

**ACT 75**

H.B. NO. 1142

A Bill for an Act Relating to Energy.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. The legislature finds that the electric vehicle charging system rebate program, established pursuant to Act 142, Session Laws of Hawaii 2019, provides rebates for the installation of electric vehicle charging systems in priority locations, including for multi-unit dwellings, workplaces, and commercial areas, and in places that serve vehicle fleets. The rebate program has proven to be very successful, with more than seventy new charging systems installed or in the pipeline that have been facilitated by the availability of these rebates. The limited amount of funding that was provided for this program at its inception has been depleted, and the legislature also finds that a sustainable source of funding for the electric vehicle charging system rebate program is necessary. There continues to be a need to incentivize the build-out of electric vehicle infrastructure as the electric vehicle market becomes more established in the State, and robust electric vehicle infrastructure is needed to bring equity to the market and to make electric vehicles a viable choice for renters, condominium-dwellers, and low- and middle-income individuals and families. The legislature notes that

the use of funds from the environmental response, energy, and food security tax is appropriate for this purpose and that the current allocations of the tax revenues can be adjusted to fund the electric vehicle charging system rebate program without impact to the general fund.

The legislature further finds that the existing requirements in section 291-71, Hawaii Revised Statutes, for the installation of one electric vehicle charging system in any parking lot of one hundred or more stalls in places of public accommodation has not always been followed and that some of the electric vehicle charging systems that have been installed pursuant to existing requirements are in disrepair. The legislature further notes that lacking any other means of enforcement, it is practicable to authorize the counties to adopt ordinances and penalties for enforcement as they see fit.

The purpose of this Act is to:

- (1) Shift 1 cent of the environmental response, energy, and food security tax from the energy security special fund and 2 cents from the energy systems development special fund to a subaccount of the public utilities commission special fund to fund the electric vehicle charging system rebate program;
- (2) Allow the counties to adopt ordinances to enforce provisions in section 291-71, Hawaii Revised Statutes; and
- (3) Require that new electric vehicle charging systems installed pursuant to section 291-71, Hawaii Revised Statutes, are at least level 2 and network-capable.

## PART II

SECTION 2. Section 243-3.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed a state environmental response, energy, and food security tax on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user of petroleum product, other than a refiner. The tax shall be \$1.05 on each barrel or fractional part of a barrel of petroleum product that is not aviation fuel; provided that of the tax collected pursuant to this subsection:

- (1) 5 cents of the tax on each barrel shall be deposited into the environmental response revolving fund established under section 128D-2;
- (2) [~~5~~] 4 cents of the tax on each barrel shall be deposited into the energy security special fund established under section 201-12.8;
- (3) [~~40~~] 8 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section 304A-2169.1; [~~and~~]
- (4) 15 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-10[.]; and
- (5) 3 cents of the tax on each barrel shall be deposited into the electric vehicle charging system subaccount established pursuant to section 269-33(e).

The tax imposed by this subsection shall be paid by the distributor of the petroleum product.”

SECTION 3. Section 269-33, Hawaii Revised Statutes, is amended to read as follows:

“§269-33 **Public utilities commission special fund.** (a) There is established in the state treasury a public utilities commission special fund to be administered by the public utilities commission. The proceeds of the fund shall be used by the public utilities commission and the division of consumer advocacy of the department of commerce and consumer affairs for all expenses incurred in the administration of chapters 269, 271, 271G, 269E, and 486J, and for costs incurred by the department of commerce and consumer affairs to fulfill the department’s limited oversight and administrative support functions; provided that the expenditures of the public utilities commission shall be in accordance with legislative appropriations. On a quarterly basis, an amount not exceeding thirty per cent of the proceeds remaining in the fund after the deduction for central service expenses, pursuant to section 36-27, shall be allocated by the public utilities commission to the division of consumer advocacy and deposited in the compliance resolution fund established pursuant to section 26-9(o); provided that all moneys allocated by the public utilities commission from the fund to the division of consumer advocacy shall be in accordance with legislative appropriations.

(b) All moneys appropriated to, received, and collected by the public utilities commission that are not otherwise pledged, obligated, or required by law to be placed in any other special fund or expended for any other purpose shall be deposited into the public utilities commission special fund including, but not limited to, all moneys received and collected by the public utilities commission pursuant to sections 92-21, 243-3.5, 269-28, 269-30, 271-27, 271-36, 271G-19, 269E-6, 269E-14, and 607-5.

(c) The public utilities commission shall submit an update as part of its annual report submitted pursuant to section 269-5 detailing all funds received and all moneys disbursed out of the fund.

(d) All moneys in excess of \$1,000,000 remaining on balance in the public utilities commission special fund on June 30 of each year shall lapse to the credit of the state general fund[-]; provided that this ceiling shall not apply to the subaccount established in subsection (e).

(e) There is established within the public utilities commission special fund an electric vehicle charging system subaccount. The public utilities commission shall expend moneys in the subaccount for the purposes of funding the electric vehicle charging system rebate program established pursuant to sections 269-72 and 269-73. The funds in this subaccount shall not be subject to the special fund ceiling in subsection (d).”

### PART III

SECTION 4. There is appropriated out of the energy security special fund established under section 201-12.8, Hawaii Revised Statutes, the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2021-2022 to be deposited into the electric vehicle charging system subaccount within the public utilities commission special fund established under section 269-33, Hawaii Revised Statutes.

SECTION 5. There is appropriated out of the electric vehicle charging system subaccount within the public utilities commission special fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2021-2022 for the electric vehicle charging system rebate program established pursuant to sections 269-72 and 269-73, Hawaii Revised Statutes.

The sum appropriated shall be expended by the public utilities commission for the purposes of this part.

## PART IV

SECTION 6. Chapter 291, Hawaii Revised Statutes, is amended by amending the title of part IV to read as follows:

~~“[PART IV. [MISCELLANEOUS]] PARKING FOR ELECTRIC VEHICLES”~~

SECTION 7. Chapter 291, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

**“§291- Ordinance to enforce authorized.** Each county may adopt ordinances to enforce the requirements of section 291-71, including the establishment of penalties for failure to comply with the requirements of that section or maintain electric vehicle charging systems in working order.”

SECTION 8. Section 291-71, Hawaii Revised Statutes, is amended to read as follows:

**“§291-71 Designation of parking spaces for electric ~~vehicles;~~ vehicle charging ~~system;~~ systems.** (a) Places of public accommodation with at least one hundred parking spaces available for use by the general public shall have at least one parking space ~~[exclusively for electric vehicles and]~~ equipped with an electric vehicle charging system located anywhere in the parking structure or lot ~~[by July 1, 2012];~~ provided that no parking space designated for electric vehicles shall displace or reduce accessible stalls required by the Americans with Disabilities Act Accessibility Guidelines~~[-];~~ provided further that no vehicle shall be permitted to park in a parking space equipped with an electric vehicle charging system while not actively charging. Spaces shall be designated, clearly marked, and the exclusive designation enforced. Owners of multiple parking facilities within the State may designate and electrify fewer parking spaces than required in one or more of their owned properties; provided that the scheduled requirement is met for the total number of aggregate spaces on all of their owned properties. Nothing in this section shall prohibit the owners of parking structures or lots from charging a fee for the use of an electric vehicle charging system.

(b) Effective January 1, 2022, each new electric vehicle charging system installed or placed in service pursuant to this section shall be at least a level 2 charging station that is network-capable.

(c) Electric vehicle charging systems shall be maintained in working order.

~~[(b) For the purposes of]~~ (d) As used in this section:

“Electric vehicle” means:

- (1) A neighborhood electric vehicle as defined in section 286-2;
- (2) A vehicle, with four or more wheels, that draws propulsion energy from a battery with at least four kilowatt hours of energy storage capacity that can be recharged from an external source of electricity; or
- (3) A fuel cell electric vehicle.

“Electric vehicle charging system” means a system that:

- (1) Is capable of providing electricity from a non-vehicle source to charge the batteries of one or more electric vehicles;
- (2) Meets recognized standards, including standard SAE J1772 of SAE International; and
- (3) Is designed and installed in compliance with article 625 of the National Electrical Code;

provided that the term shall not include facilities or systems for refueling the hydrogen storage tank of a fuel cell electric vehicle.

“Fuel cell electric vehicle” means a zero-emission electric vehicle that uses a fuel cell to convert hydrogen gas and oxygen into electricity that is used in a vehicle powertrain for propulsion.

“Level 2 charging station” shall have the same meaning as “alternating current Level 2 charging station” in section 269-72.

“Place of public accommodation” has the same meaning as that provided in section 489-2.”

SECTION 9. Section 291-72, Hawaii Revised Statutes, is amended to read as follows:

**“§291-72 Parking spaces reserved for electric vehicles[;] and electric vehicle charging systems; penalties.** ~~[(a) Beginning January 1, 2013, any person who parks a non-electric vehicle in a space designated and marked as reserved for electric vehicles shall receive a warning-~~

~~(b) Beginning July 1, 2013, any]~~ (a) Any person who parks a non-electric vehicle in a space designated and marked as reserved for electric vehicles or parks any vehicle in a parking space equipped with an electric vehicle charging system while not actively charging shall be guilty of a traffic infraction under chapter 291D and shall be fined not less than \$50 nor more than \$100, and shall pay any costs incurred by the court related to assessing the fine.

~~[(e)]~~ (b) Any citation issued under this section may be mailed to the violator pursuant to section 291C-165(b).

~~(c) Notwithstanding any law to the contrary, and in addition to any other authority provided by law that is not inconsistent with this section:~~

- ~~(1) A law enforcement officer may access the property of a private entity to enforce the provisions of this part; and~~
- ~~(2) A commissioned volunteer enforcement officer may access the property of a private entity to enforce the provisions of this section; provided that the private entity’s parking lot contains a parking space required by section 291-71.”~~

PART V

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

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 12. This Act shall take effect on July 1, 2021.

(Approved June 24, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.