

A Bill for an Act Relating to Petroleum Products.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

**“CHAPTER
PROCUREMENT, CONTROL, DISTRIBUTION
AND SALE OF PETROLEUM PRODUCTS**

Sec. -1 Findings and purpose. The limited supply of motor gasoline available to the public during the first few months of 1974, and the panic, disruption, and crisis that accompanied the shortage, clearly demonstrated the necessity for regulatory control to maintain public confidence and order and to effect conservation. The purpose of this chapter is to grant to the governor or his authorized representative the clear authority, when shortages of petroleum products occur or are anticipated, to control the distribution and sale of petroleum products in this State, to procure such products, and to impose rules that will provide extraordinary measures for the conservation of petro-

leum products and for their distribution and sale in an orderly, efficient, and safe manner.

Sec. -2 "Shortage" defined. As used in this chapter, unless otherwise indicated by the context, a "shortage" exists whenever the average amount of gasoline available for each motor vehicle during a current or forthcoming month is ten per cent less than the average amount of gasoline that was available during that month in the immediately preceding five years. The average amount of gasoline available for each motor vehicle during a current or forthcoming month shall be determined by dividing the total approximate amount of gasoline available to motor vehicles for a current or forthcoming month by the total approximate number of registered motor vehicles of record during that same month. The average amount of gasoline that was available during that month in the immediately preceding five years shall be determined by dividing the sum of the total amounts of gasoline that was available to motor vehicles for that month in each of the immediately preceding five years by the sum of the total numbers of registered motor vehicles of record during that month in each of the immediately preceding five years.

Sec. -3 Powers in a shortage. If the governor declares that a shortage as defined in section -2 exists, he or his authorized representative, to insure that petroleum products are made available to the public in an orderly, efficient, and safe manner, may:

- (1) Control the distribution and sale of petroleum products by promulgating rules that may include, but shall not be limited to, the following measures:
 - (A) Restricting the sale of petroleum products to specific days of the week, hours of the day or night, odd and even calendar days, and for vehicles having less than a specified amount of gasoline in their tanks, with exceptions for certain designated geographical areas.
 - (B) Restricting sales of petroleum products by dealers to daily allocations determined by dividing the monthly allocation by the number of selling days per month.
 - (C) Requiring dealers to post signs to designated hours of operation and sell-out of daily allocation.
 - (D) Allowing the counties to be exempt from all or portions of a state plan and to operate petroleum product distribution plans tailored to their own specific needs where a county has not exempted itself pursuant to sec. -11.
 - (E) Instituting a statewide rationing plan.
 - (F) Allowing for special handling for commercial and emergency-user vehicles.
- (2) Purchase and resell or otherwise distribute petroleum products.
- (3) Receive, expend, or use contributions or grants in money or property, or special contributions thereof for special purposes not inconsistent with this chapter.
- (4) Borrow and expend moneys needed to exercise the powers herein granted.

- (5) Contract in the name of the State for the purpose of implementing this chapter or any part hereof.
- (6) Exercise the powers herein granted to the degree and extent deemed by the governor to be necessary, including the temporary or indefinite suspension of all or part of the measures taken, as the governor deems appropriate.

Sec. -4 Promulgation, filing, and taking effect of rules. Upon the occurrence of a shortage, the governor may proceed without prior notice or hearing or upon such abbreviated notice and hearing as he finds practicable to adopt rules authorized under this chapter to be effective for a period of not longer than one hundred twenty days without renewal. To be effective after the one-hundred-twenty-day period, such rules must be adopted pursuant to chapter 91. Each rule adopted, amended, or repealed shall become effective as adopted, amended, or repealed upon approval by the governor and filing with the lieutenant governor. Each rule in effect shall have force and effect of law, but the effect of each rule may be temporarily or indefinitely filed with the lieutenant governor. Each rule temporarily suspended shall take effect again immediately upon expiration of the suspension period. Each rule indefinitely suspended shall take effect immediately upon the filing with the lieutenant governor of the written declaration by the governor terminating the suspension.

Sec. -5 Publication of rules and declarations. Within five days after the date of filing with the lieutenant governor of each rule or declaration, the governor shall make the rule or determination known to the persons affected by it by publication at least once in a newspaper of general circulation in the State and in a newspaper that is printed and issued at least twice weekly in the county within which those affected persons reside.

Sec. -6 Petition for adoption, amendment, repeal, or suspension of rules. Any interested person may petition the governor or his authorized representative requesting the adoption, amendment, repeal, or suspension of any rule and stating reasons therefor. The governor or his authorized representative shall prescribe the form for the petitions and the procedures for their submission, consideration, and disposition, and within thirty days after submission of the petition shall either deny the petition in writing, stating his reasons for the denial, or grant the petition and adopt, amend, repeal, or suspend the rule accordingly.

Sec. -7 Petroleum products control fund. There is hereby established in the state treasury a revolving fund to be known as the petroleum products control fund. All fees or charges collected for services furnished or petroleum products sold, all moneys borrowed, and all contributions or grants of money received under this chapter shall be deposited in this fund; provided that the governor may establish other suitable funds in the state treasury for deposit and separate accounting of moneys contributed or granted for special purposes under this chapter. All moneys in the petroleum products control fund are appropriated for the purposes of this chapter and shall be expended by the governor or his designated representative. The governor or his designated representative may expend and use the moneys in the petroleum products con-

trol fund to purchase petroleum products, to obtain services, equipment, materials, and supplies necessary under this chapter, and to repay moneys borrowed under this chapter.

Sec. -8 Personnel; delegation of powers. The governor may appoint or employ temporary boards, agencies, officers, employees, and other persons, or any of them, for the purpose of carrying out the provisions of this chapter. All such temporarily appointed or employed officers and employees, whether or not employed by contract, shall be exempt from and not subject to nor entitled to the benefits of the provisions of chapters 76, 77, and 79, and part II of chapter 88, or any other law that is inapplicable to temporary employees of the State.

Sec. -9 Investigations and surveys. The governor or his authorized representative may make investigations and surveys for the purpose of ascertaining facts to be used in administering this chapter, and in making the investigations and surveys, may require the making, filing, or keeping of applications, schedules, records, reports, or statements, under oath or otherwise, administer oaths, take evidence under oath, subpoena witnesses, and require the production of books, papers, and records. Witnesses shall be allowed their fees and mileage as in cases in the circuit courts. The circuit court of any circuit or judge thereof may enforce by proper proceedings the attendance and testimony of any witness subpoenaed to appear within the circuit, or the production of books, papers, and records.

Sec. -10 Fraud; misdemeanor. Any person required by the governor or his authorized representative, pursuant to section -9, to make, keep or file any application, schedule, record, report, or statement, whether or not under oath, who intentionally makes, files, or keeps a false or fraudulent application, schedule, report, or statement or intentionally conceals therein any material fact, and any person who in any other manner intentionally deceives or attempts to deceive the governor or his authorized representative with respect to any fact to be used in administering this chapter, and any person who intentionally fails to observe and comply with any rule promulgated under this chapter, shall be guilty of a misdemeanor.

Sec. -11 Exemption. Any county, which has under its charter the right to declare an emergency and the power to carry out a plan to cope with the emergency, shall be exempt from all or portions of a state plan as the county may determine by ordinance provided that notwithstanding any charter or ordinance provision to the contrary or in the absence thereof, such ordinance shall be effective for a period of not longer than one hundred twenty days.

To be effective after the one hundred twenty day period, any ordinance exempting the county from all or portions of the state plan shall meet the following requirements prior to adoption by the county:

(a) The county council shall hold a public hearing at which all interested persons shall be afforded the opportunity to submit data, views, or arguments, orally or in writing. The council shall fully consider all written and oral submission respecting the proposed exemption. (b) The county council shall give at least twenty days notice for the public hearing. Such notice shall include a statement of the substance of the proposed exemption, and of the date, time

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and place where interested persons may be heard thereon. The notice shall be published at least once in a newspaper of general circulation in the State or in a newspaper that is printed or issued at least twice weekly in the county affected.

Such public hearing and notice requirements shall supersede and be in lieu of any notice and public hearing requirements provided by any county charter or ordinance and shall also apply in the absence of any county charter or ordinance provision concerning such requirements.

The same public hearing and notice requirement set forth in this section for the adoption of any exemptions for the state plan shall apply to the amendment or repeal of such exemptions.

Any county so exempt may operate petroleum product distribution plans tailored to its own specific needs but shall coordinate its operation in consonance with the governor's exercise of his authority in the control and distribution and sale of petroleum products under the state plan."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

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

(Approved May 3, 1975.)