

ACT 238

H.B. NO. 267

A Bill for an Act Relating to the Control of Petroleum Products.

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

SECTION 1. Chapter 125C, Hawaii Revised Statutes, is amended by inserting the following material after the chapter heading:

**“PART I.  
GENERAL POWERS AND PROCEDURES DURING A SHORTAGE”**

SECTION 2. Section 125C-1, Hawaii Revised Statutes, is amended to read as follows:

**“[[ ]§125C-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 legislature finds that adequate supplies of petroleum products are essential to the health, welfare, and safety of the people of Hawaii, and that any severe disruption in petroleum product supplies for use within the State would cause grave hardship, pose a threat to the economic well-being of the people of the State, and have significant adverse

effects upon public confidence and order and effective conservation of petroleum products.

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

SECTION 3. Section 125C-2, Hawaii Revised Statutes, is amended to read as follows:

“§125C-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 five per cent less than the average amount of gasoline that was available during that month in the immediately preceding two 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 two years shall be determined by dividing the sum of the total amounts of gasoline that was available to motor vehicles for that month in the immediately preceding two years by the sum of the total numbers of registered motor vehicles of record during that month in the immediately preceding two years.] the governor determines that there is an increase in the demand for any petroleum product which is five per cent or greater during a current or forthcoming month than the average demand for that petroleum product during that month in the immediately preceding two years, and this increase has not been met by an increase of equal magnitude in the available supply of the petroleum product in question; or there is a decrease in the available supply of any petroleum product which is five per cent or greater during a current or forthcoming month than the average supply available during that same month in the immediately preceding two years, and this decrease has not been accompanied by a decline in demand of equal magnitude for the petroleum product in question; and such increase or decrease in the available supply of the petroleum product in question may cause a major adverse impact on the economy, public order, or the health, welfare, or safety of the people of Hawaii and may not be responsibly managed within the free market distribution system. The governor shall review the status of a shortage within one hundred twenty days after his initial determination of a shortage as defined under this

chapter; thenceforth, the governor shall conduct a review of the shortage to make a new determination every thirty days until a shortage no longer exists.”

SECTION 4. Section 125C-3, Hawaii Revised Statutes, is amended to read as follows:

“[ [ ] §125C-3[ ] ] **Powers in a shortage.** [If the governor declares that] When a shortage as defined in section 125C-2 exists, [he] the governor 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 retail distribution and sale of petroleum products by [promulgating] adopting 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 designate 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 section 125C-11.
  - (E) Instituting a statewide rationing plan.
  - (F) Allowing for special handling for commercial and emergency-user vehicles.
- (2) Require that a percentage of petroleum products not to exceed five per cent be set aside to alleviate hardship as set forth in section 125C-22.
- [(2)] (3) Purchase and resell or otherwise distribute petroleum products[.], and purchase and resell or otherwise distribute ethanol which is produced within the State and which can be used as a substitute for petroleum products.
- [(3)] (4) Receive, expend, or use contributions or grants in money or property, or special contributions thereof for special purposes not inconsistent with this chapter.
- [(4)] (5) Borrow and expend moneys needed to exercise the powers herein granted.

- [(5)] (6) Contract in the name of the State for the purpose of implementing this chapter or any part hereof.
- [(6)] (7) 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.”

SECTION 5. Section 125C-4, Hawaii Revised Statutes, is amended to read as follows:

“§125C-4 [Promulgation,] **Adopting, filing, and taking effect of rules.** [Upon the occurrence of a shortage,] When a shortage as defined in section 125C-2 exists, the governor or his authorized representative 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. Any rule so adopted may be amended or repealed by the governor without prior notice or hearing or upon abbreviated notice and hearing prior to the expiration of the one-hundred-twenty-day period; provided that no amendment shall extend the rule beyond the original period of one hundred and twenty days. To be effective after the one-hundred-twenty-day period, such rules [must] shall 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 suspended by the governor by written declaration 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.”

SECTION 6. Section 125C-7, Hawaii Revised Statutes, is amended to read as follows:

“[ ]§125C-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] authorized representative. The governor or his [designated] authorized representative may expend and use the moneys in the petroleum products control fund to purchase petroleum products, to obtain services, equipment, materials, and supplies necessary under this chapter, and to repay moneys borrowed under this chapter.”

SECTION 7. Chapter 125C, Hawaii Revised Statutes, is further amended by adding a new part II to read as follows:

**“PART II,  
HARDSHIP SET-ASIDE AND ALLOCATION OF  
PETROLEUM PRODUCTS DURING A SHORTAGE”**

**§125C-21 Definitions.**

“Petroleum product” means heating oils, light and heavy diesel oil, motor gasoline, propane, butane, residual fuel oils, and kerosene, except for aviation fuels.

“Prime supplier” means any individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision or other legal entity which makes the first sale of any liquid fossil fuel into the state distribution system for consumption within the state.

**§125C-22 When set-aside required.** When a shortage as defined in section 125C-2 exists, all prime suppliers shall set aside supplies of each petroleum product for which there is a shortage. The amount set aside shall be in accordance with the rules adopted by the state energy resources coordinator.

**§125C-23 Set-aside system.** The state energy resources coordinator shall adopt rules establishing a petroleum products set-aside system. The purpose of this system shall be the protection of public health, safety, and welfare; the maintenance of public services, utilities, and transportation; the maintenance of agricultural operations, including farming, horticulture, dairy, fishing, and related services; the preservation of economically sound and competitive industry, through the equitable acquisition and distribution of petroleum products; and the promotion of efficiency, with minimum economic disruptions, during a shortage of petroleum products. The rules establishing the set-aside system shall be adopted in accordance with chapter 91.”

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 4, 1984.)