
A BILL FOR AN ACT

RELATING TO ENERGY INDUSTRY REPORTING.

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

1 SECTION 1. The legislature finds that there is a need to
2 coordinate the development of the State's energy resources to
3 preserve energy security by increasing the use of indigenous
4 renewable energy, and reducing the State's overdependence on
5 oil. The legislature also finds that energy data and analysis
6 are essential to energy planning, policy development, and energy
7 emergency preparedness and response. In recent years, energy
8 markets, resources, systems and technologies, the variety and
9 types of fuels, environmental standards and specifications of
10 fuels, and policies related to energy and fuels have undergone
11 dramatic changes. These transitional trends are expected to
12 continue to influence Hawaii's energy situation. There is a
13 critical need to develop the State's technical and analytic
14 capabilities and understanding of Hawaii's energy situation for
15 effective energy planning to achieve energy independence,
16 increase the State's energy security, and ability to respond in
17 a disaster.



1 The legislature finds that the director of business,
2 economic development, and tourism, who serves as the state
3 energy resources coordinator pursuant to section 196-3, Hawaii
4 Revised Statutes, is responsible for coordinating the
5 development of the State's energy resources, policies, programs,
6 and plans.

7 The legislature finds that the energy data and analytic
8 functions of the state energy resources coordinator are
9 distinctive from other agencies' functions; for example the
10 public utilities commission, which focuses primarily on
11 monitoring petroleum prices and industry profits, a "watchdog"
12 role.

13 The legislature, in Act 182, Session Laws of Hawaii 2007,
14 codified as chapter 486J-5.3, Hawaii Revised Statutes,
15 acknowledged the difference between the department of business,
16 economic development, and tourism's energy analysis role and the
17 public utilities commission's role to conduct analysis with a
18 focus on petroleum prices and petroleum industry profits. The
19 statute directs the department of business, economic
20 development, and tourism to use the data collected under the
21 petroleum industry information reporting act "to effectuate the
22 purposes of chapters 125C and 196, Hawaii Revised Statutes, and



1 other relevant laws". The legislature recognized that the use
2 and analysis of energy and fuels data remain critical to
3 virtually all of the department of business, economic
4 development, and tourism's statutory energy program functional
5 requirements.

6 Furthermore, the legislature finds that while chapter 486J,
7 Hawaii Revised Statutes, directs the department of business,
8 economic development, and tourism on how, and for what purposes,
9 to use the data collected by the public utilities commission
10 pursuant to chapter 486J, Hawaii Revised Statutes, the data and
11 information collected are inadequate for energy emergency
12 management purposes. The legislature also finds that these
13 indirect reporting mechanisms cannot necessarily be depended
14 upon during an emergency or disaster.

15 The legislature finds this represents an unacceptable
16 situation when considered in the context of the State's role and
17 responsibilities for energy emergency management. The
18 legislature finds that authoritative policy support and
19 functional guidance are needed to meet the following critical
20 energy emergency preparedness needs of the State:

21 (1) Provide relevant and consistent policy guidance to
22 accommodate actual and expected changes in Hawaii's



1 energy (and economic) security and vulnerability,
2 stemming from significant changes in energy and fuel
3 markets; and

- 4 (2) Rectify inadequacies in data collection, analysis, and
5 reporting provisions with amendments to accommodate
6 and address the economic and energy systems risks
7 associated with transitional issues and trends
8 relating to both petroleum-based fuels and biofuels.

9 In summary, the legislature finds that the State has a
10 critical technical and analytic role to understand Hawaii's
11 energy situation for effective energy planning, increase the
12 State's energy security, and manage energy emergencies. This
13 role cannot depend solely on data and information reported to
14 regulatory agencies for separate, non-strategic planning, and
15 non-emergency purposes. These factors continue to create
16 unacceptable risks to Hawaii's economy and energy security.
17 Therefore, the legislature finds that changes to the current
18 laws governing energy planning and security are needed to meet
19 the needs of the State.

20 The legislature, therefore, finds that it is essential and
21 appropriate to include within chapter 196, Hawaii Revised
22 Statutes, provisions for the department of business, economic



1 development, and tourism to directly collect relevant energy
2 data and information to achieve the State's energy policies,
3 programs, and plans.

4 SECTION 2. Chapter 196, Hawaii Revised Statutes, is
5 amended by adding a new part to be appropriately designated and
6 to read as follows:

7 "PART

8 ENERGY INDUSTRY MONITORING AND ANALYSIS PROGRAM

9 §196-A Definitions. As used in this part:

10 "Aviation fuel" means and includes all liquid substances of
11 whatever chemical composition usable for the propulsion of
12 airplanes.

13 "Classes of retail trade" means the separate subdivisions,
14 or "classes", of outlets or methods of retail sales of liquid
15 fuels, typically but not always limited to gasoline and diesel
16 for motor vehicles, and includes any:

17 (1) Company-operated station that is a retail service
18 station owned and operated by a refiner or wholesale
19 distributor and where retail prices are set by that
20 refiner or wholesale distributor;

21 (2) Lessee dealer-operated station that is a retail
22 service station owned by a refiner or wholesale



1 distributor and operated by a qualified gasoline
2 dealer other than a refiner or wholesale distributor
3 under a franchise; or

4 (3) Owner-operated station that is a retail service
5 station not owned by a refiner or wholesale
6 distributor and operated by a qualified gasoline
7 dealer.

8 "Dealer tank wagon price" means the wholesale price at
9 which liquid fuel is sold to any retail outlet by any
10 distributor priced on a delivered basis to a retail outlet.

11 "Department" means the department of business, economic
12 development, and tourism.

13 "Director" means the director of business, economic
14 development, and tourism.

15 "Distributor" means:

16 (1) Every person who refines, manufactures, produces, or
17 compounds fuel in the State and sells it at wholesale
18 or at retail;

19 (2) Every person who imports or causes to be imported into
20 the State, or exports or causes to be exported from
21 the State, any fuel;



1 (3) Every person who acquires fuel through exchanges with
2 another distributor; or

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

10 "Energy" means work or heat that is, or may be, produced
11 from any fuel or source whatsoever.

12 "Fuel" means fuels, whether liquid, solid, or gaseous,
13 commercially usable for energy needs, power generation, and
14 fuels manufacture, that may be manufactured, grown, produced, or
15 imported into the State or that may be exported therefrom,
16 including petroleum and petroleum products and gases, coal, coal
17 tar, vegetable ferments, and all fuel alcohols.

18 "Liquid fuel" means fuels in liquid form, commercially
19 usable for energy needs, power generation, and fuels that may be
20 manufactured, produced, or imported into the State or that may
21 be exported therefrom, including petroleum and petroleum
22 products and all fuel alcohols.



1 "Major marketer" means any person who sells natural gas,
2 propane, synthetic natural gas, or oil in amounts determined by
3 the department as having a major effect on energy supplies.

4 "Major oil producer" means any person who produces oil in
5 amounts determined by the department as having a major effect on
6 energy supplies.

7 "Major oil storer" means any person who stores oil or other
8 petroleum products in amounts determined by the department as
9 having a major effect on energy supplies.

10 "Major oil transporter" means any person who transports oil
11 or other petroleum products in amounts determined by the
12 department as having a major effect on energy supplies.

13 "Month" means each full month of the calendar year.

14 "Nonrefiner wholesale price" means the wholesale price at
15 which liquid fuel is sold by any distributor, not a refiner, to
16 any other distributor, not a refiner, for resale at any
17 subsequent wholesale or retail transaction.

18 "Person" means any person, firm, association, organization,
19 partnership, business trust, corporation, or company. "Person"
20 also includes any city, county, public district or agency, the
21 State, or any department or agency thereof, and the United
22 States to the extent authorized by federal law.



1 "Refiner" means any person who owns, operates, or controls
2 the operations of one or more refineries in Hawaii.

3 "Refiner wholesale price" means the wholesale price at
4 which liquid fuel is sold by a refiner to any distributor, not a
5 refiner, for resale at any subsequent wholesale or retail
6 transaction.

7 "Refinery" means any industrial plant, regardless of
8 capacity, processing crude oil feedstock and manufacturing oil
9 products.

10 **§196-B Statements.** (a) Each month every distributor, on
11 the reporting dates as the director may establish, shall file
12 with the department, on forms prescribed, prepared, and
13 furnished by the department a certified statement showing
14 separately for each county and for the islands of Lanai and
15 Molokai within which and whereon fuel is sold or used during the
16 last preceding reporting month, the following:

17 (1) The total number of gallons or units of fuel, by type
18 or grade, refined, manufactured, or compounded by the
19 distributor within the State and, if for ultimate sale
20 or consumption in another county or on another island,
21 the number of gallons or units of fuel, by type or



- 1 grade, sold, exchanged, or otherwise transferred or
2 used by the distributor in each county or island;
- 3 (2) The total number of gallons or units of fuel, by type
4 or grade, imported or exported by the distributor; the
5 total volumes of fuel, by type or grade, sold,
6 exchanged, or otherwise transferred or used by the
7 distributor; and if for ultimate sale or consumption
8 in another county or on another island, the number of
9 gallons or units of fuel, by type or grade, sold,
10 exchanged, or otherwise transferred or used by the
11 distributor in each county or island;
- 12 (3) The total number of gallons or units of fuel sold as
13 liquid fuel, aviation fuel, diesel fuel, and other
14 types of fuel as required by the department;
- 15 (4) The total number of gallons or units of fuel, by type
16 or grade, sold to federal, state, and county agencies,
17 ships stores, or base exchanges, commercial
18 agricultural accounts, commercial nonagricultural
19 accounts, retail dealers, and other customers as
20 required by the department;
- 21 (5) Monthly weighted average volume of foreign or domestic
22 crude oil or other liquid fuels, finished or



1 unfinished, imported to Hawaii, including information
2 identifying the source of the crude oil or other
3 liquid fuels;

4 (6) The volumes of finished unleaded regular and premium
5 motor gasoline, and of each other grade of gasoline
6 sold, by island, to retail outlets, by classes of
7 retail trade, and to wholesale distributors;

8 (7) Monthly weighted average sales volumes of finished
9 unleaded regular and premium motor gasoline, and of
10 each other grade of gasoline sold, by island, by
11 retail distributor outlets of all classes of retail
12 trade and by any distributor to other end-users;

13 (8) The volumes of No. 2 diesel fuel and No. 2 fuel oil,
14 by island, sold to retail distributor outlets, by
15 classes of retail trade, and to all other wholesale
16 distributors;

17 (9) Monthly weighted average sales volumes of No. 2 diesel
18 fuel and No. 2 fuel oil sold, by island, by retail
19 distributor outlets of all classes of retail trade and
20 by any distributor to other end-users; and

21 (10) Monthly weighted average sales volumes for retail
22 sales and wholesale sales, by island, of No. 1



1 distillate, kerosene, finished aviation gasoline,
2 kerosene-type jet fuel, No. 4 fuel oil, residual fuel
3 oil, and consumer grade propane.

4 The department shall prescribe applicable standards and
5 practices for reporting to facilitate uniformity, consistency,
6 and comparability of the data to be submitted.

7 (b) Each major marketer shall submit to the department, at
8 a time and in a form as the department shall prescribe,
9 information, including petroleum and petroleum product receipts,
10 exchanges, inventories, and distributions.

11 (c) The department may request additional information as
12 and when the department deems necessary to perform the
13 department's responsibilities under this chapter.

14 (d) Information in the statements filed pursuant to this
15 section shall be collected and maintained to effectuate the
16 purposes of this chapter, chapter 125C, and other relevant laws.

17 **§196-C Annual information reports.** (a) Each major oil
18 producer, refiner, marketer, oil transporter, and oil storer
19 shall submit to the department, in a form as the department
20 shall prescribe, information that includes the following:

21 (1) Major oil transporters shall report on petroleum by
22 reporting the capacities of each major transportation



1 system, the amount transported by each system, and
2 inventories thereof. The provision of the information
3 shall not be construed to increase and decrease any
4 authority the department may otherwise have;

5 (2) Major oil storers shall report on storage capacity,
6 inventories, receipts and distributions, and methods
7 of transportation of receipts and distributions;

8 (3) Refiners shall report on facility capacity and
9 utilization and method of transportation of refinery
10 receipts and distributions; and

11 (4) Major oil marketers shall report on facility capacity
12 and methods of transportation of receipts and
13 distributions.

14 (b) The department may request additional information as
15 and when the department deems it necessary to perform the
16 department's responsibilities under this chapter, chapter 125C,
17 and other relevant laws.

18 **§196-D Confidential information.** (a) Confidential
19 commercial information provided to the department pursuant to
20 this chapter, chapter 125C, and other relevant laws, that is
21 exempt from public disclosure under section 92F-13(4), shall be



1 held in confidence by the department or aggregated to the extent
2 necessary to ensure confidentiality as required by chapter 92F.

3 (b) No data or information submitted to the department
4 shall be deemed confidential if the person submitting the
5 information or data has made it public.

6 (c) Unless otherwise provided by law, with respect to data
7 that the department obtains or is provided pursuant to section
8 196-B or 196-C, neither the department nor any employee of the
9 department may do any of the following:

- 10 (1) Use the information furnished or obtained for any
11 purpose other than the purposes for which it is
12 supplied;
- 13 (2) Make any publication whereby the data furnished by any
14 person can be identified; or
- 15 (3) Permit any person other than the department, and the
16 authorized representatives and employees of the
17 department to examine the individual reports or
18 statements provided.

19 **§196-E Confidential information obtained by another state**
20 **agency.** Any confidential information pertinent to the
21 responsibilities of the department specified in this chapter,
22 chapter 125C, and other relevant laws that is obtained by



1 another state agency, including the department of taxation, the
2 attorney general, and the consumer advocate, shall be available
3 only to the attorney general, and the attorney general's
4 authorized representatives and shall be treated in a
5 confidential manner.

6 **§196-F Sharing of information obtained by the department.**

7 The department shall make any information obtained by the
8 department under this chapter, including confidential
9 information, available only to the attorney general, an
10 appropriate legislative committee, and the authorized
11 representative of each, who shall safeguard the confidentiality
12 of all confidential information received.

13 **§196-G Failure to timely provide information; failure to**
14 **make and file statements; false statements; penalties; referral**
15 **to the attorney general.** (a) The department shall notify those
16 persons who have failed to timely provide the information
17 requested by the department in section 196-B or 196-C. If,
18 within five business days after being notified of the failure to
19 provide the specified or requested information, the person fails
20 to supply the specified or requested information, the person
21 shall be subject to a civil penalty of not less than \$50,000 per



1 day nor more than \$100,000 per day for each day the submission
2 of information is refused or delayed.

3 (b) Any person, or any employee of any person, who
4 willfully makes any false statement, representation, or
5 certification in any record, report, plan, or other document
6 filed with the department shall be subject to a civil penalty
7 not to exceed \$500,000 and shall be deemed to have committed an
8 unfair or deceptive act or practice in the conduct of a trade or
9 commerce and subject to the penalties specified in chapter 480.

10 (c) The department shall refer any matter under subsection
11 (a) or (b) to the attorney general, who may exercise any
12 appropriate legal or equitable remedies that may be available to
13 the State.

14 (d) For the purposes of this section, "person" means, in
15 addition to the definition contained in section 196-A, any
16 responsible corporate officer.

17 **§196-H Energy industry monitoring, and analysis special**
18 **fund.** (a) There is established an energy industry monitoring
19 and analysis special fund to be administered by the department.

20 (b) The legislature may make appropriations from the
21 general revenues of the State of Hawaii, not to exceed \$



1 in any fiscal year, for the energy industry monitoring and
 2 analysis special fund.

3 (c) Moneys in the special fund shall be used to:

4 (1) Administer the energy industry monitoring and analysis
 5 program pursuant to this chapter; and

6 (2) Establish a full-time staff position in the department
 7 to implement and maintain the energy industry
 8 monitoring and analysis program, including an
 9 automated energy industry information reporting
 10 system."


11 SECTION 3. Notwithstanding any other law to the contrary,
 12 sections 486J-3, 486J-4, 486J-4.5, and 486J-5, Hawaii Revised
 13 Statutes, are hereby suspended and shall have no force and
 14 effect from the enactment date of this Act indefinitely, as may
 15 be subsequently required by law.

16 SECTION 4. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 2050.

18

INTRODUCED BY: _____


 JAN 25 2010



Report Title:

Energy Industry Reporting

Description:

Establishes the energy industry monitoring and analysis program within DBEDT. Suspends the petroleum industry monitoring and reporting program in the PUC.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

