

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 omitting]~~ who omits to perform any of the ~~[required]~~ acts~~;~~ required by, or ~~[committing]~~ who commits any of the ~~[prohibited]~~ acts ~~[of]~~ 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~~[-]~~, except as otherwise provided.

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

If the excess weight is:	The fine for a <del>[first]</del> violation shall be:
100 to 1,500 pounds	<del>[\$125]</del> <u>\$250</u>
1,501 to 2,000 pounds	<del>[130]</del> <u>260</u>
2,001 to 2,500 pounds	<del>[140]</del> <u>280</u>
2,501 to 3,000 pounds	<del>[160]</del> <u>320</u>
3,001 to 3,500 pounds	<del>[180]</del> <u>360</u>
3,501 to 4,000 pounds	<del>[200]</del> <u>400</u>
4,001 to 4,500 pounds	<del>[225]</del> <u>450</u>
4,501 to 5,000 pounds	<del>[250]</del> <u>500</u>
5,001 to 5,500 pounds	<del>[275]</del> <u>550</u>
5,501 to 6,000 pounds	<del>[300]</del> <u>600</u>
6,001 to 6,500 pounds	<del>[330]</del> <u>660</u>
6,501 to 7,000 pounds	<del>[360]</del> <u>720</u>
7,001 to 7,500 pounds	<del>[390]</del> <u>780</u>
7,501 to 8,000 pounds	<del>[420]</del> <u>840</u>
8,001 to 8,500 pounds	<del>[455]</del> <u>910</u>
8,501 to 9,000 pounds	<del>[490]</del> <u>980</u>
9,001 to 9,500 pounds	<del>[525]</del> <u>1050</u>
9,501 to 10,000 pounds	<del>[560]</del> <u>1120</u>
10,001 pounds and over	<del>[580]</del> <u>1160</u>

  

If the excess dimension is:	The fine shall be:
Up to 5 feet	<del>[\$ 25]</del> <u>\$ 50</u>
Over 5 feet and up to 10 feet	<del>[50]</del> <u>100</u>
Over 10 feet and up to 15 feet	<del>[75]</del> <u>150</u>
Over 15 feet	<del>[100]</del> <u>200</u>

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

For a second violation within one year of the first, the fine for excess weight shall be not less than twice the fine listed in the excess weight table above and not more than \$1,200. For a third or subsequent violation for excess weight previously

~~cited under this section within one year, the fine shall not be less than triple the fine listed in the excess weight table above and not more than \$1,800.]~~

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

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

The consignee or the shipper shall not be cited if the power units' drive axle group is overweight, and the weight is not more than that allowed for a tandem axle with any applicable tolerances.

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

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

## PART II

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

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

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

(c) A producer, wholesaler, or retailer of alcohol fuels shall pass any savings realized from this exemption on to the end consumer. Any producer or wholesaler who violates this subsection shall be subject to a fine of \$100,000. Notwithstanding any law to the contrary, a violation of this subsection shall be deemed an unfair or deceptive act or practice in violation of and enforceable under chapter 480.

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

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

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

- (1) For each gallon of diesel oil, [~~1-cent;~~] 2 cents;
- (2) For each gallon of gasoline or other aviation fuel sold for use in or used for airplanes, [~~1-cent;~~] 2 cents;
- (3) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the city and county of Honolulu, or sold in any county for ultimate use in the city and county of Honolulu, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "city and county of Honolulu fuel tax", as shall be levied pursuant to section 243-5;
- (4) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Hawaii, or sold in any county for ultimate use in the county of Hawaii, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "county of Hawaii fuel tax", as shall be levied pursuant to section 243-5;
- (5) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Maui, or sold in any county for ultimate use in the county of Maui, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "county of Maui fuel tax", as shall be levied pursuant to section 243-5; and
- (6) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Kauai, or sold in any county for ultimate use in the county of Kauai, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "county of Kauai fuel tax", as shall be levied pursuant to section 243-5.

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

### PART III

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

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

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

(Approved June 26, 2007.)

#### Note

1. Edited pursuant to HRS §23G-16.5.