

JAN 25 2006

S.B. NO. 3165

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
2 and allocation of adequate resources for a vigorous state
3 watchdog system to monitor and oversee the petroleum industry
4 and gasoline market is a prerequisite to fully implementing the
5 regulation of gasoline pricing. The monitoring of fuel prices,
6 volumes, and industry data on costs and profits, and the
7 subsequent analysis and reporting of this information to
8 enforcement agencies, such as the public utilities commission
9 and the departments of the attorney general and taxation, are
10 critical components in the ability of each agency to carry out
11 the regulation of gasoline prices.

12 Most importantly, the legislature finds that current global
13 energy supplies cannot keep pace with the increased global
14 demands for energy. The growing economies of China and India
15 place Hawaii in a very vulnerable position as we all compete for
16 the same fossil fuel resources. Further, with many oil-
17 producing countries facing political instability and sensitive
18 diplomatic relations, Hawaii's deep dependency on imported



1 fossil fuels leaves it reliant on factors it cannot control that
2 affect its energy security and economy.

3 The legislature also finds that a holistic approach is
4 needed to ensure that improvements in one area of Hawaii's
5 energy system do not cause deterioration in another. For
6 instance, replacing residual oil with liquefied natural gas to
7 produce electricity and incorporating ethanol blending are
8 examples of policies that may cause financial difficulties for
9 existing industry participants but may be beneficial to the
10 State's economy overall.

11 An integrated energy strategy will give the legislature and
12 other policy makers a broad range of policy options, including
13 improved planning and enhanced data collection and monitoring to
14 support the development of a long-term plan with realistic
15 goals. An integrated energy strategy with long-range objectives
16 may also lead to an improved investment climate. Such a plan
17 will also greatly improve strategic partnerships. Additionally,
18 developing an integrated energy strategy will allow the State to
19 pursue meaningful investment strategies and technology options.

20 Under section 196-4, Hawaii Revised Statutes, the
21 responsibility for long-range planning and coordination of the
22 State's energy systems falls under the director of business,



1 economic development, and tourism, in the director's role as the
2 energy resources coordinator. One of the coordinator's
3 responsibilities is to complete periodic strategic assessments
4 of Hawaii's energy needs and recommend policies and programs to
5 achieve the State's long-term energy objectives found in section
6 226-18, Hawaii Revised Statutes. The development of a single
7 integrated state energy strategy is consistent with this
8 responsibility.

9 The purposes of this Act are to:

- 10 (1) Establish the petroleum industry monitoring, analysis,
11 and reporting special fund, to be funded from the
12 environmental response revolving fund;
- 13 (2) Require the public utilities commission to develop and
14 maintain the petroleum industry monitoring, analysis,
15 and reporting system, including an automated petroleum
16 industry information reporting system;
- 17 (3) Redelineate the types of information that the
18 petroleum industry must submit to the public utilities
19 commission; and
- 20 (4) Make appropriations out of the petroleum industry
21 monitoring, analysis, and reporting special fund to be
22 expended by the:



1 (A) Department of business, economic development, and
2 tourism to continue support for the Hawaii energy
3 policy forum;

4 (B) Public utilities commission to establish the
5 petroleum industry monitoring, analysis, and
6 reporting program and to continue to operate the
7 petroleum price control program established by
8 chapter 486H, Hawaii Revised Statutes.

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

12 "§486J-A Informational cost reports. (a) Each refiner,
13 at such reporting dates as the chairperson may establish, shall
14 file with the chairperson, on forms prescribed, prepared, and
15 furnished by the chairperson, a certified statement of operating
16 and overhead costs for the refiner's Hawaii operations, which
17 shall include but not be limited to the following:

- 18 (1) Crude oil costs;
- 19 (2) Other feedstock costs;
- 20 (3) Refinery operating expenses;
- 21 (4) Marketing operating expenses;
- 22 (5) Distribution expenses; and

1 (6) Corporate overhead expenses.

2 (b) In addition to the reporting required under subsection

3 (a), each distributor shall file with the chairperson all

4 Securities and Exchange Commission Forms 10-K, 10-Q, annual

5 reports, quarterly reports, and earnings supplements published

6 by the distributor.

7 (c) Each distributor, except a distributor who is so

8 defined solely by criteria in paragraph (4) of that definition

9 in section 486J-1, who sells liquid fuel only at retail and is

10 not a refiner, shall file with the chairperson, at such

11 reporting dates as the chairperson may establish, on forms

12 prescribed, prepared, and furnished by the chairperson, a

13 certified statement of operating and overhead costs, that shall

14 include the following:

15 (1) Gasoline purchases;

16 (2) Diesel purchases;

17 (3) Marketing expenses; and

18 (4) Distribution expenses.

19 **§486J-B Petroleum industry information reporting system.**

20 The commission shall develop and maintain an automated petroleum

21 industry information reporting system that meets the

22 requirements of government, industry, and the public while



1 promoting sound policy making and consumer information and
2 protection. The purpose of the petroleum industry information
3 reporting system is to conduct and facilitate the efficient
4 reporting analysis of information described in section 486J-5.
5 The commission shall develop the petroleum industry information
6 reporting system in a manner that will result in greater market
7 transparency and provide useful information to those agencies
8 that are authorized to conduct oversight of the petroleum
9 industry and ensure compliance with all relevant laws.

10 **§486J-C Petroleum industry monitoring, analysis, and**
11 **reporting special fund; environment response revolving fund.**

12 (a) There is established a petroleum industry monitoring,
13 analysis, and reporting special fund to be administered by the
14 commission.

15 (b) The legislature may make appropriations from the
16 environmental response revolving fund, established pursuant to
17 section 128D-2, not to exceed \$2,000,000, in any fiscal year,
18 for the petroleum industry monitoring, analysis, and reporting
19 special fund.

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

21 (1) Administer the petroleum industry information
22 reporting program pursuant to this chapter;



- 1 (2) Implement and maintain the gasoline price control
- 2 program established by chapter 486H;
- 3 (3) Develop a single integrated state energy strategy
- 4 under the guidance of the energy resources
- 5 coordinator; and
- 6 (4) Fund the State's share in any matching grant program
- 7 that advances the State's energy policy and energy
- 8 strategy."

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

11 **"§128D-2 Environmental response revolving fund; uses. (a)**
 12 There is created within the state treasury an environmental
 13 response revolving fund[~~which~~] that shall consist of moneys
 14 appropriated to the fund by the legislature, moneys paid to the
 15 fund as a result of departmental compliance proceedings, moneys
 16 paid to the fund pursuant to court-ordered awards or judgments,
 17 moneys paid to the fund in court-approved or out-of-court
 18 settlements, all interest attributable to investment of money
 19 deposited in the fund, moneys generated by the environmental
 20 response tax established in section 243-3.5, and moneys allotted
 21 to the fund from other sources; provided that when the total
 22 balance of the fund exceeds \$20,000,000, the department of



1 health shall notify the department of taxation of this fact in
2 writing within ten days. The department of taxation then shall
3 notify all distributors liable for collecting the tax imposed by
4 section 243-3.5 of this fact in writing, and the imposition of
5 the tax shall be discontinued beginning the first day of the
6 second month following the month in which notice is given to the
7 department of taxation. If the total balance of the fund
8 thereafter declines to less than \$3,000,000, the department of
9 health shall notify the department of taxation, which ~~[then]~~
10 shall then notify all distributors liable for collecting the tax
11 imposed by section 243-3.5 of this fact in writing, and the
12 imposition of the tax shall be reinstated beginning the first
13 day of the second month following the month in which notice is
14 given to the department of taxation.

15 (b) Moneys from the fund shall be expended by the
16 department for response actions and preparedness, including
17 removal and remedial actions, consistent with this chapter;
18 provided that the revenues generated by the [~~"environmental~~
19 ~~response tax"~~] environmental response tax and deposited into the
20 environmental response revolving fund:

21 (1) Shall also be used:



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1 (A) For oil spill planning, prevention, preparedness,
2 education, research, training, removal, and
3 remediation; and

4 (B) For direct support for county used oil recycling
5 programs; and

6 (2) May also be used to support environmental protection
7 and natural resource protection programs, including
8 but not limited to energy conservation and alternative
9 energy development, and to address concerns related to
10 air quality, global warming, clean water, polluted
11 runoff, solid and hazardous waste, drinking water, and
12 underground storage tanks, including support for the
13 underground storage tank program of the department,
14 and funding for the acquisition by the State of a soil
15 remediation site and facility.

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

20 (1) Administer the petroleum industry information
21 reporting program pursuant to chapter 486J;



- 1 (2) Implement and maintain the gasoline price control
- 2 program established by chapter 486H;
- 3 (3) Develop a single integrated state energy strategy
- 4 under the guidance of the energy resources
- 5 coordinator; and
- 6 (4) Fund the State's share in any matching grant program
- 7 that advances the State's energy policy and energy
- 8 strategy."

9 SECTION 4. Section 486J-1, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By adding six new definitions to be appropriately
12 inserted and to read:

13 "Chairperson" means the chairperson of the public
14 utilities commission."

15 "Classes of retail trade" means the separate subdivisions,
16 or "classes", of outlets or methods of retail sales of liquid
17 fuels, typically but not limited to gasoline and diesel for
18 motor vehicles, and includes any:

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



1 (2) Lessee dealer-operated station that is a retail
2 service station owned by a refiner or wholesale
3 distributor and operated by a qualified gasoline
4 dealer other than a refiner or wholesale distributor
5 under a franchise; or

6 (3) Owner-operated station that is a retail service
7 station not owned by a refiner or wholesale
8 distributor and operated by a qualified gasoline
9 dealer.

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

14 "Liquid fuel" means fuels in liquid form, commercially
15 usable for energy needs, power generation, and fuels manufacture
16 that may be manufactured, produced, or imported into the State
17 or that may be exported therefrom, including petroleum and
18 petroleum products and all fuel alcohols.

19 "Public utilities commission" or "commission" means the
20 public utilities commission established in section 269-2.

21 "Wholesale liquid fuel prices" means the prices at which
22 liquid fuel is sold at wholesale for resale at wholesale or



1 retail, typically but not limited to gasoline and diesel for
2 motor vehicles, and includes:

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

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

12 (3) "Dealer tank wagon price" means the wholesale price at
13 which liquid fuel is sold to any retail outlet by any
14 distributor priced on a delivered basis to a retail
15 outlet."

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

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

19 (1) Every person who refines, manufactures, produces, or
20 compounds fuel in the State, and sells it at wholesale
21 or at retail, or who utilizes it directly in the



- 1 manufacture of products or for the generation of
2 power;
- 3 (2) Every person who imports or causes to be imported into
4 the State or exports or causes to be exported from the
5 State, any fuel; [~~and~~]
- 6 (3) Every person who acquires fuel through exchanges with
7 another distributor[~~-~~]; or
- 8 (4) Every person who purchases fuel for resale at
9 wholesale or retail from any person described in
10 paragraph (1), (2), or (3).

11 "Fuel" means [~~and includes~~] fuels whether liquid, solid, or
12 gaseous, commercially usable for energy needs, power generation,
13 and fuels manufacture that may be manufactured, grown, produced,
14 or imported into the State or that may be exported therefrom[~~+~~],
15 including petroleum and petroleum products and gases, coal, coal
16 tar, vegetable ferments, and all fuel alcohols.

17 "Person"[~~7~~] means any person, firm, association,
18 organization, partnership, business trust, corporation, or
19 company. "Person" also includes any city, county, public
20 district or agency, the State or any department or agency
21 thereof, and the United States to the extent authorized by
22 federal law.



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

3 3. By repealing the definition of "petroleum
4 commissioner".

5 [~~"Petroleum commissioner" or "commissioner" means the
6 administrator of the energy, resources, and technology division
7 of the department of business, economic development, and
8 tourism."~~]

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

11 "**§486J-2 Distributors to register.** Every distributor, and
12 any person before becoming a distributor, shall register as such
13 with the [~~commissioner~~] chairperson on forms to be prescribed,
14 prepared, and furnished by the [~~commissioner.~~] chairperson."

15 SECTION 6. Section 486J-3, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§486J-3 Statements.** (a) Each distributor [~~shall~~], at
18 [~~such~~] reporting dates as the [~~commissioner~~] chairperson may
19 establish, shall file with the [~~commissioner,~~] chairperson, on
20 forms prescribed, prepared, and furnished by the [~~commissioner,~~]
21 chairperson, a certified statement showing separately for each
22 county and for the islands of Lanai and Molokai within which and



1 whereon fuel is sold or used during the last preceding reporting
2 period, the following:

3 (1) The total number of gallons or units of fuel refined,
4 manufactured, or compounded by the distributor within
5 the State and sold or used by the distributor, and if
6 for ultimate use in another county or on another
7 island, the name of that county or island;

8 (2) The total number of gallons or units of fuel imported
9 or exported by the distributor or sold or used by the
10 distributor, and if for ultimate use in another county
11 or on another island, the name of that county or
12 island;

13 (3) The total number of gallons or units of fuel sold as
14 liquid fuel, aviation fuel, diesel fuel, and other
15 types of fuel as required by the [~~commissioner~~]
16 chairperson;

17 (4) The total number of gallons or units of fuel and the
18 types thereof sold to: federal, state, and county
19 agencies, ships stores, or base exchanges, commercial
20 agricultural accounts, commercial nonagricultural
21 accounts, retail dealers, and other customers as
22 required by the [~~commissioner~~] chairperson;



1 (5) Monthly weighted average acquisition cost per barrel
2 and volumes of foreign or domestic crude oil or other
3 liquid fuels, finished or unfinished, imported to
4 Hawaii;
5 [~~(5) Monthly Hawaii~~] (6) Weekly weighted average wholesale
6 prices and sales volumes of finished [~~leaded regular,~~
7 unleaded regular, and premium motor gasoline, and of
8 each other grade of gasoline sold [~~through company-~~
9 operated], by island, to retail outlets, [~~to other~~
10 end-users, by class of retail trade, and to wholesale
11 [~~customers,~~ distributors];
12 (7) Weekly weighted average retail prices, and sales
13 volumes of finished unleaded regular and premium motor
14 gasoline, and of each other grade of gasoline sold, by
15 island, by retail distributor outlets of all classes
16 of retail trade and by any distributor to other end-
17 users. The commission may purchase retail price data
18 from data service companies, which the commission may
19 use to substitute some or all data to meet the
20 reporting requirement for retail price data under this
21 section;



1 [~~(6)~~ ~~Monthly Hawaii~~] (8) Weekly weighted average wholesale
2 prices, and sales volumes [~~for residential sales,~~
3 ~~commercial and institutional sales, industrial sales,~~
4 ~~sales through company-operated retail outlets, sales~~
5 ~~to other end-users, and wholesale sales of No. 2~~
6 ~~diesel fuel and No. 2 fuel oil; and] of No. 2 diesel
7 fuel and No. 2 fuel oil, by island, to retail
8 distributor outlets, by class of retail trade, and to
9 all other wholesale distributors. Weighted average
10 wholesale prices and sales volumes shall be reported
11 by type of wholesale liquid fuel price;
12 (9) Weekly weighted average retail prices, and sales
13 volumes of No. 2 diesel fuel and No. 2 fuel oil sold,
14 by island, by retail distributor outlets of all
15 classes of retail trade and by any distributor to
16 other end-users. The commission may purchase retail
17 price data from data service companies, which the
18 commission may use to substitute some or all data to
19 meet the reporting requirement for retail price data
20 under this section; 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,]~~ chairperson, at a time and in a form as the
18 ~~[commissioner]~~ chairperson shall prescribe, information
19 including 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~~ chairperson may request
2 additional information as and when ~~[the commissioner]~~ the
3 chairperson deems necessary to perform ~~[the commissioner's]~~
4 the chairperson's responsibilities under this chapter."

5 SECTION 7. 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,~~ chairperson, in such form as
10 the ~~commissioner~~ chairperson shall prescribe, information
11 ~~[which]~~ 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~~ chairperson 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]~~ chairperson may request additional
 10 information as and when ~~[the commissioner]~~ the chairperson
 11 deems it necessary to perform ~~[the commissioner's]~~ the
 12 chairperson's responsibilities under this chapter."

13 SECTION 8. 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,~~
 17 chairperson, with the ~~[commissioner's]~~ chairperson's own staff
 18 and other support staff with expertise and experience in, or
 19 with, the petroleum industry, shall gather, analyze, and
 20 interpret the information submitted to it pursuant to sections
 21 486J-3 ~~[and],~~ 486J-4, and 486J-A and other information relating
 22 to the supply and price of petroleum products, with particular



1 emphasis on motor vehicle fuels, including[7] but not limited
2 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[+] and price;
- 6 (2) The economic and environmental impacts of any
7 petroleum and petroleum product shortage or condition
8 affecting supply[+] 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~~ chairperson 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~~ chairperson shall publish
7 annually and submit to the governor and the legislature twenty
8 days prior to the first day of ~~the current~~ each legislative
9 session a summary, including any analysis and interpretation of
10 the information submitted to it pursuant to this chapter, and
11 any other activities taken by the ~~commissioner,~~ chairperson,
12 including civil penalties imposed and referrals of violations to
13 the attorney general under section 486J-9. Any person may
14 submit comments in writing regarding the accuracy or sufficiency
15 of the information submitted. At the option of the ~~director,~~
16 chairperson, this report may be combined with reporting required
17 by section 196-4(11), in the director's role as state energy
18 resources coordinator."

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

21 "**§486J-6 Confidential information.** (a) Confidential
22 commercial information presented to the ~~commissioner~~



1 chairperson pursuant to this chapter shall be held in confidence
2 by the [~~commissioner~~] chairperson or aggregated to the extent
3 necessary to assure confidentiality as governed by chapter 92F,
4 including its penalty provisions.

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

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

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

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

21 (3) Permit anyone to examine the individual reports
22 provided under [~~sections~~] section 486J-3 [~~and~~],



1 486J-4, or 486J-A other than the [~~public utilities~~
2 ~~commission,~~] department of business, economic
3 development, and tourism, department of taxation, the
4 attorney general, and the consumer advocate, and the
5 authorized representatives and employees of each."

6 SECTION 10. Section 486J-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§486J-7 Confidential information obtained by another**
9 **state agency.** Any confidential information pertinent to the
10 responsibilities of the [~~commissioner~~] chairperson specified in
11 this chapter that is obtained by another state agency, including
12 the department of taxation, the [~~public utilities commission,~~
13 department of business, economic development, and tourism, 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~~] chairperson and shall be
17 treated in a confidential manner."

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

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



1 chairperson under this chapter, including confidential
2 information, available to the attorney general, the department
3 of taxation, the [~~public utilities commission,~~] department of
4 business, economic development, and tourism, the consumer
5 advocate, and the authorized representative of each, who shall
6 safeguard the confidentiality of all confidential information
7 received."

8 SECTION 12. Section 486J-9, Hawaii Revised Statutes, is
9 amended to read as follows:

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



1 ~~timely filed objections with the commissioner regarding the~~
2 ~~information and the commissioner has held a hearing and,~~
3 ~~following a ruling by the commissioner, the person has properly~~
4 ~~submitted the issue to a court of competent jurisdiction for~~
5 ~~review].~~

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

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

17 [~~(e)~~] (d) For the purposes of this section, "person"
18 means, in addition to the definition contained in section 486J-
19 1, any responsible corporate officer."

20 SECTION 13. Section 486J-10, Hawaii Revised Statutes, is
21 amended as follows:

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



1 "(a) The [~~commissioner~~] chairperson shall adopt rules in
2 accordance with chapter 91 to require that gasoline sold in the
3 State for use in motor vehicles contain ten per cent ethanol by
4 volume. The amounts of gasoline sold in the State containing
5 ten per cent ethanol shall be in accordance with rules as the
6 [~~commissioner~~] chairperson may deem appropriate. The
7 [~~commissioner~~] chairperson may authorize the sale of gasoline
8 that does not meet these requirements as provided in subsection
9 (d)."

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

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

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

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

19 (e) Each distributor, at such reporting dates as the
20 [~~commissioner~~] chairperson may establish, shall file with the
21 [~~commissioner~~,] chairperson, on forms prescribed, prepared, and



1 furnished by the [~~commissioner,~~] chairperson, a certified
2 statement showing:

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

11 (f) Provisions with respect to confidentiality of
12 information shall be the same as provided in section [~~486J-7.~~]
13 486J-6."

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

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

18 SECTION 14. Section 486J-12, Hawaii Revised Statutes, is
19 repealed.

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



1 SECTION 15. There is appropriated out of the petroleum
2 industry monitoring, analysis, and reporting special fund the
3 sum of \$, or so much thereof as may be necessary for
4 fiscal year 2006-2007, to establish the petroleum industry
5 monitoring, analysis, and reporting program established under
6 chapter 486J, Hawaii Revised Statutes.

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

9 SECTION 16. There is appropriated out of the petroleum
10 industry monitoring, analysis, and reporting special fund the
11 sum of \$, or so much thereof as may be necessary for
12 fiscal year 2006-2007, to operate the petroleum price control
13 program established by chapter 486H, Hawaii Revised Statutes.

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

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

21 (b) There is appropriated out of the petroleum industry
22 monitoring, analysis, and reporting special fund the sum of



1 \$100,000, or so much thereof as may be necessary for fiscal year
2 2006-2007, to support the Hawaii energy policy forum.

3 The sum appropriated shall be expended by the department of
4 business, economic development, and tourism.

5 SECTION 18. There is appropriated out of the environmental
6 response revolving fund the sum of \$, or so much thereof
7 as may be necessary for fiscal year 2006-2007, to be deposited
8 in the petroleum industry monitoring, analysis, and reporting
9 special fund for the purposes of this Act.

10 The sum appropriated shall be expended by the public
11 utilities commission.

12 SECTION 19. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

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

18 SECTION 21. This Act shall take effect on July 1, 2006.

19
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Report Title:

Petroleum Industry; Special Fund; Reporting System;
Appropriation

Description:

Establishes the petroleum industry monitoring, analysis, and reporting special fund to be funded by appropriation from the environmental response revolving fund. Establishes a petroleum industry information reporting system to be maintained by the PUC.

