
A BILL FOR AN ACT

RELATING TO THE PETROLEUM INDUSTRY.

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

1 SECTION 1. The legislature finds that the establishment of
2 a vigorous state watchdog system to monitor and oversee the
3 petroleum industry and gasoline market is a prerequisite to
4 fully implementing gasoline price regulation. A system to
5 monitor, analyze, and report fuel industry volumes, prices,
6 costs, and profits will provide agencies such as the public
7 utilities commission and the departments of the attorney general
8 and taxation with the critical information necessary to
9 implement and enforce gasoline price regulation. In addition,
10 the information provided by a fuel industry watchdog system will
11 be useful for an even more important purpose--to support the
12 development of a long-term integrated energy strategy for Hawaii
13 that recognizes the realities of the local and global energy
14 market.

15 Current energy supplies cannot keep pace with the
16 increasing global demand for energy. Our small state is
17 competing with the growing economies of China and India for the
18 same fossil fuel resources. Many oil-producing countries are



1 politically unstable. Hawaii's deep dependency on imported
2 fossil fuels leaves its energy security and economy vulnerable
3 to factors it cannot control.

4 The legislature further finds that any energy strategy for
5 Hawaii must take a holistic approach to ensure that improvements
6 in one sector of Hawaii's energy market do not result in the
7 deterioration of another. For instance, ethanol blending and
8 replacing residual oil with liquefied natural gas in the
9 production of electricity may be beneficial to the overall
10 economy, but may also cause financial difficulties for existing
11 industry participants.

12 A long-term integrated energy strategy based on accurate
13 information about Hawaii's energy market will support the
14 development of a holistic energy strategy, give policy makers a
15 broad range of realistic planning options, improve Hawaii's
16 investment climate, encourage the formation of strategic
17 partnerships, and better allow the State to pursue strategies
18 for investment and new technology.

19 As energy resources coordinator under chapter 196, Hawaii
20 Revised Statutes, the director of business, economic
21 development, and tourism is responsible for developing plans for
22 the optimal development of Hawaii's energy resources. The



1 director must also provide analyses and evaluations to
2 coordinate and effectively allocate resources to existing and
3 proposed energy resource programs. The development of a single
4 integrated state energy strategy is consistent with these
5 responsibilities.

6 The purpose of this Act is to:

- 7 (1) Redelineate the types of information that the
8 petroleum industry must submit to the department of
9 business, economic development, and tourism, by
10 requiring more information on sales volumes, operating
11 costs, prices, and earnings;
- 12 (2) Require the department of business, economic
13 development, and tourism to develop and maintain a
14 petroleum industry monitoring, analysis, and reporting
15 program, including an automated petroleum industry
16 information reporting system to increase market
17 transparency;
- 18 (3) Establish the petroleum industry monitoring, analysis,
19 and reporting special fund, to be funded from the
20 environmental response revolving fund and to be used,
21 among other things, to support the development of an
22 integrated, state energy strategy; and



1 (4) Appropriate moneys out of the petroleum industry
2 monitoring, analysis, and reporting special fund to be
3 expended by:

4 (A) The department of business, economic development,
5 and tourism to establish the petroleum industry
6 monitoring, analysis, and reporting program and
7 continue support for the Hawaii energy policy
8 forum; and

9 (B) The public utilities commission to implement and
10 operate the petroleum price control program
11 established under chapter 486H, Hawaii Revised
12 Statutes.

13 SECTION 2. Chapter 486J, Hawaii Revised Statutes, is
14 amended by adding three new sections to be appropriately
15 designated and to read as follows:

16 "§486J-A Informational cost reports. (a) Each refiner,
17 at such reporting dates as the director may establish, shall
18 file with the director on forms prescribed, prepared, and
19 furnished by the director, a certified statement of operating
20 and overhead costs for the refiner's Hawaii operations that
21 shall include but not be limited to the following:

22 (1) Crude oil costs;



- 1 (2) Other feedstock costs;
- 2 (3) Refinery operating expenses;
- 3 (4) Marketing operating expenses;
- 4 (5) Distribution expenses; and
- 5 (6) Corporate overhead expenses.

6 (b) Each distributor shall file with the director all
7 Securities and Exchange Commission Forms 10-K, 10-Q, annual
8 reports, quarterly reports, and earnings supplements published
9 by the distributor.

10 (c) Each distributor, except a distributor who is so
11 defined solely under paragraph (4) of the definition of
12 distributor in section 486J-1, who sells liquid fuel only at
13 retail and is not a refiner, shall file with the director by
14 such reporting dates as the director may establish, on forms
15 prescribed, prepared, and furnished by the director, a certified
16 statement of operating and overhead costs that shall include the
17 following:

- 18 (1) Gasoline purchases;
- 19 (2) Diesel purchases;
- 20 (3) Marketing expenses; and
- 21 (4) Distribution expenses.



1 (d) The director may request additional information as and
2 when the director deems necessary to perform the director's
3 responsibilities under this chapter.

4 **§486J-B Petroleum industry information reporting system.**

5 The department shall develop and maintain an automated petroleum
6 industry information reporting system that meets the
7 requirements of government, industry, and the public while
8 promoting sound policy making and consumer information and
9 protection. The petroleum industry information reporting system
10 shall facilitate the efficient reporting and analysis of
11 information described in section 486J-5, increase market
12 transparency, and provide useful information to those agencies
13 that are responsible for overseeing the petroleum industry and
14 enforcing compliance with all relevant laws.

15 **§486J-C Petroleum industry monitoring, analysis, and**
16 **reporting special fund; environmental response revolving fund.**

17 (a) There is established a petroleum industry monitoring,
18 analysis, and reporting special fund to be administered by the
19 department.

20 (b) The legislature may make appropriations from the
21 environmental response revolving fund established pursuant to
22 section 128D-2, not to exceed \$2,000,000 in any fiscal year, to



1 the petroleum industry monitoring, analysis, and reporting
2 special fund.

3 (c) Moneys in the special fund shall be used to:

4 (1) Administer the petroleum industry monitoring,
5 analysis, and reporting program pursuant to this
6 chapter;

7 (2) Establish full-time staff positions in the
8 public utilities commission to implement and maintain
9 the gasoline price control program established by
10 chapter 486H;

11 (3) Develop a single integrated state energy strategy
12 under the guidance of the energy resources
13 coordinator; and

14 (4) Fund the State's share in any matching grant program
15 that advances the State's energy policy and energy
16 strategy."

17 SECTION 3. Section 128D-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§128D-2 Environmental response revolving fund; uses.** (a)

20 There is created within the state treasury an environmental

21 response revolving fund~~[, which]~~ that shall consist of ~~[moneys]~~:



- 1 (1) Moneys appropriated to the fund by the legislature [~~7~~
2 ~~moneys~~];
- 3 (2) Moneys paid to the fund as a result of departmental
4 compliance proceedings [~~7~~ ~~moneys~~];
- 5 (3) Moneys paid to the fund pursuant to court-ordered
6 awards or judgments [~~7~~ ~~moneys~~];
- 7 (4) Moneys paid to the fund in court-approved or out-of-
8 court settlements [~~7~~ ~~all~~];
- 9 (5) All interest attributable to investment of money
10 deposited in the fund [~~7~~ ~~moneys~~];
- 11 (6) Moneys generated by the environmental response tax
12 established in section 243-3.5 [~~7~~]; and [~~moneys~~]
- 13 (7) Moneys allotted to the fund from other sources;
- 14 provided that when the total balance of the fund exceeds
15 \$20,000,000, the department of health shall notify the
16 department of taxation of this fact in writing within ten days.
17 The department of taxation [~~then~~] shall then notify all
18 distributors liable for collecting the tax imposed by section
19 243-3.5 of this fact in writing, and the imposition of the tax
20 shall be discontinued beginning the first day of the second
21 month following the month in which notice is given to the
22 department of taxation. If the total balance of the fund



1 thereafter declines to less than \$3,000,000, the department of
2 health shall notify the department of taxation, which [~~then~~]
3 shall then notify all distributors liable for collecting the tax
4 imposed by section 243-3.5 of this fact in writing, and the
5 imposition of the tax shall be reinstated beginning the first
6 day of the second month following the month in which notice is
7 given to the department of taxation.

8 (b) Moneys from the fund shall be expended by the
9 department for response actions and preparedness, including
10 removal and remedial actions, consistent with this chapter;
11 provided that the revenues generated by the [~~"environmental~~
12 ~~response tax"~~] environmental response tax and deposited into the
13 environmental response revolving fund:

14 (1) Shall also be used:

15 (A) For oil spill planning, prevention, preparedness,
16 education, research, training, removal, and
17 remediation; and

18 (B) For direct support for county used oil recycling
19 programs;

20 and

21 (2) May also be used to support environmental protection
22 and natural resource protection programs, including



1 but not limited to energy conservation and alternative
2 energy development, and to address concerns related to
3 air quality, global warming, clean water, polluted
4 runoff, solid and hazardous waste, drinking water, and
5 underground storage tanks, including support for the
6 underground storage tank program of the department,
7 and funding for the acquisition by the State of a soil
8 remediation site and facility.

9 (c) Moneys from the fund not exceeding \$2,000,000 in any
10 fiscal year may be appropriated by the legislature for deposit
11 into the petroleum industry monitoring, analysis, and reporting
12 special fund pursuant to section 486J-C to:

13 (1) Administer the petroleum industry monitoring,
14 analysis, and reporting program pursuant to chapter
15 486J;

16 (2) Establish full time staff positions in the
17 public utilities commission to implement and maintain
18 the gasoline price control program established by
19 chapter 486H;

20 (3) Develop a single integrated state energy strategy
21 under the guidance of the energy resources
22 coordinator; and



1 (4) Fund the State's share in any matching grant program
2 that advances the State's energy policy and energy
3 strategy."

4 SECTION 4. Chapter 486J, Hawaii Revised Statutes, is
5 amended by amending the title of part I to read as follows:

6 "PART I. [~~GENERALLY~~] PETROLEUM INDUSTRY
7 MONITORING, ANALYSIS, AND REPORTING PROGRAM"

8 SECTION 5. Section 486J-1, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By adding four new definitions to be appropriately
11 inserted and to read:

12 "Class of retail trade" means a separate subdivision or
13 class of retail outlets, or method of selling liquid fuel at
14 retail that is typically but not limited to gasoline and diesel
15 for motor vehicles, and includes any:

16 (1) Company-operated station that is a retail service
17 station owned and operated by a refiner or wholesale
18 distributor where retail prices are set by that
19 refiner or wholesale distributor;

20 (2) Lessee dealer-operated station that is a retail
21 service station owned by a refiner or wholesale
22 distributor and operated by a qualified gasoline



1 dealer other than a refiner or wholesale distributor
2 under a franchise; or
3 (3) Owner-operated station that is a retail service
4 station not owned by a refiner or wholesale
5 distributor and operated by a qualified gasoline
6 dealer.

7 "Corporate overhead expenses" means the expenses or costs
8 allocated by the refiners that reflect their Hawaii business
9 units' share of corporate staff costs, such as legal, financial,
10 accounting, information technology, and similar costs.

11 "Liquid fuel" means fuel in liquid form that is
12 commercially usable for energy needs, power generation, and fuel
13 manufacturing, that may be manufactured or produced in, or
14 imported into the state or exported therefrom, including
15 petroleum and petroleum products and all fuel alcohols.

16 "Wholesale liquid fuel price" means the price at which
17 liquid fuel, typically but not limited to gasoline and diesel
18 for motor vehicles, is sold at wholesale for resale at wholesale
19 or retail, and includes:

20 (1) "Refiner wholesale price" which means the wholesale
21 price at which liquid fuel is sold by a refiner to any



1 distributor, not a refiner, for resale at any
2 subsequent wholesale or retail transaction;

3 (2) "Nonrefiner wholesale price" which means the wholesale
4 price at which liquid fuel is sold by any distributor,
5 not a refiner, to any other distributor, not a
6 refiner, for resale at any subsequent wholesale or
7 retail transaction; and

8 (3) "Dealer tank wagon price" which means the wholesale
9 price at which liquid fuel is sold to any retail
10 outlet by any distributor priced on a delivered basis
11 to a retail outlet."

12 2. By amending the definitions of "distributor", "fuel",
13 "person", and "refiner" to read:

14 ""Distributor" means [~~and includes~~]:

15 (1) Every person who refines, manufactures, produces, or
16 compounds fuel in the [~~State,~~] state and sells it at
17 wholesale or at retail, or who [~~utilizes~~] uses it
18 directly in the manufacture of products or for the
19 generation of power;

20 (2) Every person who imports or causes to be imported into
21 the [~~State~~] state or exports or causes to be exported
22 from the [~~State,~~] state, any fuel; [~~and~~]



1 (3) Every person who acquires fuel through exchanges with
2 another distributor~~[]~~; or

3 (4) Every person who purchases fuel for resale at
4 wholesale or retail from any person described in
5 paragraph (1), (2), or (3).

6 "Fuel" means [~~and includes fuels whether~~] liquid, solid, or
7 gaseous~~[]~~ fuel that is commercially usable for energy needs,
8 power generation, and [~~fuels manufacture~~] fuel manufacturing,
9 that may be manufactured, grown, or produced~~[]~~ in, or imported
10 into the [~~State~~] state, or [~~that may be~~] exported therefrom~~[]~~,
11 including petroleum and petroleum products and gases, coal, coal
12 tar, vegetable ferments, and all fuel alcohols.

13 "Person"~~[]~~ means any person, firm, association,
14 organization, partnership, business trust, corporation, or
15 company. "Person" also includes any city, county, public
16 district or agency, the State or any department or agency
17 thereof, and the United States to the extent authorized by
18 federal law.

19 "Refiner" means any person who owns, operates, or controls
20 the operations of one or more refineries~~[]~~ in Hawaii."

21 3. By repealing the definition of "petroleum
22 commissioner".



1 [~~"Petroleum commissioner" or "commissioner"~~ means the
2 administrator of the energy, resources, and technology division
3 of the department of business, economic development, and
4 tourism."]

5 SECTION 6. Section 486J-2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§486J-2 Distributors to register.** Every distributor, and
8 any person before becoming a distributor, shall register as such
9 with the [~~commissioner~~] director on forms to be prescribed,
10 prepared, and furnished by the [~~commissioner.~~] director."

11 SECTION 7. Section 486J-3, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§486J-3 Statements.** (a) Each distributor [~~shall~~], [~~at~~]
14 by such reporting dates as the [~~commissioner~~] director may
15 establish, shall file with the [~~commissioner,~~] director on forms
16 prescribed, prepared, and furnished by the [~~commissioner,~~]
17 director, a certified statement showing separately for each
18 county and for the islands of Lanai and Molokai within which and
19 whereon fuel is sold or used during the last preceding reporting
20 period, the following:

21 (1) The total number of gallons or units of fuel refined,
22 manufactured, or compounded by the distributor within



- 1 the [~~State~~] state and sold or used by the distributor,
2 and if for ultimate use in another county or on
3 another island, the name of that county or island;
- 4 (2) The total number of gallons or units of fuel imported
5 or exported by the distributor or sold or used by the
6 distributor, and if for ultimate use in another county
7 or on another island, the name of that county or
8 island;
- 9 (3) The total number of gallons or units of fuel sold as
10 liquid fuel, aviation fuel, diesel fuel, and other
11 types of fuel as required by the [~~commissioner~~]
12 director;
- 13 (4) The total number of gallons or units of fuel and the
14 types thereof sold to: federal, state, and county
15 agencies, ships stores, or base exchanges, commercial
16 agricultural accounts, commercial nonagricultural
17 accounts, retail dealers, and other customers as
18 required by the [~~commissioner~~] director;
- 19 (5) Monthly weighted average acquisition cost per barrel
20 and volumes of foreign or domestic crude oil or other
21 liquid fuels, finished or unfinished, imported to
22 Hawaii;



1 ~~sales through company-operated retail outlets, sales~~
2 ~~to other end-users, and wholesale sales of No. 2~~
3 ~~diesel fuel and No. 2 fuel oil; and] of No. 2 diesel~~
4 ~~fuel and No. 2 fuel oil sold to:~~

5 (A) Retail distributor outlets, by island and by
6 class of retail trade; and

7 (B) All other wholesale distributors.

8 Weighted average wholesale prices and sales volumes
9 shall be reported by type of wholesale liquid fuel
10 price;

11 (9) Weekly weighted average retail prices, and sales
12 volumes of No. 2 diesel fuel and No. 2 fuel oil sold
13 by:

14 (A) Retail distributor outlets of all classes of
15 retail trade, by island; and

16 (B) Any distributor to other end-users.

17 The department may purchase retail price data from
18 data service companies, which the department may
19 substitute for some or all of the retail price data
20 required under this paragraph; and

21 ~~(+7)~~ (10) Monthly [Hawaii] weighted average prices, and
22 sales volumes for retail sales and wholesale sales, by



1 island, of No. 1 distillate, kerosene, finished
2 aviation gasoline, kerosene-type jet fuel, No. 4 fuel
3 oil, residual fuel oil, and consumer grade propane.

4 ~~[The commissioner shall prescribe by rule when the first report~~
5 ~~shall be submitted.]~~

6 ~~(b) In addition to the above reporting, each distributor~~
7 ~~shall file with the commissioner, Federal Form FEO-1000 or an~~
8 ~~equivalent state form to be prescribed, prepared, and furnished~~
9 ~~by the commissioner, showing the expected supply of fuel~~
10 ~~products for the coming month, and their intended distribution~~
11 ~~as categorized by Form FEO-1000 or the equivalent state form.~~
12 ~~The state form shall be supplied in the event that the Federal~~
13 ~~Mandatory Petroleum Allocation Regulations should expire, be~~
14 ~~revoked, or be amended to delete or substantially change the~~
15 ~~reporting requirements provided therein.]~~

16 ~~(e)]~~ (b) Each major marketer shall submit to the
17 ~~[commissioner,]~~ director, at a time and in a form as the
18 ~~[commissioner]~~ director shall prescribe, information including
19 petroleum and petroleum product receipts, exchanges,
20 inventories, and distributions. ~~[The commissioner shall~~
21 ~~prescribe by rule when the first report shall be submitted.]~~



1 ~~(d)~~ (c) The ~~[commissioner]~~ director may request
 2 additional information as and when ~~[the commissioner]~~ the
 3 director deems necessary to perform ~~[the commissioner's]~~ the
 4 director's responsibilities under this chapter."

5 SECTION 8. Section 486J-4, Hawaii Revised Statutes, is
 6 amended to read as follows:

7 "**§486J-4 Informational reports.** (a) Each major oil
 8 producer, refiner, marketer, oil transporter, and oil storer
 9 shall submit to the ~~[commissioner]~~ director, in such form as
 10 the ~~[commissioner]~~ director shall prescribe, information ~~[which]~~
 11 that includes the following:

12 (1) Major oil transporters shall report on petroleum by
 13 reporting the capacities of each major transportation
 14 system, the amount transported by each system, and
 15 inventories thereof. The provision of the information
 16 shall not be construed to increase and decrease any
 17 authority the ~~[commissioner]~~ director may otherwise
 18 have;

19 (2) Major oil storers shall report on storage capacity,
 20 inventories, receipts and distributions, and methods
 21 of transportation of receipts and distributions;



1 (3) Refiners shall report on facility capacity and
2 utilization and method of transportation of refinery
3 receipts and distributions; and

4 (4) Major oil marketers shall report on facility capacity
5 and methods of transportation of receipts and
6 distributions.

7 ~~[The commissioner shall prescribe by rule when the first report~~
8 ~~shall be submitted.]~~

9 (b) The ~~[commissioner]~~ director may request additional
10 information as and when ~~[the commissioner]~~ the director deems
11 it necessary to perform ~~[the commissioner's]~~ the director's
12 responsibilities under this chapter."

13 SECTION 9. Section 486J-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§486J-5 Analysis of information; audits and inspections;**
16 **summary reports.** (a) The ~~[petroleum commissioner,]~~ director,
17 with the ~~[commissioner's]~~ director's own staff and other support
18 staff with expertise and experience in, or with, the petroleum
19 industry, shall gather, analyze, and interpret the information
20 submitted to it pursuant to sections 486J-3 ~~[and]~~, 486J-4, and
21 486J-A, and other information relating to the supply and price



1 of petroleum products, with particular emphasis on motor vehicle
2 fuels, including[7] but not limited to[7] all of the following:

3 (1) The nature, cause, and extent of any petroleum or
4 petroleum products shortage or condition affecting
5 supply[7] and price;

6 (2) The economic and environmental impacts of any
7 petroleum and petroleum product shortage or condition
8 affecting supply[7] and price;

9 (3) Petroleum or petroleum product demand and supply
10 forecasting methodologies [~~utilized~~] used by the
11 petroleum industry in Hawaii;

12 (4) The prices, with particular emphasis on wholesale and
13 retail motor vehicle fuel prices, and any significant
14 changes in prices charged by the petroleum industry
15 for petroleum or petroleum products sold in Hawaii and
16 the reasons for such changes;

17 (5) The income, expenses, and profits, both before and
18 after taxes, of the industry as a whole and of major
19 firms within it, including a comparison with other
20 major industry groups and major firms within them as
21 to profits, return on equity and capital, and price-
22 earnings ratio;



1 (6) The emerging trends relating to supply, demand, price,
2 and conservation of petroleum and petroleum products;
3 and

4 (7) The nature and extent of efforts of the petroleum
5 industry to expand refinery capacity and to make
6 acquisitions of additional supplies of petroleum and
7 petroleum products [~~;~~ and

8 ~~(8) The development of a petroleum and petroleum products~~
9 ~~information system in a manner which will enable the~~
10 ~~State to take action to meet and mitigate any~~
11 ~~petroleum or petroleum products shortage or condition~~
12 ~~affecting supply.~~

13 ~~(b) The commissioner shall conduct random or periodic~~
14 ~~audits and inspections of any supplier or suppliers of oil or~~
15 ~~petroleum products to determine whether they are unnecessarily~~
16 ~~withholding supplies from the market or are violating applicable~~
17 ~~policies, laws, or rules. The commissioner may solicit~~
18 ~~assistance of the department of taxation in any such audit. The~~
19 ~~commissioner shall cooperate with other state and federal~~
20 ~~agencies to ensure that any audit or inspection conducted by the~~
21 ~~commissioner is not duplicative of the data received by any of~~



1 ~~their audits or inspections which is available to the~~
2 ~~commissioner].~~

3 ~~[-e-]~~ (b) The ~~[commissioner]~~ director shall analyze the
4 impacts of state and federal policies, rules, and regulations
5 upon the supply and pricing of petroleum products.

6 ~~[-d-]~~ (c) The ~~[commissioner]~~ director shall publish
7 annually and submit to the governor and the legislature twenty
8 days prior to the first day of ~~[the current]~~ each regular
9 legislative session a ~~[summary,]~~ report of the director's
10 activities under this chapter, including any analysis and
11 interpretation of the information submitted to it pursuant to
12 this chapter, and any other ~~[activities]~~ actions taken by the
13 ~~[commissioner,]~~ director, including civil penalties imposed and
14 referrals of violations to the attorney general under section
15 486J-9. Any person may submit comments in writing regarding the
16 accuracy or sufficiency of the information submitted. At the
17 option of the director, this report may be combined with
18 reporting required by section 196-4(11), in the director's role
19 as state energy resources coordinator."

20 SECTION 10. Section 486J-6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§486J-6 Confidential information.** (a) Confidential
2 commercial information [~~presented~~] provided to the
3 [~~commissioner~~] director pursuant to this chapter shall be held
4 in confidence by the [~~commissioner~~] director or aggregated to
5 the extent necessary to assure confidentiality as governed by
6 chapter 92F, including its penalty provisions.

7 ~~[(b) No data or information submitted to the commissioner~~
8 ~~shall be deemed confidential if the person submitting the~~
9 ~~information or data has made it public.~~

10 ~~(e)]~~ (b) Unless otherwise provided by law, with respect to
11 data provided pursuant to [~~sections~~] section 486J-3 [~~and~~], 486J-
12 4, or 486J-A, neither the [~~commissioner~~], director nor any
13 employee of the department[~~]~~ may do any of the following:

14 (1) Use the information furnished under [~~sections~~] section
15 486J-3 [~~and~~], 486J-4, or 486J-A for any purpose other
16 than the statistical purposes for which it is
17 supplied;

18 (2) Make any publication whereby the data furnished by any
19 particular establishment or individual under
20 [~~sections~~] section 486J-3 [~~and~~], 486J-4, or 486J-A can
21 be identified; or



1 (3) Permit anyone to examine the individual reports
2 provided under [~~sections~~] section 486J-3 [~~and~~],
3 486J-4, or 486J-A other than the department of
4 taxation, public utilities commission, the attorney
5 general, and the consumer advocate, and the authorized
6 representatives and employees of each."

7 SECTION 11. Section 486J-7, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§486J-7 Confidential information obtained by another**
10 **state agency.** Any confidential information pertinent to the
11 responsibilities of the [~~commissioner~~] director specified in
12 this chapter that is obtained by another state agency, including
13 the department of taxation, the public utilities commission, the
14 attorney general, and the consumer advocate, shall be available
15 to the attorney general, the attorney general's authorized
16 representatives, and the [~~commissioner~~] director, and shall be
17 treated in a confidential manner."

18 SECTION 12. Section 486J-8, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§486J-8 Sharing of information obtained by the**
21 [~~commissioner~~] director. The [~~commissioner~~] director shall
22 make all information obtained by the [~~commissioner~~] director



1 under this chapter, including confidential information,
2 available to the attorney general, the department of taxation,
3 the public utilities commission, the consumer advocate, and the
4 authorized representative of each, who shall safeguard the
5 confidentiality of all confidential information received."

6 SECTION 13. Section 486J-9, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§486J-9 Failure to timely provide information; failure to**
9 **make and file statements; false statements; penalties; referral**
10 **to the attorney general.** (a) The [~~petroleum commissioner~~]
11 director shall notify those persons who have failed to timely
12 provide the information specified in section 486J-3 [~~or~~],
13 486J-4, or 486J-A, or requested by the [~~commissioner~~] director
14 under section 486J-3 [~~or~~], 486J-4, or 486J-A. If, within
15 five business days after being notified of the failure to
16 provide the specified or requested information, the person fails
17 to supply the specified or requested information, the person
18 shall be subject to a civil penalty of not less than \$50,000 per
19 day nor more than \$100,000 per day for each day the submission
20 of information is refused or delayed[~~, unless the person has~~
21 ~~timely filed objections with the commissioner regarding the~~
22 ~~information and the commissioner has held a hearing and,~~



1 ~~following a ruling by the commissioner, the person has properly~~
2 ~~submitted the issue to a court of competent jurisdiction for~~
3 ~~review].~~

4 (b) Any person who wilfully makes any false statement,
5 representation, or certification in any record, report, plan, or
6 other document filed with the [~~commissioner~~] director shall be
7 subject to a civil penalty not to exceed \$500,000, and shall be
8 deemed to have committed an unfair or deceptive act or practice
9 in the conduct of a trade or commerce and subject to the
10 penalties specified in chapter 480.

11 (c) The [~~commissioner~~] director shall refer any matter
12 under [~~this~~] subsection (a) or (b) to the attorney general, who
13 may exercise any appropriate legal or equitable remedies that
14 may be available to the State.

15 [~~(e)~~] (d) For the purposes of this section, "person"
16 means, in addition to the definition contained in section 486J-
17 1, any responsible corporate officer."

18 SECTION 14. Section 486J-10, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending subsection (a) to read:

21 "(a) The [~~commissioner~~] director shall adopt rules in
22 accordance with chapter 91 to require that gasoline sold in the



1 [~~State~~] state for use in motor vehicles contain ten per cent
2 ethanol by volume. The amounts of gasoline sold in the [~~State~~]
3 state containing ten per cent ethanol shall be in accordance
4 with rules as the [~~commissioner~~] director may deem appropriate.
5 The [~~commissioner~~] director may authorize the sale of gasoline
6 that does not meet these requirements as provided in subsection
7 (d)."

8 2. By amending subsections (d), (e), and (f) to read:

9 "(d) The [~~commissioner~~] director may authorize the sale of
10 gasoline that does not meet the [~~provisions~~] requirements of
11 this section:

12 (1) To the extent that sufficient quantities of
13 competitively-priced ethanol are not available to meet
14 the minimum requirements of this section; or

15 (2) In the event of any other circumstances for which the
16 [~~commissioner~~] director determines compliance with
17 this section would cause undue hardship.

18 (e) Each distributor, at such reporting dates as the
19 [~~commissioner~~] director may establish, shall file with the
20 [~~commissioner,~~] director on forms prescribed, prepared, and
21 furnished by the [~~commissioner,~~] director, a certified statement
22 showing:



- 1 (1) The price and amount of ethanol available;
- 2 (2) The amount of ethanol-blended fuel sold by the
- 3 distributor;
- 4 (3) The amount of non-ethanol-blended gasoline sold by the
- 5 distributor; and
- 6 (4) Any other information the [~~commissioner~~] director
- 7 shall require for the purposes of compliance with this
- 8 section.

9 (f) Provisions with respect to confidentiality of
10 information shall be the same as provided in [~~section~~] sections
11 486J-6 and 486J-7."

12 3. By amending subsection (h) to read:

13 "(h) The [~~commissioner,~~] director, in accordance with
14 chapter 91, shall adopt rules for the administration and
15 enforcement of this section."

16 SECTION 15. Section 486J-12, Hawaii Revised Statutes, is
17 repealed.

18 [~~"§486J-12 Rules. The commissioner shall adopt, amend, or~~
19 ~~repeal such rules as [the commissioner] may deem proper to fully~~
20 ~~effectuate this chapter."~~]

21 SECTION 16. There is appropriated out of the petroleum
22 industry monitoring, analysis, and reporting special fund the



1 sum of \$ or so much thereof as may be necessary for
2 fiscal year 2006-2007 to implement the petroleum industry
3 monitoring, analysis, and reporting program established under
4 chapter 486J, Hawaii Revised Statutes.

5 The sum appropriated shall be expended by the department of
6 business, economic development, and tourism for the purposes of
7 this Act.

8 SECTION 17. There is appropriated out of the petroleum
9 industry monitoring, analysis, and reporting special fund the
10 sum of \$ or so much thereof as may be necessary for
11 fiscal year 2006-2007 for full-time equivalent positions
12 in the public utilities commission to implement and operate the
13 petroleum price control program established by chapter 486H,
14 Hawaii Revised Statutes.

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

17 SECTION 18. (a) The legislature recognizes the effort of
18 the Hawaii energy policy forum, convened by the University of
19 Hawaii in May 2002, in working to achieve the objective of
20 creating a single integrated energy strategy and that the
21 forum's efforts are invaluable and should continue.



1 (b) There is appropriated out of the petroleum industry
2 monitoring, analysis, and reporting special fund the sum of
3 \$100,000 or so much thereof as may be necessary for fiscal year
4 2006-2007 to support the Hawaii energy policy forum.

5 The sum appropriated shall be expended by the department of
6 business, economic development, and tourism for the purposes of
7 this Act.

8 SECTION 19. There is appropriated out of the environmental
9 response revolving fund the sum of \$ or so much thereof
10 as may be necessary for fiscal year 2006-2007 to be deposited in
11 the petroleum industry monitoring, analysis, and reporting
12 special fund for the purposes of this Act.

13 The sum appropriated shall be expended by the department of
14 business, economic development, and tourism for the purposes of
15 this Act.

16 SECTION 20. In codifying the new sections added by section
17 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 21. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 22. This Act shall take effect on July 1, 2006.

2

INTRODUCED BY:

[Signature]

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JAN 20 2006



HB 2062

Report Title:

Petroleum Industry; Reporting System; Special Fund

Description:

Expands petroleum industry reporting requirements under the Petroleum Industry Monitoring, Analysis, and Reporting Program administered by DBEDT; Establishes the Petroleum Industry Monitoring, Analysis, and Reporting Special Fund funded by an appropriation from the Environmental Response Revolving Fund.

