

SB 2630

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON
ENERGY & ENVIRONMENTAL PROTECTION
FEBRUARY 14, 2008**

MEASURE: S.B. No. 2630

TITLE: RELATING TO PETROLEUM INDUSTRY MONITORING.

Chair Menor and Members of the Committee:

DESCRIPTION:

The purpose of this bill is to: 1) require distributors to report the average crude oil cost and the average wholesale gasoline prices charged by the distributor for each class of trade to the Public Utilities Commission ("Commission"); 2) require the Commission to publish on a weekly basis, the information furnished by the distributors, pursuant to §486J-4.5, Hawaii Revised Statutes ("HRS"); 3) require the Commission to publish on a weekly basis, the average retail gasoline prices for each island; and 4) add four new definitions to the §486J-1, HRS relating to petroleum industry reporting under the Petroleum Industry Monitoring, Analysis and Reporting ("PIMAR") Program.

POSITION:

The Commission has serious concerns about this bill because it may adversely affect our ability to obtain the necessary information from the petroleum industry and respectfully offers the following comments on this bill.

COMMENTS:

- **The Commission already collects, on a weekly basis, distributors' average crude oil costs and average wholesale gasoline prices charged for each bulk, dealer tank wagon ("DTW"), and rack sale. Based on recommendations from our petroleum industry consultant and discussions with the industry, the Commission uses the following industry definitions in its PIMAR Weekly Petroleum Product Transaction Report (Form W-130) for these types of sales:**

Bulk: Wholesale sales of gasoline in individual transactions which exceed the size of a truckload.

DTW: Wholesale sales of gasoline priced on a delivered basis to a retail outlet.

Rack: Wholesale truckload sales or smaller of gasoline where title transfers at a terminal.

Thus, if the definitions for these terms are to be included in the statute, we recommend inserting the definitions we are currently using as described above for consistency with current reporting requirements and practices.

In addition, we recommend that the existing definition of "dealer tank wagon price" in HRS § 486J-1 be deleted, since the term does not otherwise appear in this chapter.

- **This bill requires the Commission to publish all of the information received from the distributors under § 486J-4.5, HRS, notwithstanding any law to the contrary, namely § 486J-6, HRS, that protects confidential commercial information from disclosure.**
 - The Commission will defer to the Legislature's decision to publish all such information.
 - You should be aware, however, that the industry or individual distributors will likely disagree with the public disclosure of their confidential commercial information, may refuse to cooperate, and may seek to withhold information from the Commission.
 - If any distributors fail to provide information required by the Commission, the distributors may be subject to fines of \$50,000 to \$100,000 per day under HRS § 486J-9(a), and the Commission is required to refer any such violations to the attorney general for appropriate action under HRS § 486J-9(d).
 - However, the withholding of information by the industry would severely hamper the Commission's ability to efficiently collect the information necessary to implement the petroleum industry monitoring, analysis and reporting program.
 - Finally, you should be aware that the bill would require only the publication of confidential commercial information collected under HRS § 486J-4.5. Thus, the bill would **not** apply to, or require the publishing of, confidential information the Commission receives under HRS §§ 486J-3, -4, or any other provisions. You may wish to revise the bill accordingly if the intent is to require the publication of all confidential commercial information.

Thank you for the opportunity to testify.



Western States Petroleum Association

February 14, 2008

2:45 p.m.

Senate Committee on Energy and Environment
Room 414

Re: SB 2630_ Relating to the Petroleum Industry Reporting

Western States Petroleum Association is a non-profit trade association representing a broad spectrum of petroleum companies in Hawaii and five other western states. We are testifying with respect to SB 2630.

Petroleum companies in Hawaii and elsewhere in the U.S. are required to provide an enormous amount of information – some of it proprietary and competitively sensitive – to a long list of state and federal agencies. For example, these companies provide more than 42 separate reports containing large amounts of information to the U.S. Energy Information Administration on a weekly, monthly and annual basis.

In Hawaii, the petroleum industry is required to comply with the Petroleum Industry Monitoring and Reporting Act, submitting volumes of information on at least 23 different aspects of their business activities, to the Public Utilities Commission. Providing this information on weekly and monthly reports consumes a considerable amount of time and resources.

The PUC has the authority to review the information and provide comments, conclusions and analysis, while preserving the confidentiality of competitively sensitive and proprietary information. Based on the report issued to the legislature by the PUC, it would appear the information has been useful in helping the PUC understand the details and complexity of the local petroleum industry.

In California, petroleum companies are required to submit at least 17 reports under that state's Petroleum Industry Information Reporting Act (PIIRA). PIIRA includes extensive protection for company-specific confidential information.

The Department of Business, Economic Development & Tourism retained consultants to review the entire unsealed record of the state's anti-trust lawsuit against members of the petroleum industry and those consultants concluded that the "market isn't broken."

If the purpose of requiring additional public disclosure of competitively sensitive industry information is to assess whether anti-competitive behavior is being conducted, such a review has already been done by the state's own experts. Their conclusion is clear.

Page Two

Petroleum companies are understandably concerned that competitively sensitive information be treated as such and that WSPA members want to ensure that the state's reporting requirements do not result in disclosure of competitively sensitive information that could lead to market distortions and negatively impact the companies and consumers.

In conclusion, Hawaii's gasoline market has been the subject of numerous government and independent third-party studies that have identified a number of reasons for the high cost of petroleum products in Hawaii, including crude oil costs, long distances from crude oil sources, a small market, rent controls on service stations and high taxes.

Thank you for the opportunity to testify.

testimony

From: Meja Kaniho [mkaniho@hawaii.rr.com]
Sent: Wednesday, February 13, 2008 12:04 PM
To: testimony
Subject: WSPA - SB 2630 - Relating to Petroleum Industry Reporting
Attachments: WSPA Testimony SB 2630 Petroleum Industry Reporting Feb 14 2008.doc

Please see attached. Thank you!!

Melissa T. Pavlicek
Hawaii Public Policy Advocates, LLC
1099 Alakea Street, Suite 2140
Honolulu, Hawaii 96813
Telephone: 808-477-1844

February 14, 2008

To: Senate Committee on Energy & Environment
testimony@capitol.hawaii.gov

From: Melissa Pavlicek
pavlicekm001@hawaii.rr.com

Testifier: Melissa Pavlicek – Western States Petroleum Association

Date: February 14, 2008

Time: 2:45 p.m.

Conf. Rm.: 414

Measure Number – SB 2630 – Relating to Petroleum Industry Reporting

Committee is requesting 5 copies.

Thank you.

2/13/2008

testimony

From: Richardakana@aol.com
Sent: Wednesday, February 13, 2008 12:42 PM
To: testimony
Subject: (no subject)

TESTIMONY TO THE
SENATE COMMITTEE ON ENERGY AND ENVIROMENT
ON
SB 2630

Chair Menor and Members of the Senate Committee on Energy and Environment.

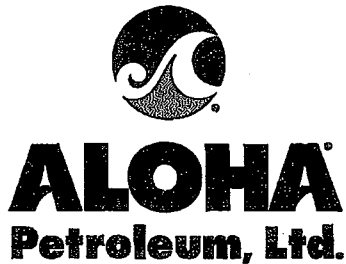
I Richard Akana , President of Akana Petroleum opposed Senate Bill 2630 which should be totally repealed for the establishment this session of SB 3230, HB 3444 and SB 2632 all of which contradicts its purpose of less expenses gasoline in the State of Hawaii..

The members of this senate committee and its counterpart in the house paraded the issue that we distributors have gouged the public in gasoline business. Countless investigations by The congress of the United States, The courts of the State of Hawaii have no evidence of wrong doing.

SB 3230 and HB 3444 will increase the cost of doing business to the public of \$ 6 million PLUS over today's cost of doing business for the unsuspecting public and lets not forget the establishment of SB 2932 going to do to the cost of doing business all of which these creations will be on the backs of the small distributors and retailers. The TAX Director has express our concerns in a more appropriate manner. A TAX is a tax on the people or there about.

Thank you for the opportunity to testify in opposition to Bill 2630 and SB 3230, SB 2932 and HB 3444. Please used this to address my concerns on the other bills listed above, Hopefully that is possible.

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**TESTIMONY TO THE
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
ON
S.B. 2630 RELATING TO PETROLEUM INDUSTRY REPORTING
Thursday, February 14, 2008 at 2:45 p.m.
State Capitol, Room 414
By
Thomas A. Grimes
Vice President and Chief Financial Officer
Aloha Petroleum, Ltd.**

Chair Menor and Members of the Senate Committee on Energy and Environment, I am Thomas A. Grimes, Vice President and Chief Financial Officer of Aloha Petroleum, Ltd.

Aloha Petroleum takes no position but would like to offer comments on Senate Bill 2630 which attempts to clarify the reporting and publishing requirements of the Public Utilities Commission to more accurately reflect the information reported by oil producers, refiners, marketers, oil transporters, oil storers, and oil retailers.

We believe the new definitions could cause confusion. For example, the "Bulk Sales" definition includes "exchanges" and "transfers" which are generally not considered "sales." If a refiner or a distributor "transfers" 30,000 barrels of gasoline to Aloha for storage, for example, this "transfer" should not be considered a bulk sale since Aloha is not purchasing the product. Likewise exchanges, which are transactions where one party lends inventory to another with the expectation of repayment, do not fit the definition of a "sale."

In section 2(d) where the new classes of trade reports are specified, we believe the word "retail" should be added before "trade" in "classes of trade" to be consistent with the first paragraph ("classes of retail trade") and to reflect the intent of the law to trace the transactions through the retail chain to the ultimate retail consumer.

Thank you for the opportunity to comment on Senate Bill 2630.

February 13, 2008

COMMITTEE ON ENERGY AN ENVIRONMENT
HEARING ON SB 2630

Thursday, February 14, 2008
Time 2:45
Conference Room 414

Dear Committee,
I SUPPORT SB 2630

Gasoline pricing in Hawaii continues to hurt the Hawaii economy. While the Legislature has taken steps to reduce gasoline prices in Hawaii, prices continue to soar far above the National average gasoline price. In spite of a reduction in gasoline taxes with the repeal of the excise tax on gasoline, the Hawaii average price is at record high at more than 50 cents above the National average. DBED&T, and other oil industry supports have testified in the past, prior to the repeal of the excise tax that the average difference between Oahu prices and the National average was 35 cents. Today with 13 cents less in gasoline taxes on Oahu, the difference is almost 40 cents.

To put a better perspective on this, the gasoline price in Kona, with a total gasoline tax of only 42 cents which is lower than the National average gasoline tax, has gasoline prices in the \$3.65 range. This is almost 70 cents above the National average gasoline price. How does one explain the fact that COSTCO can sell gasoline on the outer islands for so much less than the retail dealers, jobbers, and company operated stations?

On Maui, gasoline prices are in the \$3.87 range, more than 90 CENTS ABOVE THE NATIONAL AVERAGE! Again these are historical high differences from the national average in spite of the reduction in taxes.

In short, the reduction in taxes has seems to have gone into more profits for the petroleum marketers in Hawaii.

One cannot be misled by the TESORO refinery losses in Hawaii. There are many factors that determine this issue. Putting money in reserves, cyclical costs, accounting procedures, the fact that TESORO has many wholesale contract that may be tied to the Singapore spot price, the military contracts, are all business decisions that do not tell the story of the profits being made off the retail customer.

Governor Lingle has turned her back to the Hawaii consumers by not considering \$4.00 plus gasoline on Molokai and Lanai, \$3.90 gasoline on Maui, and \$3.60 gasoline on Kauai as gouging.

The Legislature is the only avenue that the Hawaii consumers have to explain how gasoline is priced in Hawaii. Why prices go up but never seem to come down.

Sincerely,
Frank Young
593-2842

To: Sergeant At arms, 586-6659

February 13, 2008

To the Committee on Energy
Hearing Date February 14, 2008
2:45 pm
Conference room 414
SB 2630

Dear Senator Menor,
I Support Senate Bill 2630.

My business requires me to use delivery vans that travel all over Oahu. I appreciated the reduction in taxes on gasoline and expected a savings to my monstrous gasoline bill. But soon after the price dropped when the tax relief came, prices again started climbing because the oil companies claimed crude oil prices were climbing. But now that crude has fallen back to one year lows, I don't see gas prices falling. Why are we still paying gas prices that correlated with \$100 crude oil when crude oil is only \$90?

I read about record profits for Chevron and Exxon for 2007. I believe the two combined for around 58 billion dollars in profit. They complained about the high price of crude oil acquisition, they claimed that the refineries made little or no profits, yet they made record profits? Did they make all their money on snacks and carwashes?

We need more transparency. The Hawaii consumers need to know why we should always have to be the highest price gasoline in the country by so much.

Wes Hashimoto
Upholstery Inc.
524 Kamani Street