



GOV. MSG. NO. 940

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 15, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 15, 2007, the following bill was signed into law:

SB990 SD2 HD3 CD1

A BILL FOR AN ACT RELATING TO PETROLEUM
INDUSTRY MONITORING.
(ACT 182)

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Aiona, Jr.", written in a cursive style.

JAMES R. AIONA, JR.
Acting Governor

A BILL FOR AN ACT

RELATING TO PETROLEUM INDUSTRY MONITORING.

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

1 SECTION 1. Chapter 486B, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§486B-A Monitoring of petroleum industry information.

5 The public utilities commission shall refer to the attorney
6 general any matter that is a violation of this chapter that is
7 discovered in the performance of its duties pursuant to chapter
8 486H or 486J."

9 SECTION 2. Chapter 486J, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§486J-A Use and analysis of information by the department

13 of business, economic development, and tourism. The department,
14 with its own staff and other support staff with relevant
15 expertise and experience, shall use the information obtained
16 under this chapter to effectuate the purposes of chapters 125C,
17 196, and other relevant laws."



1 SECTION 3. Section 486J-1, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding a new definition to be appropriately inserted
4 and to read:

5 "Major fuel user" means any person who uses fuel in the
6 manufacture of products or for the generation of power in
7 amounts determined by the commission as having a major effect on
8 energy supplies."

9 2. By amending the definitions of "distributor", "major
10 marketer", "major oil producer", "major oil storer", and "major
11 oil transporter" to read:

12 "Distributor" means:

13 (1) Every person who refines, manufactures, produces, or
14 compounds fuel in the State and sells it at wholesale
15 or at retail [~~or who uses it directly in the~~
16 ~~manufacture of products or for the generation of~~
17 ~~power~~];

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

21 (3) Every person who acquires fuel through exchanges with
22 another distributor; or



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

8 "Major marketer" means any person who sells natural gas,
9 propane, synthetic natural gas, or oil in amounts determined by
10 the [department] commission as having a major effect on energy
11 supplies.

12 "Major oil producer" means any person who produces oil in
13 amounts determined by the [department] commission as having a
14 major effect on energy supplies.

15 "Major oil storer" means any person who stores oil or other
16 petroleum products in amounts determined by the [department]
17 commission as having a major effect on energy supplies.

18 "Major oil transporter" means any person who transports oil
19 or other petroleum products in amounts determined by the
20 [department] commission as having a major effect on energy
21 supplies."



1 SECTION 4. Section 486J-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§486J-3 Statements. (a) Each week every distributor [~~7~~
4 ~~on the reporting dates as the commission may establish,~~] and
5 major fuel user shall file with the commission, on forms
6 prescribed, prepared, and furnished by the commission, a
7 certified statement showing on a statewide consolidated basis,
8 and separately for each county and for the islands of Lanai and
9 Molokai within which and whereon fuel is sold or used during the
10 last preceding reporting week, the following:

11 (1) The total number of gallons or units of fuel, by type
12 or grade, refined, manufactured, or compounded by the
13 distributor within the State and, if for ultimate sale
14 or consumption in another county or on another island,
15 the number of gallons or units of fuel, by type or
16 grade, sold, exchanged, or otherwise transferred or
17 used by the distributor in each county or island;

18 (2) The total number of gallons or units of fuel, by type
19 or grade, imported or exported by the distributor; the
20 total volumes of fuel, by type or grade, sold,
21 exchanged, or otherwise transferred or used by the
22 distributor; and if for ultimate sale or consumption



- 1 in another county or on another island, the number of
2 gallons or units of fuel, by type or grade, sold,
3 exchanged, or otherwise transferred or used by the
4 distributor in each county or island;
- 5 (3) The total number of gallons or units of fuel sold as
6 liquid fuel, aviation fuel, diesel fuel, and other
7 types of fuel as required by the commission;
- 8 (4) The total number of gallons or units of fuel, by type
9 or grade, and their respective sales prices for all
10 fuel sold to federal, state, and county agencies,
11 ships stores, or base exchanges, commercial
12 agricultural accounts, commercial nonagricultural
13 accounts, retail dealers, and other customers as
14 required by the commission;
- 15 (5) Weekly weighted average acquisition cost per barrel
16 and volumes of foreign or domestic crude oil or other
17 liquid fuels, finished or unfinished, imported to
18 Hawaii, including information identifying the source
19 of the crude oil or other liquid fuels;
- 20 (6) The effective date and time, and the amount of change
21 in cents per gallon, of any increase or decrease in
22 wholesale price occurring during the week and the



1 weekly weighted average wholesale prices and sales
2 volumes of finished unleaded regular and premium motor
3 gasoline, and of each other grade of gasoline sold, by
4 island, to retail outlets, by classes of retail trade,
5 and to wholesale distributors;

6 (7) Weekly weighted average retail prices, and sales
7 volumes of finished unleaded regular and premium motor
8 gasoline, and of each other grade of gasoline sold, by
9 island, by retail distributor outlets of all classes
10 of retail trade and by any distributor to other end-
11 users; provided that the commission may purchase
12 retail price data from data service companies that the
13 commission may use to substitute some or all data to
14 meet the reporting requirement for retail price data
15 under this paragraph;

16 (8) The effective date and time, and the amount of change
17 in cents per gallon, of any increase or decrease in
18 wholesale price occurring during the week and the
19 weekly weighted average wholesale prices, and sales
20 volumes of No. 2 diesel fuel and No. 2 fuel oil, by
21 island, to retail distributor outlets, by classes of
22 retail trade, and to all other wholesale distributors.



1 Weighted average wholesale prices and sales volumes
2 shall be reported by type of wholesale liquid fuel
3 price;

4 (9) Weekly weighted average retail prices, and sales
5 volumes of No. 2 diesel fuel and No. 2 fuel oil sold,
6 by island, by retail distributor outlets of all
7 classes of retail trade and by any distributor to
8 other end-users. The commission may purchase retail
9 price data from data service companies that the
10 commission may use to substitute some or all data to
11 meet the reporting requirement for retail price data
12 under this paragraph;

13 (10) Weekly weighted average prices, and sales volumes for
14 retail sales and wholesale sales, by island, of No. 1
15 distillate, kerosene, finished aviation gasoline,
16 kerosene-type jet fuel, No. 4 fuel oil, residual fuel
17 oil, and consumer grade propane;

18 (11) For each distributor that is a refiner, the gross
19 margins or spreads between a refiner's average
20 weighted acquisition price for each gallon of crude
21 oil and blendstock refined within the State and the
22 average weighted prices for each gallon or unit of



1 fuel sold, by county or island, to another
2 distributor, a retail dealer, end-user, and consumer;
3 [~~and~~]

4 (12) For each distributor that is not a refiner, the gross
5 margins or spreads between the distributor's average
6 weighted price for each gallon or unit of fuel
7 acquired by the distributor and the average weighted
8 prices for each gallon or unit of fuel sold, by county
9 or island, to another distributor, a retail dealer,
10 end-user, or consumer[-]; and

11 (13) Revenues, expenses, profits and losses, and any other
12 financial or operating information as may be required
13 by the commission.

14 The commission shall prescribe applicable standards and
15 practices for reporting to facilitate uniformity, consistency,
16 and comparability of the data to be submitted.

17 (b) Each major marketer shall submit to the commission, at
18 a time and in a form as the commission shall prescribe,
19 information, including petroleum and petroleum product receipts,
20 exchanges, inventories, and distributions.



1 (c) The commission may [~~request~~] require additional
2 information as and when the commission deems necessary to
3 perform the commission's responsibilities under this chapter.

4 (d) Information in the statements filed pursuant to this
5 section shall be collected and maintained for the purpose of
6 facilitating the analysis required by [~~section 486J-5,~~] this
7 chapter; provided that the commission shall make the information
8 available to the public [~~the information contained in the~~
9 ~~statements but not the statements themselves, as provided in]~~,
10 to the extent permitted under sections 486J-6 and 486J-8."

11 SECTION 5. Section 486J-4, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The commission may [~~request~~] require additional
14 information as and when the commission deems [~~it~~] necessary to
15 perform the commission's responsibilities under this chapter."

16 SECTION 6. Section 486J-4.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Each refiner, on a semi-annual basis, at reporting
19 dates as the commission may establish, shall file with the
20 commission, on forms prescribed, prepared, and furnished by the
21 commission, a certified statement of operating and overhead



1 costs for the refiner's Hawaii operations that shall include but
2 not be limited to the following:

- 3 (1) Crude oil costs and sources;
- 4 (2) Other feedstock costs and sources;
- 5 (3) Refinery operating expenses;
- 6 (4) Marketing operating expenses by petroleum product;
- 7 (5) Distribution expenses by petroleum product; and
- 8 (6) Corporate overhead expenses [~~;~~ and
- 9 ~~(7) The percentage of the total number of wholesale~~
- 10 ~~gallons of unleaded regular and premium unleaded~~
- 11 ~~gasoline sold during the reporting period at wholesale~~
- 12 ~~prices per gallon that exceed the maximum pre tax~~
- 13 ~~wholesale price calculated by the commission under~~
- 14 ~~section 486H-13]."~~

15 SECTION 7. Section 486J-6, Hawaii Revised Statutes, is
16 amended by amending subsections (a) and (b) to read as follows:

17 " (a) Confidential commercial information provided to the
18 commission pursuant to this chapter that is exempt from public
19 disclosure under section [~~92F-13(4)~~] 92F-13 shall be held in
20 confidence by the commission or aggregated to the extent
21 necessary in the commission's discretion to ensure
22 confidentiality as required by chapter 92F.



1 (b) No data or information submitted to the
2 [+]commission[+] shall be deemed confidential if it is shown
3 that the person submitting the information or data has made it
4 public."

5 SECTION 8. Section 486J-9, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Any person, or any employee of any person, who
8 wilfully makes any false statement, representation, or
9 certification in any record, report, plan, or other document
10 filed with the commission shall be subject to a civil penalty
11 not to exceed \$500,000 and shall be deemed to have committed an
12 unfair or deceptive act or practice in the conduct of a trade or
13 commerce and subject to the penalties specified in [~~chapter~~]
14 chapters 480 [-] and 486B."

15 SECTION 9. Section 486J-8, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) [~~Notwithstanding any law to the contrary, including~~
18 ~~any other section of this chapter, no later than fourteen days~~
19 ~~after the reporting date established by the commission under~~
20 ~~section 486J-3, the] The commission shall disclose to the
21 public, using the best readily available technology, the
22 information contained in the statements [~~, but not the statements~~~~



1 themselves,] that are filed pursuant to section 486J-3 [-],
2 except to the extent that disclosure is prohibited under section
3 486J-6. The commission shall publicly report this information
4 within fourteen days pursuant to the reporting dates established
5 by the commission under section 486J-3."

6 SECTION 10. Section 486J-11, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~§~~486J-11~~]~~ Powers of the public utilities commission.

9 (a) The public utilities commission [~~shall have the authority~~
10 ~~and power to~~] may take any action or make any determination
11 under this chapter, including but not limited to actions or
12 determinations that affect persons not regulated under chapters
13 269, 271, and 271G, as the commission deems necessary to carry
14 out its responsibilities or otherwise effectuate chapter 269,
15 271, or 271G.

16 (b) The public utilities commission may examine or
17 investigate each distributor, the manner in which it is
18 operated, its prices and rates, its operating costs and
19 expenses, the value of its property and assets, the amount and
20 disposition of its income, any of its financial transactions,
21 its business relations with other persons, companies, or
22 corporations, its compliance with all applicable state and



1 federal laws, and all matters of any nature affecting the
2 relations and transactions between the distributor and the
3 public, persons, or businesses.

4 (c) In the performance of its duties under this chapter,
5 the commission shall have the same powers respecting
6 administering oaths, compelling the attendance of witnesses and
7 the production of documents, examining witnesses, and punishing
8 for contempt, as are possessed by the circuit courts. In case
9 of disobedience by any person to any order of or subpoena issued
10 by the commission, or of the refusal of any witness to testify
11 to any matter regarding which the witness may be lawfully
12 questioned, any circuit court, upon application by the
13 commission, shall compel obedience as in case of disobedience of
14 the requirements of a subpoena issued from a circuit court or a
15 refusal to testify therein."

16 SECTION 11. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$1,200,000 or so much
18 thereof as may be necessary for fiscal year 2007-2008 to be
19 deposited into the petroleum industry monitoring, analysis, and
20 reporting special fund.

21 SECTION 12. There is appropriated out of the petroleum
22 industry monitoring, analysis, and reporting special fund the



1 sum of \$1,200,000 or so much thereof as may be necessary for
2 fiscal year 2007-2008 to administer, implement, and maintain the
3 petroleum industry monitoring, analysis, and reporting program
4 established under chapter 486J, Hawaii Revised Statutes.

5 The sum appropriated shall be expended by the public
6 utilities commission for the purposes of chapter 486J, Hawaii
7 Revised Statutes.

8 SECTION 13. In codifying the new sections added to the
9 Hawaii Revised Statutes by this Act, the revisor of statutes
10 shall substitute appropriate section numbers for the letters
11 used in designating the new sections in this Act.

12 SECTION 14. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 15. This Act shall take effect on July 1, 2007.

ACTING



JAMES R. AIONA JR.

GOVERNOR OF THE STATE OF HAWAII

Approved this day: JUN 15 2007

