
A BILL FOR AN ACT

RELATING TO PETROLEUM INDUSTRY MONITORING.

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

1 SECTION 1. The legislature finds that Act 78, Session Laws
2 of Hawaii 2006, requires the public utilities commission to
3 establish the petroleum industry monitoring, analysis, and
4 reporting program. In addition, the petroleum industry
5 monitoring, analysis, and reporting special fund was established
6 by Act 78 to be administered by the public utilities commission
7 for its namesake purpose. However, only \$1 was appropriated for
8 its purpose.

9 The purpose of this Act is to clarify and strengthen the
10 public utilities commission's authority under the Petroleum
11 Industry Information and Reporting Act and to provide consumers
12 with true and effective transparency of petroleum industry
13 pricing methods by appropriating funds to the petroleum industry
14 monitoring, analysis, and reporting special fund.

15 SECTION 2. Chapter 486B, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:



1 **"§486B-A Monitoring of petroleum industry information.**

2 The public utilities commission shall refer to the attorney
3 general any matter that is a violation of this chapter that is
4 discovered in the performance of its duties pursuant to chapter
5 486H or 486J."

6 SECTION 3. Chapter 486J, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 **"§486J-A Use and analysis of information by the department**
10 **of business, economic development, and tourism.** The department,
11 with its own staff and other support staff with relevant
12 expertise and experience, shall use the information obtained
13 under this chapter to effectuate the purposes of chapter 196,
14 chapter 125C, and other relevant laws."

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

17 1. By adding a new definition to be appropriately inserted
18 and to read as follows:

19 "Major fuel user" means any person who uses fuel in the
20 manufacture of products or for the generation of power in
21 amounts determined by the commission as having a major effect on
22 energy supplies."



1 2. By amending the definition of "distributor" to read as
2 follows:

3 ""Distributor" means:

4 (1) Every person who refines, manufactures, produces, or
5 compounds fuel in the State and sells it at wholesale
6 or at retail [~~or who uses it directly in the~~
7 ~~manufacture of products or for the generation of~~
8 ~~power~~];

9 (2) Every person who imports or causes to be imported into
10 the State, or exports or causes to be exported from
11 the State, any fuel;

12 (3) Every person who acquires fuel through exchanges with
13 another distributor; or

14 (4) Every person who purchases fuel for resale at
15 wholesale or retail from any person described in
16 paragraph (1), (2), or (3); provided that
17 "distributor" shall not include a marina, lessee
18 dealer-operated station, owner-operated station, or
19 other retailer that retails fuel only to end users or
20 the public."



1 3. By amending the definitions of "major marketer", "major
2 oil producer", "major oil storer", and "major oil transporter"
3 to read as follows:

4 "Major marketer" means any person who sells natural gas,
5 propane, synthetic natural gas, or oil in amounts determined by
6 the [department] commission as having a major effect on energy
7 supplies.

8 "Major oil producer" means any person who produces oil in
9 amounts determined by the [department] commission as having a
10 major effect on energy supplies.

11 "Major oil storer" means any person who stores oil or other
12 petroleum products in amounts determined by the [department]
13 commission as having a major effect on energy supplies.

14 "Major oil transporter" means any person who transports oil
15 or other petroleum products in amounts determined by the
16 [department] commission as having a major effect on energy
17 supplies."

18 SECTION 5. Section 486J-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§486J-3 Statements.** (a) Each week, or other appropriate
21 time period and on reporting dates to be determined by the
22 commission, every distributor~~[, on the reporting dates as the~~



1 ~~commission may establish,~~] and major fuel user shall file with
2 the commission, on forms prescribed, prepared, and furnished by
3 the commission, a certified statement showing on a statewide
4 consolidated basis, and separately for each county and for the
5 islands of Lanai and Molokai within which and whereon fuel is
6 sold or used during the last preceding reporting week, the
7 following:

- 8 (1) The total number of gallons or units of fuel, by type
9 or grade, refined, manufactured, or compounded by the
10 distributor within the State and, if for ultimate sale
11 or consumption in another county or on another island,
12 the number of gallons or units of fuel, by type or
13 grade, sold, exchanged, or otherwise transferred or
14 used by the distributor in each county or island;
- 15 (2) The total number of gallons or units of fuel, by type
16 or grade, imported or exported by the distributor; the
17 total volumes of fuel, by type or grade, sold,
18 exchanged, or otherwise transferred or used by the
19 distributor; and if for ultimate sale or consumption
20 in another county or on another island, the number of
21 gallons or units of fuel, by type or grade, sold,



- 1 exchanged, or otherwise transferred or used by the
2 distributor in each county or island;
- 3 (3) The total number of gallons or units of fuel sold as
4 liquid fuel, aviation fuel, diesel fuel, and other
5 types of fuel as required by the commission;
- 6 (4) The total number of gallons or units of fuel, by type
7 or grade, and their respective sales prices for all
8 fuel sold to federal, state, and county agencies,
9 ships stores, or base exchanges, commercial
10 agricultural accounts, commercial nonagricultural
11 accounts, retail dealers, and other customers as
12 required by the commission;
- 13 (5) Weekly weighted average acquisition cost per barrel
14 and volumes of foreign or domestic crude oil or other
15 liquid fuels, finished or unfinished, imported to
16 Hawaii, including information identifying the source
17 of the crude oil or other liquid fuels;
- 18 (6) The effective date and time, and the amount of change
19 in cents per gallon, of any increase or decrease in
20 wholesale price occurring during the week and the
21 weekly weighted average wholesale prices and sales
22 volumes of finished unleaded regular and premium motor



1 gasoline, and of each other grade of gasoline sold, by
2 island, to retail outlets, by classes of retail trade,
3 and to wholesale distributors;

4 (7) Weekly weighted average retail prices, and sales
5 volumes of finished unleaded regular and premium motor
6 gasoline, and of each other grade of gasoline sold, by
7 island, by retail distributor outlets of all classes
8 of retail trade and by any distributor to other end-
9 users; provided that the commission may purchase
10 retail price data from data service companies that the
11 commission may use to substitute some or all data to
12 meet the reporting requirement for retail price data
13 under this paragraph;

14 (8) The effective date and time, and the amount of change
15 in cents per gallon, of any increase or decrease in
16 wholesale price occurring during the week and the
17 weekly weighted average wholesale prices, and sales
18 volumes of No. 2 diesel fuel and No. 2 fuel oil, by
19 island, to retail distributor outlets, by classes of
20 retail trade, and to all other wholesale distributors.
21 Weighted average wholesale prices and sales volumes



1 shall be reported by type of wholesale liquid fuel
2 price;

3 (9) Weekly weighted average retail prices, and sales
4 volumes of No. 2 diesel fuel and No. 2 fuel oil sold,
5 by island, by retail distributor outlets of all
6 classes of retail trade and by any distributor to
7 other end-users. The commission may purchase retail
8 price data from data service companies that the
9 commission may use to substitute some or all data to
10 meet the reporting requirement for retail price data
11 under this paragraph;

12 (10) Weekly weighted average prices, and sales volumes for
13 retail sales and wholesale sales, by island, of No. 1
14 distillate, kerosene, finished aviation gasoline,
15 kerosene-type jet fuel, No. 4 fuel oil, residual fuel
16 oil, and consumer grade propane;

17 (11) For each distributor that is a refiner, the gross
18 margins or spreads between a refiner's average
19 weighted acquisition price for each gallon of crude
20 oil and blendstock refined within the State and the
21 average weighted prices for each gallon or unit of
22 fuel sold, by county or island, to another



1 distributor, a retail dealer, end-user, and consumer;
2 [~~and~~]

3 (12) For each distributor that is not a refiner, the gross
4 margins or spreads between the distributor's average
5 weighted price for each gallon or unit of fuel
6 acquired by the distributor and the average weighted
7 prices for each gallon or unit of fuel sold, by county
8 or island, to another distributor, a retail dealer,
9 end-user, or consumer~~[-]~~; and

10 (13) Revenues, expenses, profits and losses, and any other
11 financial or operating information as may be required
12 by the commission.

13 The commission shall prescribe applicable standards and
14 practices for reporting to facilitate uniformity, consistency,
15 and comparability of the data to be submitted.

16 (b) Each major marketer shall submit to the commission, at
17 a time and in a form as the commission shall prescribe,
18 information, including petroleum and petroleum product receipts,
19 exchanges, inventories, and distributions.

20 (c) The commission may [~~request~~] require additional
21 information as and when the commission deems necessary to
22 perform the commission's responsibilities under this chapter.



1 (d) Information in the statements filed pursuant to this
 2 section shall be collected and maintained for the purpose of
 3 facilitating the analysis required by [~~section 486J-5,~~] this
 4 chapter; provided that the commission shall make the information
 5 available to the public [~~the information contained in the~~
 6 ~~statements but not the statements themselves, as provided in],
 7 to the extent permitted under sections 486J-6 and 486J-8."~~

8 SECTION 6. Section 486J-4, Hawaii Revised Statutes, is
 9 amended by amending subsection (b) to read as follows:

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

13 SECTION 7. Section 486J-4.5, Hawaii Revised Statutes, is
 14 amended by amending subsection (a) to read as follows:

15 "(a) Each refiner, on a semi-annual basis, at reporting
 16 dates as the commission may establish, shall file with the
 17 commission, on forms prescribed, prepared, and furnished by the
 18 commission, a certified statement of operating and overhead
 19 costs for the refiner's Hawaii operations that shall include but
 20 not be limited to the following:

- 21 (1) Crude oil costs and sources;
- 22 (2) Other feedstock costs and sources;



- 1 (3) Refinery operating expenses;
- 2 (4) Marketing operating expenses by petroleum product;
- 3 (5) Distribution expenses by petroleum product; and
- 4 (6) Corporate overhead expenses [~~;~~ and
- 5 ~~(7) The percentage of the total number of wholesale~~
- 6 ~~gallons of unleaded regular and premium unleaded~~
- 7 ~~gasoline sold during the reporting period at wholesale~~
- 8 ~~prices per gallon that exceed the maximum pre-tax~~
- 9 ~~wholesale price calculated by the commission under~~
- 10 ~~section 486H-13]."~~

11 SECTION 8. Section 486J-6, Hawaii Revised Statutes, is
 12 amended by amending subsections (a) and (b) to read as follows:

13 "(a) Confidential commercial information provided to the
 14 commission pursuant to this chapter that is exempt from public
 15 disclosure under section [~~92F-13(4)~~] 92F-13 shall be held in
 16 confidence by the commission or aggregated to the extent
 17 necessary in the commission's discretion to ensure
 18 confidentiality as required by chapter 92F.

19 (b) No data or information submitted to the
 20 [~~+~~]commission[~~+~~] shall be deemed confidential if it is shown
 21 that the person submitting the information or data has made it
 22 public."

1 SECTION 9. Section 486J-8, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) [~~Notwithstanding any law to the contrary, including~~
4 ~~any other section of this chapter, no later than fourteen days~~
5 ~~after the reporting date established by the commission under~~
6 ~~section 486J-3, the]~~ The commission shall disclose to the
7 public, using the best readily available technology, the
8 information contained in the statements[~~, but not the statements~~
9 ~~themselves,~~] that are filed pursuant to section 486J-3[.],
10 except to the extent where disclosure is prohibited under
11 sections 486J-6. The commission shall publicly report this
12 information within thirty days or as soon as practically and
13 technically feasible after the receipt of this information,
14 pursuant to the reporting dates established by the commission
15 under section 486J-3."

16 SECTION 10. Section 486J-9, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) Any person, or any employee of any person, who
19 wilfully makes any false statement, representation, or
20 certification in any record, report, plan, or other document
21 filed with the commission shall be subject to a civil penalty
22 not to exceed \$500,000 and shall be deemed to have committed an



1 unfair or deceptive act or practice in the conduct of a trade or
2 commerce and subject to the penalties specified in chapter
3 480[-] and chapter 486B."

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

6 "[+]§486J-11[+] **Powers of the public utilities commission.**

7 (a) The public utilities commission [~~shall have the authority~~
8 ~~and power to~~] may take any action or make any determination
9 under this chapter, including but not limited to actions or
10 determinations that affect persons not regulated under chapters
11 269, 271, and 271G, as the commission deems necessary to carry
12 out its responsibilities or otherwise effectuate chapter 269,
13 271, or 271G.

14 (b) The public utilities commission may examine or
15 investigate each distributor, the manner in which it is
16 operated, the prices and rates charged by it, its operating
17 costs and expenses, the value of its property and assets, the
18 amount and disposition of its income, and all its financial
19 transactions, its business relations with other persons,
20 companies, or corporations, its compliance with all applicable
21 state and federal laws, and all matters of every nature



1 affecting the relations and transactions between it and the
2 public or persons or businesses.

3 (c) In the performance of its duties under this chapter,
4 the commission shall have the same powers respecting
5 administering oaths, compelling the attendance of witnesses and
6 the production of documents, examining witnesses, and punishing
7 for contempt, as are possessed by circuit courts. In case of
8 disobedience by any person to any order of the commission, or
9 any subpoena issued by the commission, or of the refusal of any
10 witness to testify to any matter regarding which the witness may
11 be questioned lawfully, any circuit court, on application by the
12 commission, shall compel obedience as in case of disobedience of
13 the requirements of a subpoena issued from a circuit court or a
14 refusal to testify therein.

15 (d) Notwithstanding any provision of this chapter to the
16 contrary, in order to effectively facilitate the efficient
17 reporting and analysis of information collected pursuant to this
18 chapter and to allow flexibility in applicable reporting
19 requirements for the broad range of persons and businesses
20 affected, the commission, in its discretion, may determine the
21 specific information that must be reported by any person
22 required to submit information under this chapter."



1 SECTION 12. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so much
3 thereof as may be necessary for fiscal year 2007-2008 to be
4 deposited into the petroleum industry monitoring, analysis, and
5 reporting special fund.

6 SECTION 13. There is appropriated out of the petroleum
7 industry monitoring, analysis, and reporting special fund the
8 sum of \$ or so much thereof as may be necessary for
9 fiscal year 2007-2008 to administer the petroleum industry
10 monitoring, analysis, and reporting program established under
11 chapter 486J, Hawaii Revised Statutes.

12 The sum appropriated shall be expended by the public
13 utilities commission for the purposes of administering chapter
14 486J, Hawaii Revised Statutes.

15 SECTION 14. There is appropriated out of the petroleum
16 industry monitoring, analysis, and reporting special fund the
17 sum of \$ or so much thereof as may be necessary for
18 fiscal year 2007-2008 for staff positions for implementing the
19 new section 486J-A contained in section 3 of this Act.

20 The sums appropriated shall be expended by the department
21 of business, economic development, and tourism for the purposes
22 of this Act.



1 SECTION 15. In codifying the new sections added to the
2 Hawaii Revised Statutes by this Act, the revisor of statutes
3 shall substitute appropriate section numbers for the letters
4 used in designating the new sections in this Act.

5 SECTION 16. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 17. This Act shall take effect upon its approval;
8 provided sections 12, 13, and 14 of this Act shall take effect
9 on July 1, 2007.



Report Title:

Petroleum Industry Monitoring, Analysis, and Reporting Special Fund

Description:

Requires public utilities commission to report any violations of chapter 486B to attorney general. Requires department of business, economic development, and tourism to use information provided by petroleum industry monitoring, analysis, and reporting program to effectuate purposes of chapters 196 and 125C. Adds new definition for "major fuel user" to and amends other definitions in section 486J-1. Clarifies and strengthens the public utilities commission's authority under the petroleum industry information and reporting act. Appropriates funds for the petroleum industry monitoring, analysis, and reporting special fund for staffing positions to carry out the purpose of the fund to be expended by the public utilities commission. Appropriates funds for department of business, economic development, and tourism for information analysis. (HD2)

