
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 (PUC)
3 to 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 provide funds to administer the program. However,
7 only \$1 was appropriated for its purpose.

8 The purpose of this Act is to increase the transparency of
9 petroleum industry pricing methods by:

- 10 (1) Clarifying and strengthening the PUC's authority under
11 the Petroleum Industry Information and Reporting Act;
12 and
13 (2) Appropriating funds to allow the PUC to hire staff and
14 administer the petroleum industry monitoring,
15 analysis, and reporting program.



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

4 "**§486B-A Monitoring of petroleum industry information.**

5 The public utilities commission shall refer to the attorney
6 general any matter that is a violation of this chapter that is
7 discovered in the performance of its duties pursuant to chapter
8 486H or 486J."

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

12 "**§486J-A Use and analysis of information by the department**
13 **of business, economic development, and tourism.** The department,

14 with its own staff and other support staff with relevant
15 expertise and experience, shall use the information obtained
16 under this chapter to effectuate the purposes of chapters 125C,
17 196, and other relevant laws."

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

20 1. By adding a new definition to be appropriately inserted
21 and to read:



1 "Major fuel user" means any person who uses fuel in the
2 manufacture of products or for the generation of power in
3 amounts determined by the commission as having a major effect on
4 energy supplies."

5 2. By amending the definitions of "distributor", "major
6 marketer", "major oil producer", "major oil storer", and "major
7 oil transporter" to read as follows:

8 "Distributor" means:

9 (1) Every person who refines, manufactures, produces, or
10 compounds fuel in the State and sells it at wholesale
11 or at retail [~~or who uses it directly in the~~
12 ~~manufacture of products or for the generation of~~
13 ~~power~~];

14 (2) Every person who imports or causes to be imported into
15 the State, or exports or causes to be exported from
16 the State, any fuel;

17 (3) Every person who acquires fuel through exchanges with
18 another distributor; or

19 (4) Every person who purchases fuel for resale at
20 wholesale or retail from any person described in paragraph (1),
21 (2), or (3); provided that "distributor" shall not include a
22 marina, lessee dealer-operated station, owner-operated station,



1 or other retailer that retails fuel only to end users or the
2 public.

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

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

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

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

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

19 "**§486J-3 Statements.** (a) Each week, or other appropriate
20 time interval, and on reporting dates to be determined by the
21 commission, every distributor~~[, on the reporting dates as the~~
22 ~~commission may establish,~~ and major fuel user shall file with



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

7 (1) The total number of gallons or units of fuel, by type
8 or grade, refined, manufactured, or compounded by the
9 distributor within the State and, if for ultimate sale
10 or consumption in another county or on another island,
11 the number of gallons or units of fuel, by type or
12 grade, sold, exchanged, or otherwise transferred or
13 used by the distributor in each county or island;

14 (2) The total number of gallons or units of fuel, by type
15 or grade, imported or exported by the distributor; the
16 total volumes of fuel, by type or grade, sold,
17 exchanged, or otherwise transferred or used by the
18 distributor; and if for ultimate sale or consumption
19 in another county or on another island, the number of
20 gallons or units of fuel, by type or grade, sold,
21 exchanged, or otherwise transferred or used by the
22 distributor in each county or island;



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



1 island, to retail outlets, by classes of retail trade,
2 and to wholesale distributors;

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

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



- 1 (9) Weekly weighted average retail prices, and sales
2 volumes of No. 2 diesel fuel and No. 2 fuel oil sold,
3 by island, by retail distributor outlets of all
4 classes of retail trade and by any distributor to
5 other end-users. The commission may purchase retail
6 price data from data service companies that the
7 commission may use to substitute some or all data to
8 meet the reporting requirement for retail price data
9 under this paragraph;
- 10 (10) Weekly weighted average prices, and sales volumes for
11 retail sales and wholesale sales, by island, of No. 1
12 distillate, kerosene, finished aviation gasoline,
13 kerosene-type jet fuel, No. 4 fuel oil, residual fuel
14 oil, and consumer grade propane;
- 15 (11) For each distributor that is a refiner, the gross
16 margins or spreads between a refiner's average
17 weighted acquisition price for each gallon of crude
18 oil and blendstock refined within the State and the
19 average weighted prices for each gallon or unit of
20 fuel sold, by county or island, to another
21 distributor, a retail dealer, end-user, and consumer;
22 [and]



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

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

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

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

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

21 (d) Information in the statements filed pursuant to this
22 section shall be collected and maintained for the purpose of



1 facilitating the analysis required by [~~section 486J-5,~~] this
2 chapter; provided that the commission shall make the information
3 available to the public [~~the information contained in the~~
4 ~~statements but not the statements themselves, as provided in],~~
5 to the extent permitted under sections 486J-6 and 486J-8."

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

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

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

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

- 19 (1) Crude oil costs and sources;
- 20 (2) Other feedstock costs and sources;
- 21 (3) Refinery operating expenses;
- 22 (4) Marketing operating expenses by petroleum product;



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

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

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

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

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



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

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

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



1 commerce and subject to the penalties specified in [~~chapter~~
2 chapters 480[-] and 486B."]

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

5 "~~[§]486J-11[§]~~ **Powers of the public utilities commission.**

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

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



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

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

20 SECTION 12. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so much
22 thereof as may be necessary for fiscal year 2007-2008 to be



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

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

9 The sum appropriated shall be expended by the public
10 utilities commission for the purposes of chapter 486J, Hawaii
11 Revised Statutes.

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

17 The sum appropriated shall be expended by the department of
18 business, economic development, and tourism for the purposes of
19 this Act.

20 SECTION 15. In codifying the new sections added to the
21 Hawaii Revised Statutes by this Act, the revisor of statutes



1 shall substitute appropriate section numbers for the letters
2 used in designating the new sections in this Act.

3 SECTION 16. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 17. This Act shall take effect on July 1, 2020;
6 provided sections 12, 13, and 14 of this Act shall take effect
7 on July 1, 2020.



Report Title:

Petroleum Industry Monitoring, Analysis, and Reporting Special Fund

Description:

Requires PUC to report petroleum industry unlawful profiteering or false or deceptive statements to Attorney General. Requires DBEDT to use information provided by Petroleum Industry Monitoring, Analysis, and Reporting Program to effectuate DBEDT Director's responsibilities as State Energy Resource Coordinator. Adds new definition for "major fuel user" to and amends other definitions in section 486J-1. Clarifies and strengthens PUC'S authority under the Petroleum Industry Information and Reporting Act. Appropriates funds to PUC for the program and to DBEDT for information analysis and energy planning. (SB990 HD3)

