

July 13, 2004

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 3170

Honorable Members
Twenty-Second Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 3170, entitled "A Bill for an Act Relating to Petroleum Products."

The purpose of this bill is to promote alternative energy resources in Hawaii by establishing new requirements for the blending of ethanol in gasoline, and requiring, by January 1, 2006, that not less than eighty-five percent of all gasoline sold for use in motor vehicles in Hawaii contain ten percent ethanol by volume. This measure also requires each distributor, within ninety days of the close of the calendar year, to file a statement for the previous year showing the amount of ethanol and non-ethanol blended gasoline sold by the distributor on forms prepared by the Director of Business, Economic Development, and Tourism. Any distributor violating these requirements is subject to a fine of not less than \$2 per gallon of non-conforming fuel.

This bill is objectionable because it allows the Director of Business, Economic Development, and Tourism to adopt rules for the administration and enforcement of the ethanol requirements, exempt from the requirements of chapter 91, Hawaii Revised Statutes. This chapter, the Hawaii Administrative Procedure Act, provides for giving public notice and holding a hearing on proposed rules. Exempting the ethanol rulemaking process from these procedural requirements is contrary to our policy of advocating open government and providing the public with opportunity for input.

Under current law, Section 486J-10, Hawaii Revised Statutes, which this bill seeks to amend, the State's petroleum

commissioner is required to adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to require that gasoline sold in the State for use in motor vehicles contain ten percent ethanol by volume. I have reviewed and approved for public hearing the proposed rules entitled ``Chapter 35 of Title 15, Hawaii Administrative Rules, regarding Ethanol Content in Gasoline.'' These rules were drafted and reviewed with care in a collaborative effort by all stakeholders. I believe that adopting the rules for Section 486J-10, Hawaii Revised Statutes, in a public hearing process is the proper approach for implementing the ethanol requirements. The public hearing process will provide the forum for issues to be examined and for all steps necessary to be taken to ensure that the State's ethanol requirements are implemented into an orderly manner and that the negative impact, if any, on gasoline is addressed.

For the foregoing reasons, I am returning Senate Bill No. 3170 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii