

JAN 25 2006

---

---

# A BILL FOR AN ACT

RELATING TO GASOLINE.

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

1           SECTION 1. The legislature finds that methyl tertiary-  
2 butyl ether is a chemical not regulated by environmental  
3 regulations in the State and is known to have contaminated  
4 extensive drinking water and groundwater resources nationally.  
5 In July 1999, an Environmental Protection Agency panel  
6 recommended that the use of methyl tertiary-butyl ether, also  
7 known as tert-butyl methyl ether, should be reduced  
8 substantially. Even prior to the Environmental Protection  
9 Agency panel's findings, California announced a phase-out of  
10 methyl tertiary-butyl ether in California gasoline by December  
11 2002.

12           Although reformulated gasoline is not required in Hawaii, a  
13 1998 survey by the department of health's underground storage  
14 tank section found that the presence of methyl tertiary-butyl  
15 ether in Hawaii gasoline could not be ruled out. Therefore, as  
16 of January 1, 1999, the department of health has required the  
17 testing for methyl tertiary-butyl ether at petroleum release  
18 sites involving gasoline. At this time, methyl tertiary-butyl



1 ether has not been found as a contaminant in drinking water as a  
2 result of a release of gasoline at a regulated underground fuel  
3 storage facility.

4 While methyl tertiary-butyl ether's incidence in Hawaii's  
5 gasoline supply appears to be much less frequent than in other  
6 regions of the country, it still poses a significant groundwater  
7 contamination threat, especially in sensitive inland areas that  
8 are watershed areas for drinking water supply aquifers, such as  
9 Wahiawa and Mililani. The potential impact of contamination on  
10 Hawaii's drinking water supplies could be significant and  
11 costly.

12 Once methyl tertiary-butyl ether contaminates groundwater  
13 resources, its removal is more expensive than the treatment of  
14 other volatile organic compounds. The State potentially may  
15 incur significant costs as a result of environmental response  
16 actions to a release and the treatment of our drinking water  
17 supplies. Additional costs may be involved if alternative  
18 public drinking water supplies need to be provided.

19 The legislature finds that methyl tertiary-butyl ether has  
20 been listed as a probable animal carcinogen and possible human  
21 carcinogen. Relatively low levels of the chemical in drinking  
22 water can be tasted and smelled by susceptible individuals. The



1 taste has been characterized as "bitter," "turpentine-like," and  
 2 "nauseating." It is clear that people of Hawaii will not accept  
 3 drinking water in which they can taste or smell methyl tertiary-  
 4 butyl ether, and treatment of a drinking water source  
 5 contaminated with the chemical will be very expensive.  
 6 Moreover, the chemical presents a threat to Hawaii's  
 7 groundwater, surface water, and drinking water systems.

8 The purpose of this Act is to require that levels of methyl  
 9 tertiary-butyl ether in gasoline imported or sold in the State  
 10 contain no more than .15 volume per cent of methyl tertiary-  
 11 butyl ether by January 1, 2009.

12 SECTION 2. Chapter 486, Hawaii Revised Statutes, is  
 13 amended by adding a new section to read as follows:

14 **"§486- Gasoline containing methyl tertiary-butyl ether;**

15 **reporting requirements; penalties.** (a) No distributor shall

16 sell or supply gasoline in the State that contains methyl

17 tertiary-butyl ether in concentrations greater than:

18 (1) 0.4 volume per cent starting July 1, 2007;

19 (2) 0.3 volume per cent starting January 1, 2008; and

20 (3) 0.15 volume per cent January 1, 2009.

21 (b) Starting on December 31, 2007, and every twelve months

22 thereafter, each distributor shall file with the administrator,



1 on forms prescribed by the administrator, a certified statement.

2 The certified statement shall show the following:

3 (1) The methyl tertiary-butyl ether concentration of  
4 gasoline sold, supplied, or imported into the State,  
5 using American Society of Testing and Materials  
6 specification D 4815-99; and

7 (2) The ethyl tertiary-butyl ether and the tertiary amyl  
8 methyl ether concentrations of the gasoline sold or  
9 supplied.

10 (c) Any distributor who sells or supplies gasoline subject  
11 to this section and who fails to timely submit a certified  
12 statement required by subsection (b) shall be subject to a  
13 penalty of up to \$25,000. Any distributor or any other person  
14 violating the requirements of this section shall be subject to a  
15 fine of not less than \$2 per gallon of nonconforming gasoline,  
16 up to a maximum of \$25,000 per violation."

17 SECTION 3. Section 486-1, Hawaii Revised Statutes, is  
18 amended by adding four new definitions to be appropriately  
19 inserted and to read as follows:

20 "Distributor" has the same meaning as defined in section  
21 486J-1.



1 "Gasoline" has the same meaning as defined in section 486H-  
2 1.

3 "Methyl tertiary-butyl ether" or "tert-butyl methyl ether"  
4 means the substance the chemical composition of which is  
5 (CH3)3COCH3.

6 "Supply" means to provide or transfer a product to a  
7 physically separate facility."

8 SECTION 4. Section 342L-3, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§342L-3 Powers; rulemaking; appointment of hearings**

11 **officers.** (a) The director may adopt, amend, and repeal  
12 [~~state~~] rules controlling and regulating underground storage  
13 tanks and tank systems. All rules shall be adopted pursuant to  
14 chapter 91.

15 (b) In addition to other specific powers provided in this  
16 chapter, the director may appoint without regard to chapters 76  
17 and 77, hearings officers to conduct public participation  
18 activities including public hearings and public informational  
19 meetings.

20 (c) The director may regulate the methyl tertiary-butyl  
21 ether content in gasoline sold or supplied for use in the  
22 State."



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2006.

4

INTRODUCED BY:

J. Kalani Eglish  
 Clarence R. Smith  
 Suzanne Chun Omland  
 Roslyn H. Baker  
 Dave Fukunaga  
 Francis R. Proby  
 Bob Hogue  
 Dennis S. Kohrt  
 Arvid Ylze  
 D. Kanoo  
 Gary L. Hoen  
 Joe Deane  
 Ron Meyer  
 Will Eyo



**Report Title:**

Gasoline; Methyl Tertiary-butyl Ether

**Description:**

Requires a phased reduction of methyl tertiary-butyl ether in gasoline sold or imported in the State with levels no greater than .15 volume per cent by January 1, 2009,

