

Report Title:

Biodiesel; Market Stimulation

Description:

Provides various market stimulation incentives for the development of biodiesel, including making state agricultural lands available for biodiesel fuel crops; establishing a state biodiesel feedstock crop and biodiesel fuel purchasing program; and creating tax exemptions for biomass crushing facilities and lands used for biodiesel feedstock crops. (SD2)

Amendment recommendation on pg. 10 - last sentence of section 4.

~~Reason:~~
Reason: the language would prevent small community operations from having an on-site seed crushing facility in the same building as the biodiesel plant. The first part of the paragraph was already changed to reflect this idea, but the end was missed.

Thank You,

Bryan Collins
Pacific Biodiesel

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

S.B. NO. 3215
S.D. 2

A BILL FOR AN ACT

RELATING TO BIODIESEL.

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

SECTION 1. Chapter 171, Hawaii Revised Statutes, is amended by adding a new subpart to part III to be appropriately designated and to read as follows:

" **Crops Used in the Production of Biodiesel Fuel**

§171- Definitions. As used in this subpart:

"Biodiesel" means a vegetable oil-based fuel that meets ASTM International Standard D6751, "Standard Specifications for Biodiesel (B100) Fuel Blend Stock for Distillate Fuels", as amended.

"Eligible lessee" means a person who is:

- (1) Engaged or proposing to engage in an agricultural use by growing qualifying crops; and
- (2) Qualified to lease public lands under this chapter.

"Qualifying crops" means those agricultural crops planted, cultivated, harvested, or processed of vegetable oil content that is suitable for bioconversion into biodiesel fuel, including soy, corn, bean, nut, olive, canola, sunflower, and other crops and the seeds thereof.

§171- Lease of agricultural lands for crops used in the production of biodiesel fuel. The board may lease by direct negotiation and without recourse to public auction, public

agricultural lands; provided that:

- (1) The terms of the lease entered into between the board and a qualifying lessee shall incorporate appropriate restrictions on the use of land assuring the land is used for agricultural purposes and that qualifying crops are grown; provided that nothing in this subpart is intended to impact a qualifying lessee's use of the land for personal residence purposes if allowed by relevant land use laws; and
- (2) The qualified crops grown on the leased public lands shall be sold, exchanged, bartered, traded, or otherwise transferred in exchange for consideration to oil seed processing facilities, biodiesel producers, or the department of agriculture under the energy feedstock program in section 141-9.

§171- Rulemaking. The board may adopt rules in accordance with chapter 91 to effectuate the purposes of this subpart."

SECTION 2. Section 103D-1012, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any other law to the contrary, contracts for the purchase of diesel fuel or boiler fuel shall be awarded to the lowest responsible and responsive bidders, with preference given to bids for biofuels or blends of biofuel and petroleum fuel[~~-~~]; provided that for use in state vehicles with diesel engines, preference shall be given to biodiesel blends up to twenty per cent produced in the State from feedstock grown in the State."

SECTION 3. Chapter 141, Hawaii Revised Statutes, is amended as follows:

1. By designating sections 141-1 to 141-8 as part I and inserting a title before section 141-1 to read:

"PART I. GENERALLY"

2. By designating section 141-9 as part II and inserting a title before section 141-9 to read:

"PART II. ENERGY FEEDSTOCK PROGRAM"

3. By amending section 141-9 to read:

"[+]§141-9[+] Energy feedstock program. (a) There is established within the department of agriculture an energy feedstock program that shall:

- (1) Maintain cognizance of actions taken by industry and by federal, state, county, and private agencies in activities relating to the production of energy feedstock, and promote and support worthwhile energy feedstock production activities in the State;
- (2) Serve as an information clearinghouse for energy feedstock production activities;
- (3) Coordinate development projects to investigate and solve biological and technical problems involved in raising selected species with commercial energy generating potential;
- (4) Actively seek federal funding for energy feedstock production activities;
- (5) Undertake activities required to develop and expand the energy feedstock production industry; and
- (6) Perform other functions and activities as may be assigned by law, including monitoring the compliance provisions under section 205-4.5(a)(15).

(b) The feedstock program shall support, promote, and stimulate the development of a market for biodiesel feedstock crops grown in the State by:

- (1) Purchasing biodiesel feedstock crops grown in the State that are offered by biodiesel feedstock producers at a price of up to 15 cents per pound above cost until December 31, 2018; provided that the total amount shall not exceed an aggregate total of \$ _____ per fiscal year;
- (2) Purchasing biodiesel fuel and biodiesel fuel blends produced in the State using feedstock grown in the State that are offered by fuel producers at a fair and reasonable purchase price, which shall take into consideration the expenses incurred by and profit margin of the producer; provided that the total amount shall not exceed an aggregate total of \$ _____ per fiscal year; and
- (3) Determining the disposition of the biodiesel feedstock crop and biodiesel fuel and biodiesel fuel blends purchased under this program.

~~(b)~~ (c) The chairperson of the board of agriculture shall consult and coordinate with the energy resources coordinator under chapter 196 to establish milestones and objectives for the production of energy feedstock that is grown in the State. The chairperson and the coordinator shall report the State's progress toward meeting such milestones and objectives annually to the legislature[=] at least twenty days prior to the convening of each regular session. The report shall include:

- (1) The amount of biodiesel feedstock crops purchased under this program and the cost expended;

- (2) The amount of biodiesel fuel and biodiesel fuel blends purchased under this program and the cost expended; and
- (3) The disposition of the feedstock crops and biodiesel fuel and biodiesel fuel blends purchased under this program.

~~(c)~~ (d) The chairperson of the board of agriculture shall also consult and coordinate with research programs and activities at the University of Hawaii that will assist in the further growth and promotion of the energy feedstock production industry in Hawaii.

~~(d)~~ (e) The chairperson of the board of agriculture may employ temporary staff exempt from chapters 76 and 89. The board may adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

(f) As used in this section,

"Biodiesel" means a vegetable oil-based fuel that meets ASTM International Standard D6751, "Standard Specifications for Biodiesel (B100) Fuel Blend Stock for Distillate Fuels", as amended."

SECTION 4. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

- (1) Income not subject to taxation by the State under the Constitution and laws of the United States;
- (2) Rights, benefits, and other income exempted from taxation by section 88-91, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-91, under any other public retirement system;

- (3) Any compensation received in the form of a pension for past services;
- (4) Compensation paid to a patient affected with Hansen's disease employed by the State or the United States in any hospital, settlement, or place for the treatment of Hansen's disease;
- (5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or a law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;
- (6) Any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any express exemption or exclusion;
- (7) Income received by each member of the reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States of America, and the Hawaii national guard as compensation for performance of duty, equivalent to pay received for forty-eight drills (equivalent of twelve weekends) and fifteen days of annual duty, at an:
 - (A) E-1 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2004;
 - (B) E-2 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2005;

- (C) E-3 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2006;
 - (D) E-4 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2007; and
 - (E) E-5 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2008;
- (8) Income derived from the operation of ships or aircraft if the income is exempt under the Internal Revenue Code pursuant to the provisions of an income tax treaty or agreement entered into by and between the United States and a foreign country; provided that the tax laws of the local governments of that country reciprocally exempt from the application of all of their net income taxes, the income derived from the operation of ships or aircraft that are documented or registered under the laws of the United States;
- (9) The value of legal services provided by a prepaid legal service plan to a taxpayer, the taxpayer's spouse, and the taxpayer's dependents;
- (10) Amounts paid, directly or indirectly, by a prepaid legal service plan to a taxpayer as payment or reimbursement for the provision of legal services to the taxpayer, the taxpayer's spouse, and the taxpayer's dependents;
- (11) Contributions by an employer to a prepaid legal service plan for compensation (through insurance or otherwise) to

the employer's employees for the costs of legal services incurred by the employer's employees, their spouses, and their dependents;

(12) Amounts received in the form of a monthly surcharge by a utility acting on behalf of an affected utility under section 269-16.3 shall not be gross income, adjusted gross income, or taxable income for the acting utility under this chapter. Any amounts retained by the acting utility for collection or other costs shall not be included in this exemption; ~~and]~~

(13) ~~[One hundred]~~ _____ per cent of the gain realized by a fee simple owner from the sale of a leased fee interest in units within a condominium project, cooperative project, or planned unit development to the association of apartment owners or the residential cooperative corporation of the leasehold units.

For purposes of this paragraph:

~~["Fee simple owner" shall have the same meaning as provided under section 516-1; provided that it shall include legal and equitable owners;~~

~~"Legal and equitable owner", and "leased fee interest" shall have the same meanings as provided under section 516-1; and]~~

"Condominium project" and "cooperative project" shall have the same meanings as provided under section 514C-1~~[-]~~;

"Fee simple owner" shall have the same meaning as provided under section 516-1; provided that it shall include legal and equitable owners; and

"Legal and equitable owner", and "leased fee interest"
shall have the same meanings as provided under section 516-
1; and

(14) _____ per cent of the income derived from an oil seed
crushing facility that processes oil seed produced or grown
in the State for biodiesel production in the State.

As used in this paragraph:

"Biodiesel" means a vegetable oil-based fuel that meets
ASTM International Standard D6751, "Standard Specifications
for Biodiesel (B100) Fuel Blend Stock for Distillate
Fuels", as amended.

"Biodiesel production facility" means a facility that
processes feedstock to produce biodiesel.

"Feedstock" means the form of biomass as it is
processed in an oil seed crushing facility.

"Oil seed crushing facility" means a facility that
processes oil seed that is grown in the State, including
soy, corn, bean, nut, olive, canola, mustard, and sunflower

and other crops and the seeds thereof, to be used as
biomass to produce biodiesel, and that may not be
integrated with a biodiesel production facility."

*Please Remove
(or total
Paragraph)*

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

SECTION 6. This Act shall take effect on July 1, 2008; provided
that the real property tax provision in section 141-9(c), Hawaii
Revised Statutes, as amended in section 3 of this Act shall apply to
tax years beginning on January 1, 2009 and shall be repealed on
December 31, 2018; provided further that the amendments made to

section 235-7, Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on January 1, 2013, pursuant to section 3 of Act 166, Session Laws of Hawaii 2007.