

JAN 24 2007

A BILL FOR AN ACT

RELATING TO THE PETROLEUM INDUSTRY.

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

1 SECTION 1. Section 486H-13, Hawaii Revised Statutes, is
2 amended to read as follows:

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 marketing margin



1 factor and the zone price adjustment, and for mid-grade and
2 premium gasoline, the applicable mid-grade and premium
3 adjustment factor, such that the maximum pre-tax wholesale
4 gasoline prices reflect and correlate with competitive market
5 conditions.

6 (c) The baseline price for regular unleaded gasoline
7 referred to in subsection (b) shall be determined on a weekly
8 basis and shall be equal to the average of the three lowest of
9 the four weekly averages of the spot daily price for
10 conventional regular unleaded gasoline or its equivalent
11 standard:

12 (1) The weekly average of the spot daily price for
13 conventional regular unleaded gasoline for Los Angeles;

14 (2) The weekly average of the spot daily price for
15 conventional regular unleaded gasoline for New York Harbor;

16 (3) The weekly average of the spot daily price for
17 conventional regular unleaded gasoline for the United States
18 Gulf Coast; and

19 (4) The weekly average of the spot daily price for
20 conventional regular unleaded gasoline for Singapore,
21 as reported and published by the Oil Price Information Service
22 for the five business days of the preceding week; provided that



1 if the preceding week contains a holiday or holidays, then the
2 average of the remaining business days of the preceding week
3 shall be used; and provided further that the commission, in its
4 discretion, may determine a more appropriate baseline or a more
5 appropriate price information reporting service or use multiple
6 price information reporting services.

7 (d) The marketing margin factor referred to in subsection
8 (b) shall be 14 cents per gallon or as otherwise determined by
9 the commission and shall thereafter be subject to adjustment
10 pursuant to section 486H-16(a).

11 (e) The mid-grade adjustment factor shall be 5 cents per
12 gallon or as otherwise determined by the commission and shall
13 thereafter be subject to adjustment pursuant to section
14 486H-16(a).

15 (f) The premium adjustment factor shall be 9 cents per
16 gallon or as otherwise determined by the commission and shall
17 thereafter be subject to adjustment pursuant to section
18 486H-16(a).

19 (g) For purposes of this chapter, the State shall be
20 divided into the following zones:

21 (1) Zone 1 shall include the island of Oahu;

22 (2) Zone 2 shall include the island of Kauai;



1 (3) Zone 3 shall include the island of Maui, except the
2 district of Hana;

3 (4) Zone 4 shall include the district of Hana on the
4 island of Maui;

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

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

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

9 (8) Zone 8 shall include the districts of north Kohala,
10 south Kohala, north Kona, south Kona, and Kau on the island of
11 Hawaii.

12 (h) The commission shall establish zone price adjustments
13 to the maximum pre-tax wholesale regular unleaded, mid-grade,
14 and premium gasoline prices on a zone by zone basis.

15 (i) The zone price adjustments for zones 2 through 8, set
16 forth in subsection (g), shall be divided as follows:

17 (1) Thirty per cent of the zone price adjustment shall be
18 allocated to the shipper of the gasoline from zone to zone;

19 (2) Twenty per cent of the zone price adjustment shall be
20 allocated to the terminal holding the gasoline in zones 2
21 through 8; and



1 (3) Fifty per cent of the zone price adjustments shall be
2 allocated to the person or entity that delivers the gasoline to
3 the retail station in zones 2 through 8.

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

12 (k) The maximum pre-tax wholesale gasoline price imposed
13 by this section shall take effect on September 1, 2005,
14 notwithstanding the lack of the adoption of rules pursuant to
15 this section [~~; provided that notwithstanding any law to the~~
16 ~~contrary, the maximum pre tax wholesale price under this section~~
17 ~~shall be suspended indefinitely upon the effective date of Act~~
18 ~~78, Session Laws of Hawaii 2006, and shall not thereafter become~~
19 ~~effective until and unless the governor publishes a notice~~
20 ~~statewide in accordance with section 1-28.5 that the~~
21 ~~reinstatement of the maximum pre tax wholesale price under this~~
22 ~~section is beneficial to the economic well being, health, and~~



1 ~~safety of the people of the State. The maximum pre tax~~
2 ~~wholesale price shall become effective five days after the~~
3 ~~publication of the notice by the governor unless otherwise~~
4 ~~specified by the governor, and shall remain in effect for thirty~~
5 ~~days, after which time it shall be automatically suspended.~~
6 ~~Thereafter, the governor may reinstate the maximum pre tax~~
7 ~~wholesale price for thirty day periods on the same conditions as~~
8 ~~set forth above. Upon a finding that the maximum pre tax~~
9 ~~wholesale price would impose a financial hardship upon a~~
10 ~~distributor within a zone, the governor, in the governor's~~
11 ~~discretion, may increase the maximum pre tax wholesale price for~~
12 ~~the zone in an amount determined necessary to eliminate the~~
13 ~~financial hardship on any affected distributor who does not~~
14 ~~operate a refinery within the State. Any increase in the~~
15 ~~maximum pre tax wholesale price shall be included in the notice~~
16 ~~published by the governor.~~

17 ~~(1) The suspension of the maximum pre tax wholesale~~
18 ~~gasoline price shall suspend the commission's duty to calculate~~
19 ~~and publish the maximum pre tax wholesale gasoline price that~~
20 ~~would have been in effect but for the suspension, but shall not~~
21 ~~suspend or affect.~~



1 ~~(1) Any duty to register, timely provide information, make~~
2 ~~a report, or file a statement under chapter 486J, or~~

3 ~~(2) Any duty of the commission to:~~

4 ~~(A) Timely obtain, analyze, or publicly disclose or~~
5 ~~report information under chapter 486J, and~~

6 ~~[(B)] Enforce chapter 486B].~~

7 ~~[(m)]~~ (1) Any manufacturer, wholesaler, or jobber who
8 knowingly violates any requirement imposed or rule adopted under
9 this section, except for subsection (j), shall be subject to a
10 civil penalty, for each violation, equal to three times the
11 amount of the overcharge or \$250,000, whichever is greater, and
12 shall be liable for the costs of the action and reasonable
13 attorney's fees as determined by the court. Within two years
14 from the date the commission obtains actual knowledge of the
15 violation, the commission may institute a civil action in a
16 court of competent jurisdiction to collect the civil penalty,
17 the costs, and attorney's fees. In the case of ongoing
18 violation, the two-year period shall start from the date of the
19 last violation. The commission may refer any such action to the
20 attorney general as it deems appropriate. As used in this
21 subsection, "overcharge" means the number of gallons of gasoline
22 sold, times the wholesale price at which the manufacturer or



1 jobber sold regular unleaded, mid-grade, or premium gasoline to
2 a dealer retail station, an independent retail station, or
3 another jobber or wholesaler, less taxes assessed, less the
4 maximum pre-tax wholesale gasoline price established pursuant to
5 subsection (b).

6 ~~[(n)]~~ (m) The commission shall have the power to determine
7 the extent to which a manufacturer, wholesaler, or jobber is
8 complying with any requirement imposed or rule adopted under
9 this section, including the power to compel a manufacturer,
10 wholesaler, or jobber to submit documents, data, and information
11 necessary and appropriate for the commission to determine such
12 compliance. The commission may use data pursuant to chapter
13 486J collected in determining such compliance.

14 ~~[(e)]~~ (n) The commission shall report to the governor and
15 the legislature, in a timely manner, on any significant
16 aberrations, trends, or conditions that may adversely impact the
17 gasoline consumers in the State.

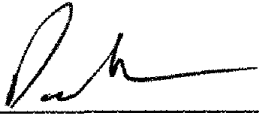
18 ~~[(p)]~~ (o) The commission may adopt rules pursuant to
19 chapter 91 as may be necessary to implement this section and
20 section 486H-16. "

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY: 



Report Title:

Maximum Pre-tax Wholesale Gasoline Price; Reenactment

Description:

Reenacts the maximum pre-tax wholesale gasoline price by striking language that suspends it.

