statutory material is underscored.

13 SECTION 5. This Act, upon its approval, shall apply to
14 taxable years beginning after December 31, _____.

15

INTRODUCED BY: 

16



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.

