
A BILL FOR AN ACT

RELATING TO GASOLINE PRICING.

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

1 SECTION 1. Section 486H-1 , Hawaii Revised Statutes, is
2 amended by deleting the definitions of "commission",
3 "independent retail station", "non-refiner marketer", "pre-tax",
4 and "self-serve basis".

5 ~~["Commission" means the public utilities commission.~~

6 ~~"Independent retail station" means a retail service station~~
7 ~~not owned by a manufacturer or jobber and operated by a~~
8 ~~qualified gasoline dealer.~~

9 ~~"Non-refiner marketer" means any person who acquires~~
10 ~~gasoline for sale in the State of Hawaii, and who is not a~~
11 ~~refiner located and operating in the State of Hawaii, nor an~~
12 ~~importer owned by or affiliated with, directly or indirectly, by~~
13 ~~a refiner located and operating in the State of Hawaii.~~

14 ~~"Pre-tax" when used in reference to a price means such~~
15 ~~price net of the fuel related or other taxes assessed when the~~
16 ~~gasoline is sold.~~

17 ~~"Self-serve basis" means that the retail station allows~~
18 ~~customers to dispense gasoline into vehicles."]~~



1 SECTION 2. Section 486H-13, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§486H-13 Maximum pre tax wholesale price for the sale of~~
4 ~~gasoline, civil actions. (a) Notwithstanding any law to the~~
5 ~~contrary, no manufacturer, wholesaler, or jobber may sell~~
6 ~~regular unleaded, mid grade, or premium gasoline to a dealer~~
7 ~~retail station, an independent retail station, or to another~~
8 ~~jobber or wholesaler at a price above the maximum pre tax~~
9 ~~wholesale prices established pursuant to subsection (b). The~~
10 ~~commission shall publish the maximum pre tax wholesale prices by~~
11 ~~means that shall include the Internet website for the State of~~
12 ~~Hawaii.~~

13 ~~(b) On a weekly basis, the commission shall determine the~~
14 ~~maximum pre tax wholesale price of regular unleaded, mid grade,~~
15 ~~and premium gasoline as follows: the maximum pre tax wholesale~~
16 ~~price of regular unleaded gasoline shall consist of the baseline~~
17 ~~price for regular unleaded gasoline, plus the location~~
18 ~~adjustment factor, the marketing margin factor, and the zone~~
19 ~~price adjustment, and for mid grade and premium gasoline, the~~
20 ~~applicable mid grade and premium adjustment factor, such that~~
21 ~~the maximum pre tax wholesale gasoline prices reflect and~~
22 ~~correlate with competitive market conditions.~~

1 ~~(c) The baseline price for regular unleaded gasoline~~
2 ~~referred to in subsection (b) shall be determined on a weekly~~
3 ~~basis and shall be equal to the average of:~~

4 ~~(1) The weekly average of the spot daily price for regular~~
5 ~~unleaded gasoline for Los Angeles;~~

6 ~~(2) The weekly average of the spot daily price for regular~~
7 ~~unleaded gasoline for New York Harbor; and~~

8 ~~(3) The weekly average of the spot daily price for regular~~
9 ~~unleaded gasoline for the United States Gulf Coast;~~

10 ~~as reported and published by the Oil Price Information Service~~
11 ~~for the five business days of the preceding week; provided that~~
12 ~~the commission, in its discretion, may determine a more~~
13 ~~appropriate baseline or a more appropriate price information~~
14 ~~reporting service.~~

15 ~~(d) The location adjustment factor referred to in~~
16 ~~subsection (b) shall be \$.04 per gallon or as otherwise~~
17 ~~determined by the commission and shall thereafter be subject to~~
18 ~~adjustment pursuant to section 486H-16(a).~~

19 ~~(e) The marketing margin factor referred to in subsection~~
20 ~~(b) shall be \$.18 per gallon or as otherwise determined by the~~
21 ~~commission and shall thereafter be subject to adjustment~~
22 ~~pursuant to section 486H-16(a).~~



1 ~~(f) The mid grade adjustment factor shall be \$.05 per~~
2 ~~gallon or as otherwise determined by the commission and shall~~
3 ~~thereafter be subject to adjustment pursuant to section 486H-~~
4 ~~16(a).~~

5 ~~(g) The premium adjustment factor shall be \$.09 per gallon~~
6 ~~or as otherwise determined by the commission and shall~~
7 ~~thereafter be subject to adjustment pursuant to section 486H-~~
8 ~~16(a).~~

9 ~~(h) For purposes of this chapter, the State shall be~~
10 ~~divided into the following zones:~~

11 ~~(1) Zone 1 shall include the island of Oahu;~~

12 ~~(2) Zone 2 shall include the island of Kauai;~~

13 ~~(3) Zone 3 shall include the island of Maui, except the~~
14 ~~district of Hana;~~

15 ~~(4) Zone 4 shall include the district of Hana on the~~
16 ~~island of Maui;~~

17 ~~(5) Zone 5 shall include the island of Molokai;~~

18 ~~(6) Zone 6 shall include the island of Lanai;~~

19 ~~(7) Zone 7 shall include the districts of Puna, south~~
20 ~~Hilo, north Hilo, and Hamakua on the island of Hawaii;~~
21 ~~and~~



1 ~~(8) Zone 8 shall include the districts of north Kohala,~~
2 ~~south Kohala, north Kona, south Kona, and Kau on the~~
3 ~~island of Hawaii.~~

4 ~~(i) The commission shall establish zone price adjustments~~
5 ~~to the maximum pre tax wholesale regular unleaded, mid grade,~~
6 ~~and premium gasoline prices on a zone by zone basis.~~

7 ~~(j) Every manufacturer, wholesaler, or jobber, upon the~~
8 ~~request of the commission, shall furnish to the commission, in~~
9 ~~the form requested, all documents, data, and information the~~
10 ~~commission may require to make its determination on zone price~~
11 ~~adjustments. Any person who refuses or fails to comply with a~~
12 ~~request for information by the commission shall be subject to a~~
13 ~~fine of up to \$50,000 per day. Each day a violation continues~~
14 ~~shall constitute a separate offense.~~

15 ~~(k) The maximum pre tax wholesale gasoline price imposed~~
16 ~~by this section shall take effect on September 1, 2005,~~
17 ~~notwithstanding the lack of the adoption of rules pursuant to~~
18 ~~this section.~~

19 ~~(l) Any manufacturer, wholesaler, or jobber who knowingly~~
20 ~~violates any requirement imposed or rule adopted under this~~
21 ~~section, except for subsection (j), shall be subject to a civil~~
22 ~~penalty, for each violation, equal to three times the amount of~~



1 ~~the overcharge or \$250,000, whichever is greater, and shall be~~
2 ~~liable for the costs of the action and reasonable attorney's~~
3 ~~fees as determined by the court. Within two years from the date~~
4 ~~the commission obtains actual knowledge of the violation, the~~
5 ~~commission may institute a civil action in a court of competent~~
6 ~~jurisdiction to collect the civil penalty, the costs, and~~
7 ~~attorney's fees. In the case of ongoing violation, the two year~~
8 ~~period shall start from the date of the last violation. The~~
9 ~~commission may refer any such action to the attorney general as~~
10 ~~it deems appropriate. As used in this subsection, "overcharge"~~
11 ~~means the number of gallons of gasoline sold, times the~~
12 ~~wholesale price at which the manufacturer or jobber sold regular~~
13 ~~unleaded, mid grade, or premium gasoline to a dealer retail~~
14 ~~station, an independent retail station, or another jobber or~~
15 ~~wholesaler, less taxes assessed, less the maximum pre tax~~
16 ~~wholesale price established pursuant to subsection (b).~~

17 ~~(m) The commission shall have the power to determine the~~
18 ~~extent to which a manufacturer, wholesaler, or jobber is~~
19 ~~complying with any requirement imposed or rule adopted under~~
20 ~~this section, including the power to compel a manufacturer,~~
21 ~~wholesaler, or jobber to submit documents, data, and information~~
22 ~~necessary and appropriate for the commission to determine such~~



1 ~~compliance. The commission may use data collected by the~~
2 ~~department of business, economic development, and tourism~~
3 ~~pursuant to chapter 486J, as well as obtain the assistance of~~
4 ~~that department in determining such compliance.~~

5 ~~(n) The commission shall report to the governor and the~~
6 ~~legislature, in a timely manner, on any significant aberrations,~~
7 ~~trends, or conditions that may adversely impact the gasoline~~
8 ~~consumers in the State.~~

9 ~~(o) The commission shall adopt rules pursuant to chapter~~
10 ~~91 as may be necessary to implement this section and section~~
11 ~~486H-16."]~~

12 SECTION 3. Sections 486H-15, 486H-16, and 486H-17 Hawaii
13 Revised Statutes, are repealed.

14 [~~§486H-15 Governor's emergency powers. (a)~~
15 ~~Notwithstanding any law to the contrary, the governor may~~
16 ~~suspend, in whole or in part, section 486H-13 or any rule~~
17 ~~adopted pursuant to that section whenever the governor issues a~~
18 ~~written determination that strict compliance with the section or~~
19 ~~a rule will cause a major adverse impact on the economy, public~~
20 ~~order, or the health, welfare, or safety of the people of~~
21 ~~Hawaii. In the written determination, the governor shall state~~
22 ~~the specific provision of the section or rule that strict~~



1 ~~compliance with will cause a major adverse impact on the~~
2 ~~economy, public order, or the health, welfare, or safety of the~~
3 ~~people of the State, along with specific reasons for that~~
4 ~~determination. The governor shall publish this determination in~~
5 ~~accordance with section 1-28.5. The suspension shall take~~
6 ~~effect upon issuance of the written determination by the~~
7 ~~governor.~~

8 ~~(b) Except as provided in subsection (c), the suspension~~
9 ~~under subsection (a) shall remain in effect until the earlier~~
10 ~~of:~~

11 ~~(1) The adjournment of the next regular or special session~~
12 ~~of the legislature; or~~

13 ~~(2) The effective date of any legislative enactment~~
14 ~~intended to address the major adverse impact;~~
15 ~~provided that if the legislature has passed legislation to~~
16 ~~address the major adverse impact, and the governor vetoes the~~
17 ~~presented legislation, the suspension shall terminate on the~~
18 ~~date of that veto, and the maximum pre tax wholesale gasoline~~
19 ~~prices in effect immediately prior to the issuance of the~~
20 ~~written determination by the governor shall take effect on the~~
21 ~~day after the date of the veto; and provided further that if no~~
22 ~~action is taken by the legislature during the regular or special~~



1 ~~session to address the major adverse impact, then the maximum~~
2 ~~pre tax wholesale gasoline prices in effect immediately prior to~~
3 ~~the issuance of the written determination by the governor shall~~
4 ~~take effect on the day after adjournment sine die of the regular~~
5 ~~or special session.~~

6 ~~(c) If the written determination is issued while the~~
7 ~~legislature is in session, the suspension under subsection (a)~~
8 ~~shall remain in effect until the earlier of:~~

9 ~~(1) The adjournment of that session of the legislature; or~~

10 ~~(2) The effective date of any legislative enactment~~

11 ~~intended to address the major adverse impact;~~

12 ~~provided that if the legislature has passed legislation to~~

13 ~~address the major adverse impact, and the governor vetoes the~~

14 ~~presented legislation, the suspension shall terminate on the~~

15 ~~date of that veto, and the maximum pre tax wholesale gasoline~~

16 ~~prices in effect immediately prior to the issuance of the~~

17 ~~written determination by the governor shall take effect on the~~

18 ~~day after the date of the veto; and provided further that if no~~

19 ~~action is taken by the legislature during the regular or special~~

20 ~~session to address the major adverse impact, then the maximum~~

21 ~~pre tax wholesale gasoline prices in effect immediately prior to~~

22 ~~the issuance of the written determination by the governor shall~~



1 ~~take effect on the day after adjournment sine die of the regular~~
2 ~~or special session."~~

3 ~~§486H-16 Adjustments. (a) A manufacturer, wholesaler, or~~
4 ~~jobber may petition the commission to adjust the maximum pre tax~~
5 ~~wholesale price of regular unleaded, mid grade, or premium~~
6 ~~gasoline in the event of a change in the value of the baseline~~
7 ~~price for regular unleaded gasoline, the location adjustment~~
8 ~~factor, the marketing margin factor, the mid grade adjustment~~
9 ~~factor, the premium adjustment factor, or a zone price~~
10 ~~adjustment. The petitioner shall bear the burden of proof to~~
11 ~~establish by clear and convincing evidence the need for and the~~
12 ~~amount of any adjustment. The adjustments shall be determined~~
13 ~~as follows:~~

14 ~~(1) The value of the baseline price shall be equal to the~~
15 ~~average of:~~

16 ~~(A) The weekly average of the spot daily price for~~
17 ~~regular unleaded gasoline for Los Angeles;~~

18 ~~(B) The weekly average of the spot daily price for~~
19 ~~regular unleaded gasoline for New York Harbor;~~

20 ~~and~~



1 ~~(C) The weekly average of the spot daily price for~~
2 ~~regular unleaded gasoline for the United States~~
3 ~~Gulf Coast,~~
4 ~~as reported and published by the Oil Price Information~~
5 ~~Service for the five business days of the preceding~~
6 ~~week; provided that the commission, in its discretion,~~
7 ~~may determine a more appropriate baseline or a more~~
8 ~~appropriate price information reporting service;~~

9 ~~(2) The value of the location adjustment factor in effect~~
10 ~~at the time the petition is filed shall be adjusted to~~
11 ~~reflect the average of the actual acquisition cost to~~
12 ~~non-refiner marketers to obtain gasoline from refiners~~
13 ~~or importers for sale on the island of Oahu over the~~
14 ~~prior twelve month period, which cost shall be taken~~
15 ~~from arm's length transactions between non-refiner~~
16 ~~marketers, and refiners or importers, such as exchange~~
17 ~~agreements, sales agreements, or other similar~~
18 ~~agreements; provided that the location adjustment~~
19 ~~factor shall not exceed the reasonable cost of~~
20 ~~importing gasoline to the island of Oahu. As used in~~
21 ~~this paragraph, "actual acquisition cost" means the~~
22 ~~amount over the base price of regular unleaded~~



1 ~~gasoline that a non-refiner marketer pays to a third~~
2 ~~party for delivery of such gasoline into a terminal~~
3 ~~located on the island of Oahu;~~

4 ~~(3) The value of the marketing margin factor in effect at~~
5 ~~the time the petition is filed shall be adjusted by~~
6 ~~adding to such value the difference between:~~

7 ~~(A) The average of the difference over the prior~~
8 ~~twelve month period between:~~

9 ~~(i) The dealer tank wagon price for sales for~~
10 ~~resale for "regular" gasoline; and~~

11 ~~(ii) The bulk price for sales for resale for~~
12 ~~"regular" gasoline,~~

13 ~~for Petroleum Administration for Defense (PAD)~~
14 ~~District V, as reported and published by the~~

15 ~~Energy Information Administration or its~~
16 ~~successor in Table 31 "Motor Gasoline Prices by~~

17 ~~Grade, Sales Type, PAD District, and State" or~~
18 ~~other source containing the same information;~~

19 ~~less~~

20 ~~(B) The average of the difference over the period~~
21 ~~from 1994 until the most current year between:~~



- 1 ~~(i) The dealer tank wagon price for sales for~~
2 ~~resale for "regular" gasoline; and~~
- 3 ~~(ii) The bulk price for sales for resale for~~
4 ~~"regular" gasoline,~~
5 ~~for Petroleum Administration for Defense (PAD)~~
6 ~~District V, as reported and published by the~~
7 ~~Energy Information Administration or its~~
8 ~~successor in Table 31 "Motor Gasoline Prices by~~
9 ~~Grade, Sales Type, PAD District, and State" or~~
10 ~~other source containing the same information;~~
- 11 ~~(4) The value of the mid grade and premium adjustment~~
12 ~~factors in effect at the time the petition is filed~~
13 ~~shall be adjusted by any material change in the mid-~~
14 ~~grade and premium adjustment factor as published by an~~
15 ~~appropriate price information reporting service; and~~
- 16 ~~(5) The value of any zone price adjustment in effect at~~
17 ~~the time the petition is filed shall be adjusted based~~
18 ~~upon material changes in the operating costs for a~~
19 ~~zone, such as terminaling, storage, or distribution~~
20 ~~costs, and other empirical data the commission deems~~
21 ~~appropriate.~~



1 ~~(b) If the commission adjusts the maximum pre tax~~
2 ~~wholesale gasoline prices, the commission shall publish its~~
3 ~~findings and the adjusted prices by means that shall include the~~
4 ~~Internet website for the State of Hawaii.~~

5 ~~(c) Regardless of whether a petition has been filed and~~
6 ~~notwithstanding a determination of the adjustments made pursuant~~
7 ~~to subsection (a), the commission, in its discretion, may make~~
8 ~~such other and further adjustments deemed necessary and~~
9 ~~appropriate to establish maximum pre tax wholesale gasoline~~
10 ~~prices that reflect and correlate with competitive market~~
11 ~~conditions.~~

12 ~~[\$496H 17] Restricting supply of petroleum products. The~~
13 ~~attorney general shall immediately investigate any shortage or~~
14 ~~condition affecting the supply of any petroleum products or~~
15 ~~other matters relating to the requirements of this chapter and~~
16 ~~shall institute all appropriate criminal and civil actions and~~
17 ~~pursue all legal and equitable remedies that may be available to~~
18 ~~the State. The attorney general shall submit a report to the~~
19 ~~legislature regarding any shortage or condition affecting the~~
20 ~~supply of petroleum products."]~~

21 SECTION 4. Statutory material to be repealed is bracketed
22 and stricken.



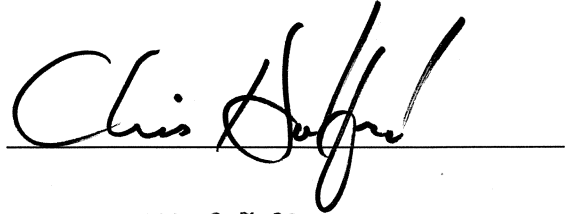
H.B. NO. 3010

1 SECTION 5. This Act shall take effect upon its approval.

2

3

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Chris Hefner", is written over a horizontal line.

JAN 25 2006



HB 3010

Report Title:

Gas Cap

Description:

Repeals the gas cap.

HB HMIA 98-2006

