

---

---

## A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Chapter 237, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§237-       Exemption of sale of alcohol fuels. (a) There  
5 shall be exempted from and excluded from the measure of the  
6 taxes imposed by this chapter all of the gross proceeds arising  
7 from the sale of alcohol fuels for consumption or use by the  
8 purchaser and not for resale.

9           (b) As used in this section, "alcohol fuels" means neat  
10 biomass-derived alcohol liquid fuel or a petroleum-derived fuel  
11 and alcohol liquid fuel mixture consisting of at least ten  
12 volume per cent denatured biomass-derived alcohol commercially  
13 usable as a fuel to power aircraft, seacraft, spacecraft,  
14 automobiles, or other motorized vehicles.

15           (c) The director of taxation shall adopt rules pursuant to  
16 chapter 91 necessary to administer this section.

17           (d) This section shall be repealed on June 30, 2009."



1 SECTION 2. Section 237-24, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§237-24 Amounts not taxable.** This chapter shall not  
4 apply to the following amounts:

- 5 (1) Amounts received under life insurance policies and  
6 contracts paid by reason of the death of the insured;
- 7 (2) Amounts received (other than amounts paid by reason of  
8 death of the insured) under life insurance, endowment,  
9 or annuity contracts, either during the term or at  
10 maturity or upon surrender of the contract;
- 11 (3) Amounts received under any accident insurance or  
12 health insurance policy or contract or under workers'  
13 compensation acts or employers' liability acts, as  
14 compensation for personal injuries, death, or  
15 sickness, including also the amount of any damages or  
16 other compensation received, whether as a result of  
17 action or by private agreement between the parties on  
18 account of the personal injuries, death, or sickness;
- 19 (4) The value of all property of every kind and sort  
20 acquired by gift, bequest, or devise, and the value of  
21 all property acquired by descent or inheritance;



- 1           (5) Amounts received by any person as compensatory damages  
2           for any tort injury to the person, or to the person's  
3           character reputation, or received as compensatory  
4           damages for any tort injury to or destruction of  
5           property, whether as the result of action or by  
6           private agreement between the parties (provided that  
7           amounts received as punitive damages for tort injury  
8           or breach of contract injury shall be included in  
9           gross income);
- 10          (6) Amounts received as salaries or wages for services  
11          rendered by an employee to an employer;
- 12          (7) Amounts received as alimony and other similar payments  
13          and settlements;
- 14          (8) Amounts collected by [~~distributors~~]:
  - 15            (A) Distributors as fuel taxes on "liquid fuel"  
16            imposed by chapter 243[, ~~and the amounts~~  
17            ~~collected by such distributors~~];
  - 18            (B) Distributors as a fuel tax imposed by any Act of  
19            the Congress of the United States; and
  - 20            (C) The State pursuant to this chapter for diesel  
21            fuel sold for use in motor vehicles;



- 1           (9) Taxes on liquor imposed by chapter 244D on dealers  
2           holding permits under that chapter;
- 3           (10) The amounts of taxes on cigarettes and tobacco  
4           products imposed by chapter 245 on wholesalers or  
5           dealers holding licenses under that chapter and  
6           selling the products at wholesale;
- 7           (11) Federal excise taxes imposed on articles sold at  
8           retail and collected from the purchasers thereof and  
9           paid to the federal government by the retailer;
- 10          (12) The amounts of federal taxes under chapter 37 of the  
11          Internal Revenue Code, or similar federal taxes,  
12          imposed on sugar manufactured in the State, paid by  
13          the manufacturer to the federal government;
- 14          (13) An amount up to, but not in excess of, \$2,000 a year  
15          of gross income received by any blind, deaf, or  
16          totally disabled person engaging, or continuing, in  
17          any business, trade, activity, occupation, or calling  
18          within the State; a corporation all of whose  
19          outstanding shares are owned by an individual or  
20          individuals who are blind, deaf, or totally disabled;  
21          a general, limited, or limited liability partnership,  
22          all of whose partners are blind, deaf, or totally



1 disabled; or a limited liability company, all of whose  
2 members are blind, deaf, or totally disabled;

3 (14) Amounts received by a producer of sugarcane from the  
4 manufacturer to whom the producer sells the sugarcane,  
5 where:

6 (A) The producer is an independent cane farmer, so  
7 classed by the Secretary of Agriculture under the  
8 Sugar Act of 1948 (61 Stat. 922, Chapter 519) as  
9 the Act may be amended or supplemented;

10 (B) The value or gross proceeds of sale of the sugar,  
11 and other products manufactured from the  
12 sugarcane, is included in the measure of the tax  
13 levied on the manufacturer under section 237-  
14 13(1) or (2);

15 (C) The producer's gross proceeds of sales are  
16 dependent upon the actual value of the products  
17 manufactured therefrom or the average value of  
18 all similar products manufactured by the  
19 manufacturer; and

20 (D) The producer's gross proceeds of sales are  
21 reduced by reason of the tax on the value or sale  
22 of the manufactured products;



- 1           (15) Money paid by the State or eleemosynary child-placing  
2                   organizations to foster parents for their care of  
3                   children in foster homes; and
- 4           (16) Amounts received by a cooperative housing corporation  
5                   from its shareholders in reimbursement of funds paid  
6                   by such corporation for lease rental, real property  
7                   taxes, and other expenses of operating and maintaining  
8                   the cooperative land and improvements; provided that  
9                   such a cooperative corporation is a corporation:
- 10           (A) Having one and only one class of stock  
11                   outstanding;
- 12           (B) Each of the stockholders of which is entitled  
13                   solely by reason of the stockholder's ownership  
14                   of stock in the corporation, to occupy for  
15                   dwelling purposes a house, or an apartment in a  
16                   building owned or leased by the corporation; and
- 17           (C) No stockholder of which is entitled (either  
18                   conditionally or unconditionally) to receive any  
19                   distribution not out of earnings and profits of  
20                   the corporation except in a complete or partial  
21                   liquidation of the corporation."



1 SECTION 3. Section 243-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§243-4 License taxes.** (a) Every distributor [~~shall~~], in  
4 addition to any other taxes provided by law, shall pay a license  
5 tax to the department of taxation for each gallon of liquid fuel  
6 refined, manufactured, produced, or compounded by the  
7 distributor and sold or used by the distributor in the State or  
8 imported by the distributor, or acquired by the distributor from  
9 persons who are not licensed distributors, and sold or used by  
10 the distributor in the State. Any person who sells or uses any  
11 liquid fuel knowing that the distributor from whom it was  
12 originally purchased has not paid and is not paying the tax  
13 thereon shall pay such tax as would have applied to such sale or  
14 use by the distributor. The rates of tax hereby imposed are as  
15 follows:

16 (1) For each gallon of diesel oil[~~7~~] not used for motor  
17 vehicles, 1 cent; and

18 (2) For each gallon of gasoline or other aviation fuel  
19 sold for use in or used for airplanes, 1 cent[~~7~~]

20 ~~(3) 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 city and county~~



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

6 ~~(4) 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~~  
9 ~~Hawaii, or sold in any county for ultimate use in the~~  
10 ~~county of Hawaii, 16 cents state tax, and in addition~~  
11 ~~thereto such amount, to be known as the "county of~~  
12 ~~Hawaii fuel tax", as shall be levied pursuant to~~  
13 ~~section 243-5;~~

14 ~~(5) 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 Maui,~~  
17 ~~or sold in any county for ultimate use in the county~~  
18 ~~of Maui, 16 cents state tax, and in addition thereto~~  
19 ~~such amount, to be known as the "county of Maui fuel~~  
20 ~~tax", as shall be levied pursuant to section 243-5;~~  
21 and



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

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

16       ~~[(b) Every distributor of diesel oil, in addition to the~~  
17      ~~tax required by subsection (a), shall pay a license tax to the~~  
18      ~~department for each gallon of such diesel oil sold or used by~~  
19      ~~the distributor for operating a motor vehicle or motor vehicles~~  
20      ~~upon public highways of the State. The rates of the additional~~  
21      ~~tax hereby imposed are as follows:~~



- 1       ~~(1) For each gallon of diesel oil sold or used in the city~~  
2       ~~and county of Honolulu, or sold in any other county~~  
3       ~~for ultimate use in the city and county of Honolulu,~~  
4       ~~15 cents state tax, and in addition thereto such~~  
5       ~~amount, to be known as the "city and county of~~  
6       ~~Honolulu fuel tax", as shall be levied pursuant to~~  
7       ~~section 243-5;~~
- 8       ~~(2) For each gallon of diesel oil sold or used in the~~  
9       ~~county of Hawaii, or sold in any other county for~~  
10       ~~ultimate use in the county of Hawaii, 15 cents state~~  
11       ~~tax, and in addition thereto such amount, to be known~~  
12       ~~as the "county of Hawaii fuel tax", as shall be levied~~  
13       ~~pursuant to section 243-5;~~
- 14       ~~(3) For each gallon of diesel oil sold or used in the~~  
15       ~~county of Maui, or sold in any other county for~~  
16       ~~ultimate use in the county of Maui, 15 cents state~~  
17       ~~tax, and in addition thereto such amount, to be known~~  
18       ~~as the "county of Maui fuel tax", as shall be levied~~  
19       ~~pursuant to section 243-5; and~~
- 20       ~~(4) For each gallon of diesel oil sold or used in the~~  
21       ~~county of Kauai, or sold in any other county for~~  
22       ~~ultimate use in the county of Kauai, 15 cents state~~



1 ~~tax, and in addition thereto such amount, to be known~~  
2 ~~as the "county of Kauai fuel tax", as shall be levied~~  
3 ~~pursuant to section 243-5.~~

4 ~~If any user of diesel oil furnishes a certificate, in such~~  
5 ~~form as the department shall prescribe, to the distributor, or~~  
6 ~~the distributor who uses diesel oil signs such certificate,~~  
7 ~~certifying that the diesel oil is for use in operating a motor~~  
8 ~~vehicle or motor vehicles in areas other than upon the public~~  
9 ~~highways of the State, the tax as provided in paragraphs (1) to~~  
10 ~~(4) shall not be applicable. In the event a certificate is not~~  
11 ~~or cannot be furnished and the diesel oil is in fact for use for~~  
12 ~~operating a motor vehicle or motor vehicles in areas other than~~  
13 ~~upon public highways of the State, the user thereof may obtain a~~  
14 ~~refund of all taxes thereon imposed by the foregoing paragraphs.~~  
15 ~~The department shall adopt rules to administer the refunding of~~  
16 ~~such taxes.~~

17 ~~(e)]~~ (b) The tax shall not be collected in respect to any  
18 benzol, benzene, toluol, xylol, or alternative fuel sold for use  
19 other than for operating internal combustion engines. With  
20 respect to these products, other than alternative fuels, the  
21 department by rule shall provide for the reporting and payment  
22 of the tax and for the keeping of records in respect thereto, in



1 such manner as to collect, for each gallon of such product sold  
2 for use in internal combustion engines for the generation of  
3 power, or so used, the same tax or taxes as apply to each gallon  
4 of diesel oil. With respect to alternative fuels, the only tax  
5 collected shall be that provided in paragraphs (1), (2), and (3)  
6 of this subsection. This subsection shall not apply to aviation  
7 fuel sold for use in or used for airplanes.

8 (1) Every distributor of any alternative fuel for  
9 operation of an internal combustion engine shall pay a  
10 license tax to the department of one-quarter of one  
11 cent for each gallon of such alternative fuel sold or  
12 used by the distributor;

13 (2) Every distributor, in addition to the tax required  
14 under paragraph (1) of this subsection, shall pay a  
15 license tax to the department for each gallon of  
16 alternative fuel sold or used by the distributor for  
17 operating a motor vehicle or motor vehicles upon the  
18 public highways of the State at a rate proportional to  
19 that of the rates applicable to diesel oil in  
20 subsection (b), rounded to the nearest one-tenth of a  
21 cent, as follows:

22 (A) Ethanol, 0.145 times the rate for diesel;



- 1 (B) Methanol, 0.11 times the rate for diesel;
- 2 (C) Biodiesel, 0.25 times the rate for diesel;
- 3 (D) Liquefied petroleum gas, 0.33 times the rate for
- 4 diesel; and
- 5 (E) For other alternative fuels, the rate shall be
- 6 based on the energy content of the fuels as
- 7 compared to diesel fuel, using a lower heating
- 8 value of one hundred thirty thousand British
- 9 thermal units per gallon as a standard for
- 10 diesel, so that the tax rate, on an energy
- 11 content basis, is equal to one-quarter the rate
- 12 for diesel fuel.

13 The taxes so paid shall be paid into the state

14 treasury and deposited in special funds or paid over

15 in the same manner as provided in subsection (b) in

16 respect of the tax on diesel oil;

- 17 (3) If any user of alternative fuel furnishes to the
- 18 distributor a certificate, in such form as the
- 19 department shall prescribe, or the distributor who
- 20 uses alternative fuel signs such certificate,
- 21 certifying that the alternative fuel is for use in
- 22 operating a motor vehicle or motor vehicles in areas



1 other than upon the public highways of the State, the  
2 tax as provided by paragraphs (1) and (2) of this  
3 subsection shall not be applicable; provided that no  
4 certificate shall be required if the alternative fuel  
5 is used for fuel and heating purposes in the home. In  
6 the event a certificate is not or cannot be furnished  
7 and the alternative fuel is in fact used for operating  
8 an internal combustion engine or operating a motor  
9 vehicle or motor vehicles in areas other than upon the  
10 public highways of the State, the user thereof may  
11 obtain a refund of all taxes thereon imposed by such  
12 paragraphs. The department shall adopt rules to  
13 administer the refunding of such taxes imposed.

14 [~~(d)~~] (c) No tax shall be collected in respect to any  
15 liquid fuel, including diesel oil and liquefied petroleum gas,  
16 shown to the satisfaction of the department to have been sold  
17 for use in and actually delivered to, or sold in, the county of  
18 Kalawao."

19 SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 5. This Act shall take effect on July 1, 2007 and  
22 shall be repealed on June 30, 2009; provided that sections 237-



# H.B. NO. 416

1 24 and 243-4, Hawaii Revised Statutes, shall be reenacted in the  
2 form in which they read on the day before the approval of this  
3 Act.

4

INTRODUCED BY:



JAN 19 2007



**Report Title:**

General Excise Tax; Fuel Tax; Gasoline; Motor Vehicles

**Description:**

Suspends for two years, the assessment and collection of the state general excise tax and state fuel tax on gasoline and diesel fuel used for motor vehicles.

