
A BILL FOR AN ACT

RELATING TO ENERGY SECURITY AND ENERGY EMERGENCY PREPAREDNESS.

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

1 SECTION 1. The legislature finds that despite the
2 comprehensive integrated energy policy measures enacted in
3 recent years, particularly in 2006, Hawaii's major energy
4 systems remain mainly dependent on oil. Historic supply and
5 demand patterns have resulted in the development of an
6 integrated and interdependent statewide energy system. Nearly
7 ninety per cent of the State's primary energy is from petroleum,
8 and approximately seventy-six per cent of the State's
9 electricity is generated using petroleum fuels.

10 In 2005, the State received twenty-five per cent of its
11 total annual crude oil imports from the Middle East, and Saudi
12 Arabia became the State's largest import source, supplying over
13 seventeen per cent. In previous years, less than one per cent
14 of Hawaii's crude oil imports came from the Middle East.

15 One of the primary functions of government includes the
16 need to coordinate development of the State's energy resources
17 to preserve energy security and maintain an effective energy
18 emergency preparedness program from an informed technical and



1 analytical perspective. Policy changes and other events have
2 revealed to the legislature a critical need to improve the
3 State's technical understanding of Hawaii's energy resources,
4 markets, and systems for effective energy emergency planning and
5 preparedness, mitigation, response, and recovery and includes
6 using these energy-related functions to support the state civil
7 defense mission. Such improved technical analytic capabilities
8 and understanding are also necessary to plan longer term
9 measures to preserve the State's energy security, which is a
10 prerequisite for economic stability and resilience. These
11 functions are among the statutory roles and responsibilities of
12 the director of the department of business, economic
13 development, and tourism, who serves as the state energy
14 resources coordinator pursuant to chapter 196, Hawaii Revised
15 Statutes, and, as such, is the governor's authorized
16 representative for energy emergency preparedness and management
17 under chapter 125C, Hawaii Revised Statutes.

18 To strengthen and comprehensively address deficiencies in
19 Hawaii's energy emergency preparedness and energy resources
20 coordination statutes, it is necessary to amend chapters 125C
21 and 196, Hawaii Revised Statutes, to comprehensively update
22 their provisions consistent with, and to support, current



1 federal and statewide overall emergency management, and energy
2 emergency management policies, plans, and practices. Moreover,
3 these amendments would support the efforts of the department of
4 business, economic development, and tourism, which has taken the
5 initiative to update its energy emergency preparedness program
6 to meet requirements of the post-9/11 world in which
7 preparedness and planning must address all possible hazards in
8 relation to all sectors of the energy industry. Both Hawaii's
9 oil over-dependency and transitional issues concerning both
10 petroleum and biofuels are anticipated to increase Hawaii's
11 exposure to the risk of supply disruption over the next several
12 years. The department conducted the update with Hawaii state
13 agencies and energy companies in consultation with relevant
14 federal and county agencies, the United States military, and
15 expert consultants.

16 The recent statewide propane shortage and earthquake
17 underscored and validated the need to address the serious
18 inadequacies of the current statutes and the State's concern
19 that the data reporting and collection provisions of these
20 energy emergency preparedness laws do not include all necessary
21 data and all relevant components of the energy industry.



1 Currently, only importers of fuel are subject to reporting
2 requirements, and then only for supply and demand information.
3 However, vital information from other non-importing
4 distributors, wholesalers, retailers, and other major energy
5 companies, and other more extensive and detailed types of data
6 and information on all aspects of the State's energy systems and
7 market are essential for effective energy system situational
8 analyses, policy development, energy security, and an energy
9 emergency preparedness program. Existing restrictions on data
10 collection preclude the governor's and energy resources
11 coordinator's ability to adequately understand the severity and
12 impacts of an energy emergency or fuel shortage on a statewide
13 basis and to determine what response measures may be necessary.

14 Chapter 125C, Hawaii Revised Statutes, does not currently
15 require major energy companies to report critical emergency
16 preparedness information regarding storage, transport,
17 inventory, supply, demand, production and capacities, actual
18 prices, and other aspects of energy systems and markets, which
19 are essential to the State's emergency management role,
20 irrespective of the companies' import status.

21 Data inadequacies constrain the department of business,
22 economic development, and tourism's energy planning and policy



1 analytic capabilities that support preservation of the State's
2 energy security.

3 The amendments of Act 78, Session Laws of Hawaii 2006,
4 added precision to the petroleum industry information reporting
5 requirements, and thus amended the purpose of that law itself by
6 having sharpened the focus of chapter 486J, Hawaii Revised
7 Statutes, primarily on monitoring industry profits and consumer
8 prices. Act 78, Session Laws of Hawaii 2006, redirected
9 functional implementation of chapter 486J, Hawaii Revised
10 Statutes, from the department of business, economic development,
11 and tourism to the public utilities commission and repealed
12 language related to the previous statutory purposes. One such
13 purpose was use of petroleum industry information, including
14 confidential information to plan for and manage fuel shortages
15 (energy emergencies) by the department of business, economic
16 development, and tourism, a function it retains in support of
17 the governor and the state civil defense. While Act 78, Session
18 Laws of Hawaii 2006, required that the department of business,
19 economic development, and tourism retain access to all
20 information, including confidential information, obtained by the
21 public utilities commission pursuant to chapter 486J, Hawaii
22 Revised Statutes, the department was required to return



1 implementation resources previously appropriated by the
2 legislature from the public utilities commission special fund
3 pursuant to section 167, Act 178, Session Laws of Hawaii 2005,
4 because the positions to be funded were not authorized by the
5 legislature. Moreover, the conference committee's inordinately
6 lengthy schedule precluded submission of a final conference
7 draft of the bill enacted as Act 78, Session Laws of Hawaii
8 2006, such that complementary amendments could be formulated to
9 bolster information requirements for energy emergency planning
10 and management and comprehensive energy resources coordination
11 and planning to preserve the State's energy security prior to
12 adjournment of the regular 2006 session.

13 Therefore, new legislation and amendments to current laws
14 and resources are needed to implement these expanded functions
15 and responsibilities.

16 The purpose of this Act is to remedy the deficiencies in
17 existing statutes governing energy emergency planning in this
18 State.

19 SECTION 2. Chapter 125C, Hawaii Revised Statutes, is
20 amended by adding four new sections to be appropriately
21 designated and to read as follows:



1 "§125C-A Definitions. As used in this chapter, unless the
2 context requires otherwise: "Commission" means the public
3 utilities commission.

4 "Department" means the department of business, economic
5 development, and tourism.

6 "Director" means the director of business, economic
7 development, and tourism, who is also the state energy resources
8 coordinator pursuant to chapter 196.

9 "Distributor" means every person who:

10 (1) Refines, manufactures, produces, or compounds fuel in
11 the State and sells it at wholesale or retail, or who
12 utilizes it directly in the manufacture of products or
13 for the generation of power;

14 (2) Imports or causes to be imported into the State, or
15 exports or causes to be exported from the State, any
16 fuel;

17 (3) Acquires fuel through exchanges with another
18 distributor; or

19 (4) Purchases fuel for resale at wholesale or retail from
20 any person described in paragraph (1), (2), or (3).

21 "Electricity" means all electrical energy produced by
22 combustion of any fuel as defined in this section, or generated



1 or produced using wind, the sun, geothermal, ocean water,
2 falling water, currents, and waves, or any other source.

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

5 "Energy resources" means fuel and electricity as defined in
6 this section.

7 "Fuel" means fuels, whether liquid, solid, or gaseous,
8 commercially usable for energy needs, power generation, and
9 fuels manufacture, that may be manufactured, grown, produced, or
10 imported into the State or that may be exported therefrom,
11 including petroleum and petroleum products and gases to include
12 all fossil fuel-based gases, coal tar, vegetable ferments,
13 biomass, municipal solid waste, biofuels, hydrogen, agricultural
14 products used as fuels and as feedstock to produce fuels, and
15 all fuel alcohols.

16 "Major energy marketer" means any person who sells energy
17 resources in amounts determined by the director as having a
18 major effect on the supplies of, or demand for, energy
19 resources.

20 "Major energy producer" means any person who produces
21 energy resources in amounts determined by the director as having



1 a major effect on the supplies of, or demand for, energy
2 resources.

3 "Major energy transporter" means any person who transports
4 energy resources in amounts determined by the director as having
5 a major effect on the supplies of, or demand for, energy
6 resources.

7 "Major energy user" means any person who uses energy
8 resources in the manufacture of products or for the generation
9 of electricity in amounts determined by the director as having a
10 major effect on the supplies of, or demand for, energy
11 resources.

12 "Major fuel storer" means any person who stores fuels in
13 amounts determined by the director as having a major effect on
14 the supplies of, or demand for, energy resources.

15 **§125C-B Information and analysis required for state energy**
16 **emergency planning and preparedness, mitigation, response, and**
17 **recovery.** (a) The department, with its own staff and its
18 agents who are designated by the director as authorized
19 representatives, shall use the information, including
20 confidential information, received from all sources, including
21 the information received from the public utilities commission
22 pursuant to chapter 486J, solely to effectuate the purposes of



1 this chapter and chapter 196, and to conduct systematic
2 statistical and quantitative analyses of the State's energy
3 resources, systems, and markets that the director determines are
4 necessary to:

5 (1) Produce assessments designed to determine and mitigate
6 the potential for energy supply disruptions, and to
7 develop state energy emergency response plans and
8 measures including systematic situational energy
9 analyses, which in the event of an energy crisis or
10 supply disruption could assist in determining the
11 nature, scope, severity, and expected duration of such
12 an event, and assess potential and actual economic and
13 other impacts of the crisis, particularly to determine
14 and recommend what, if any, well-informed emergency
15 government interventions may be necessary and
16 appropriate, and to implement and evaluate the
17 effectiveness of such emergency interventions;

18 (2) Conduct systematic statistical, energy, economic, and
19 other relevant analyses for comprehensive energy
20 emergency planning toward determining, measuring and
21 evaluating, formulating, and recommending specific
22 proposals to improve government and industry energy



- 1 emergency plans and programs, and to support longer
2 term measures to preserve Hawaii's energy security;
- 3 (3) Establish and maintain a quantitative and qualitative
4 technical understanding of Hawaii's statewide energy
5 resources, systems, and markets and their
6 relationships with the economy;
- 7 (4) Produce trend analyses and forecasts of energy supply
8 and demand and trend analyses of major aspects of
9 risks to and vulnerabilities of Hawaii's energy
10 resources, systems, and markets; and
- 11 (5) Produce other relevant energy analyses that the
12 director deems necessary to administer the energy
13 emergency preparedness and energy supply security
14 policies pursuant to this chapter, and implement and
15 evaluate other related activities in support of the
16 director's role and responsibilities pursuant to
17 chapters 486J and 196.
- 18 (b) If the information that the department is authorized
19 to receive from the public utilities commission pursuant to
20 chapter 486J, including confidential information, becomes
21 unavailable, or if such information is determined by the
22 director to be unsuitable in any way whatsoever, the director is



1 authorized to require that this information and any other
2 relevant information, including confidential information, be
3 reported by distributors to the director. To facilitate the
4 efficient and systematic conveyance of this information,
5 including confidential information, the public utilities
6 commission, as a matter of routine, shall provide to the
7 department copies of the statements and information that the
8 commission receives pursuant to sections 486J-3, 486J-4, and
9 486J-4.5.

10 (c) To conduct the analyses pursuant to this chapter, the
11 director may require distributors to report any other relevant
12 information, including confidential information, at a time and
13 in such form and manner as to be prescribed by the director.

14 **§125C-C Reporting requirements.** Each major energy
15 producer, major fuel storer, major energy transporter, major
16 energy user, and major energy marketer, on reporting dates as
17 the director may establish, and on forms prescribed, prepared,
18 and furnished by the director, shall submit to the director
19 certified statements. These statements shall report information
20 to include, but not be limited to, information related to those
21 aspects of their respective Hawaii facilities and operations
22 described in this section. These statements shall provide for



1 reporting this information on a statewide consolidated basis,
2 and separately for each county and for the islands of Lanai and
3 Molokai, as follows:

4 (1) For fuel:

5 (A) The volumes, movement, processing, blending, and
6 transformation of fuels beginning with crude oil,
7 feedstocks, ethanol, biodiesel, and other refined
8 petroleum or fuel product imports, through and
9 including the State's fuel infrastructure, from
10 and between distributors and to all fuel end-
11 users, as well as any exports of these fuels and
12 fuel products out of the State, wholesale and
13 retail transactions (sales and purchases), and
14 wholesale and retail prices of all fuels; and

15 (B) The capacities and actual inventories,
16 throughput, and output of all these entities'
17 infrastructure, including refineries, storage and
18 distribution tanks and terminals, transport modes
19 such as pipelines, barges, and other vessels, and
20 other such critical fuel infrastructure; and

21 (2) For electricity: the name and location of all
22 generation systems and components greater than ten



1 megawatts, renewable sources greater than two hundred
2 fifty kilowatts, generating capacity, actual loads
3 generated, average gross and net electricity
4 generation, energy resources used and fuels consumed,
5 heating values of fuels, total electricity transmitted
6 and sold, the name and location of all transmission
7 and distribution systems and components including
8 lines greater than ten kilovolt capacity and
9 substations, major command and control centers and
10 schemes, storage devices, and average actual
11 electricity flows and utilization.

12 **§125C-D Confidential information.** In effectuating the
13 purposes of this chapter, chapter 196, and other relevant laws,
14 or in order for the director to perform the duties pursuant to
15 this chapter, chapter 196, and other relevant laws:

- 16 (1) All confidential information received by the director
17 shall be exempt from public disclosure under section
18 92F-13, and shall be held in confidence by the
19 director and the director's staff and agents, or
20 aggregated to the extent necessary in the director's
21 discretion to ensure confidentiality as required by
22 chapter 92F;



- 1 (2) The director and the director's staff and agents shall
2 preserve the confidentiality and protection of all
3 information received by the director and, by
4 application and extension of any other agency's
5 respective safeguards, to protect and prevent the
6 unauthorized further release of such information.
7 Each agency shall afford any such shared information
8 the protections from disclosure provided for under
9 chapter 92F;
- 10 (3) Each major energy producer, distributor, major energy
11 marketer, major fuel storer, major energy transporter,
12 and major energy user that is required to provide
13 confidential information shall provide written or
14 electronic notification to the director as to the
15 specific information that is confidential; and
- 16 (4) Unless otherwise provided by law with respect to the
17 confidential information that the director obtains,
18 purchases, receives, or otherwise acquires, neither
19 the governor nor the director, nor the staff and
20 agents thereof, may do any of the following:
- 21 (A) Use the confidential information for any purposes
22 other than the purposes for which it is acquired;



1 (B) Make any publication whereby the confidential
2 information furnished by any person can be
3 identified; or

4 (C) Permit any person other than the governor, the
5 director, or the director's staff and agents
6 thereof to examine any confidential information,
7 individual reports, or statements acquired."

8 SECTION 3. Chapter 196, Hawaii Revised Statutes, is
9 amended by adding two new sections to be appropriately
10 designated and to read as follows:

11 "§196-A Information and analysis required for state
12 comprehensive energy planning for energy security. (a) The
13 department, with its own staff and agents which the director
14 designates as authorized representatives, shall use the
15 information, including confidential information, received from
16 all sources, including the information received from the public
17 utilities commission pursuant to chapter 486J and information
18 received pursuant to chapter 125C, solely to effectuate the
19 purposes of this chapter and chapter 125C, and shall conduct
20 systematic statistical and quantitative analyses of the State's
21 energy resources, systems, and markets that the director
22 determines are necessary to:



- 1 (1) Produce analyses designed to determine the status of
2 energy resources, systems, and markets, both in-state
3 and those to which Hawaii is directly tied,
4 particularly in relation to the State's economy, and
5 to recommend, develop proposals for, and assess the
6 effectiveness of policy and regulatory decisions and
7 assessments of renewable energy, energy efficiency,
8 and all fuels in all sectors, and ensure energy
9 security;
- 10 (2) Produce analyses of private and public sector energy
11 planning efforts and market-based policies to develop
12 Hawaii's energy resources, systems, and markets in all
13 sectors, and programs to preserve and protect the
14 State's energy security, effectuate the conservation
15 of energy resources, and formulate plans for the
16 development and use of alternative energy sources;
- 17 (3) Conduct systematic statistical, energy economic, and
18 other relevant analyses for comprehensive energy
19 planning toward determining, measuring and evaluating,
20 formulating, and recommending specific proposals for
21 achieving optimum development of Hawaii's energy
22 resources;



1 (4) Establish and maintain a quantitative and qualitative
2 technical understanding of Hawaii's statewide energy
3 resources, systems, and markets and their
4 relationships to the economy;

5 (5) Produce trend analyses and forecasts of energy supply
6 and demand, and trend analyses of major aspects of
7 Hawaii's energy resources, systems, and markets; and

8 (6) Produce assessments of the cost-competitiveness of
9 developing renewable energy and energy efficiency
10 resources and subcategories of those energy resources
11 in relation to each other, and relative to petroleum-
12 based fuels, other fossil fuels, and other energy
13 resources.

14 **§196-B Confidential information.** In effectuating the
15 purposes of this chapter, chapter 125C, and other relevant laws,
16 or in order for the director to perform the duties pursuant to
17 this chapter, chapter 125C, and other relevant laws:

18 (1) All confidential information received by the director
19 shall be afforded all the protections available
20 pursuant to chapter 486J, shall be exempt from public
21 disclosure under section 92F-13, and shall be held in
22 confidence by the director and the director's own



1 staff and agents, or aggregated to the extent
2 necessary in the director's discretion to ensure
3 confidentiality as required by chapter 92F;

4 (2) The director and the director's own staff and agents,
5 shall preserve the confidentiality and protection of
6 all information received by the director and, by
7 application and extension of any other agency's
8 respective safeguards, protect and prevent the
9 unauthorized further release of such information.

10 Each agency shall afford any shared information the
11 protections from disclosure provided for under chapter
12 92F;

13 (3) Each major energy producer, distributor, major energy
14 marketer, major fuel storer, major energy transporter,
15 and major energy user that provides confidential
16 information, shall provide written or electronic
17 notification to the director as to the specific
18 information that is confidential; and

19 (4) Unless otherwise provided by law with respect to the
20 confidential information that the director obtains,
21 purchases, receives, or otherwise acquires, neither



1 the governor nor the director, nor the staff and
2 agents thereof, may do any of the following:

3 (A) Use the confidential information for any purposes
4 other than the purposes for which it is acquired;

5 (B) Make any publication whereby the confidential
6 information furnished by any person can be
7 identified; or

8 (C) Permit any person other than the governor, the
9 director, the director's staff and agents
10 thereof, to examine any confidential information,
11 individual reports, or statements acquired."

12 SECTION 4. Chapter 125C, Hawaii Revised Statutes, is
13 amended by amending its title to read as follows:

14 **"CHAPTER 125C**

15 ~~**[PROCUREMENT, CONTROL, DISTRIBUTION AND SALE OF PETROLEUM**~~
16 ~~**PRODUCTS]**~~ **ENERGY EMERGENCY PREPAREDNESS AND MANAGEMENT"**

17 SECTION 5. Section 125C-1, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§125C-1 Findings and purpose.** The legislature finds that
20 adequate supplies of [~~petroleum products~~] energy resources are
21 essential to the health, welfare, and safety of the people of
22 Hawaii, and that any severe [~~disruption in petroleum product~~



1 ~~supplies]~~ energy emergency or shortage of energy resources for
2 use within the State would cause grave hardship, pose a threat
3 to the economic well-being of the people of the State, and have
4 significant adverse effects upon public confidence and order and
5 effective conservation of [~~petroleum products.~~] energy. The
6 purpose of this chapter is to grant to the governor or the
7 governor's authorized representative the clear authority, when
8 energy emergencies or shortages of [~~petroleum products~~] energy
9 resources occur or are anticipated, to control the distribution
10 and sale of [~~petroleum~~] fuel products in this State, to procure
11 such products, and to impose rules that will provide
12 extraordinary measures for the conservation of energy and the
13 allocation of [~~petroleum~~] fuel products and for [~~their~~] the
14 distribution and sale of fuel in an orderly, efficient, and safe
15 manner. Another purpose of this chapter is to grant the clear
16 authority to the director to acquire, use, and analyze relevant
17 and essential information on Hawaii's energy resources, systems,
18 and markets to effectively plan and prepare for, mitigate
19 against, respond to, and recover from any energy emergency and
20 preserve the State's energy security."

21 SECTION 6. Section 125C-2, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§125C-2 "Shortage" defined.** As used in this chapter,
2 unless otherwise indicated by the context, a "shortage" exists
3 whenever the governor determines that there is an increase in
4 the demand for any [~~petroleum~~] fuel product or there is a
5 decrease in the available supply for the [~~petroleum~~] fuel
6 product in question, or both; and [~~such~~] the decrease in the
7 available supply of or increase in the demand for the
8 [~~petroleum~~] fuel product in question, or both, may cause a major
9 adverse impact on the economy, public order, or the health,
10 welfare, or safety of the people of Hawaii and may not be
11 responsibly managed within the [~~free~~] prevailing market
12 distribution system. Further, to plan and prepare for, mitigate
13 against, respond to, or recover from any declared or anticipated
14 shortage of fuel products, the governor may require [~~importers~~]
15 major energy producers, distributors, major energy marketers,
16 major fuel storers, major energy transporters, and major energy
17 users of any [~~petroleum~~] fuel product or other fuel to monitor
18 and report relevant supply and demand data to the department of
19 business, economic development, and tourism [~~relevant supply and~~
20 ~~demand data~~]. The governor shall review the status of a
21 shortage within one hundred twenty days after the governor's
22 initial determination of a shortage as defined under this



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

4 SECTION 7. Section 125C-3, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§125C-3 Powers in a shortage.** When a shortage as defined
7 in section 125C-2 exists, the governor or the governor's
8 authorized representative, to ensure that [~~petroleum~~] fuel
9 products are made available to the public in an orderly,
10 efficient, and safe manner, may:

11 (1) Control the retail distribution and sale of
12 [~~petroleum~~] fuel products by adopting rules that may
13 include, but are not limited to, the following
14 measures:

15 (A) Restricting the sale of [~~petroleum~~] fuel products
16 to specific days of the week, hours of the day or
17 night, odd- and even-numbered calendar days, and
18 vehicles having less than a specified amount of
19 gasoline in their tanks, with exceptions for
20 certain designated geographical areas;

21 (B) Restricting sales of [~~petroleum~~] fuel products by
22 dealers to daily allocations, which shall be



- 1 determined by dividing the monthly allocation by
2 the number of selling days per month;
- 3 (C) Requiring dealers to post signs designating their
4 hours of operation and the sell-out of daily
5 allocation;
- 6 (D) Instituting a statewide rationing plan; and
- 7 (E) Allowing for special handling for essential
8 commercial and emergency-user vehicles;
- 9 (2) Require that a percentage of [~~petroleum~~] fuel
10 products, not to exceed five per cent, be set aside to
11 alleviate hardship; provided that aviation gasoline
12 set aside shall not exceed ten per cent;
- 13 (3) Purchase and resell or otherwise distribute
14 [~~petroleum~~] fuel products[, ~~and purchase and resell or~~
15 ~~otherwise distribute ethanol that is produced within~~
16 ~~the State and can be used as a substitute for~~
17 ~~petroleum products~~];
- 18 (4) Temporarily suspend for the duration of a shortage, or
19 until such time as the governor deems appropriate,
20 standards that may affect or restrict the use of a
21 substitute fuel to meet energy demand;



1 [~~(4)~~] (5) Receive, expend, or use contributions or grants
2 in money or property, or special contributions thereof
3 for special purposes not inconsistent with this
4 chapter;

5 [~~(5)~~] (6) Borrow and expend moneys needed to exercise the
6 powers granted under this section;

7 [~~(6)~~] (7) Contract in the name of the State for the purpose
8 of implementing this chapter or any part thereof; and

9 [~~(7)~~] (8) Exercise the powers granted under this section to
10 the degree and extent deemed by the governor to be
11 necessary, including the temporary or indefinite
12 suspension of all or part of the measures taken, as
13 the governor deems appropriate."

14 SECTION 8. Section 125C-4, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§125C-4 Adopting, filing, and taking effect of rules.**

17 The governor or the [~~governor's authorized representative~~]
18 director shall adopt rules pursuant to chapter 91, to [~~insure~~]
19 ensure that [~~petroleum~~] fuel products are made available to the
20 public in an orderly, efficient, and safe manner, to become
21 effective when a shortage, as defined in section 125C-2, exists.
22 If additional and unforeseen measures are required to insure



1 that [~~petroleum~~] fuel products are distributed in an orderly,
2 efficient, and safe manner, the governor or the [~~governor's~~
3 ~~authorized representative~~] director may proceed without prior
4 notice or hearing or upon such abbreviated notice and hearing as
5 the governor finds practicable to adopt additional rules
6 authorized under this chapter with the additional rules to be
7 effective for a period of not longer than one hundred twenty
8 days without renewal. Any rule so adopted may be amended or
9 repealed by the governor without prior notice or hearing or upon
10 abbreviated notice and hearing prior to the expiration of the
11 one hundred twenty-day period; provided that no amendment shall
12 extend the rule beyond the original period of one hundred and
13 twenty days. To be effective after the one hundred twenty-day
14 period, the rules shall be adopted pursuant to chapter 91. Each
15 rule adopted, amended, or repealed shall become effective as
16 adopted, amended, or repealed upon approval by the governor and
17 filing with the lieutenant governor. Each rule in effect shall
18 have the force and effect of law, but the effect of each rule
19 may be temporarily or indefinitely suspended by the governor by
20 written declaration filed with the lieutenant governor. Each
21 rule temporarily suspended shall take effect again immediately
22 upon expiration of the suspension period. Each rule



1 indefinitely suspended shall take effect immediately upon the
2 filing with the lieutenant governor of the written declaration
3 by the governor terminating the suspension. The rulemaking
4 requirements in this section shall exclusively apply to the
5 implementation of sections 125C-2, 125C-3, and part II."

6 SECTION 9. Section 125C-6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]§125C-6[+] **Petition for adoption, amendment, repeal,**
9 **or suspension of rules.** Any interested person may petition the
10 governor or the [~~governor's authorized representative~~] director
11 requesting the adoption, amendment, repeal, or suspension of any
12 rule and stating reasons therefor. The governor or the
13 [~~governor's authorized representative~~] director shall prescribe
14 the form for the petitions and the procedures for their
15 submission, consideration, and disposition, and within thirty
16 days after submission of the petition, shall either deny the
17 petition in writing, stating the governor's or the [~~governor's~~
18 ~~authorized representative's~~] director's reasons for the denial,
19 or grant the petition and adopt, amend, repeal, or suspend the
20 rule accordingly. The rulemaking requirements in this section
21 shall exclusively apply to the implementation of sections 125C-
22 2, 125C-3, and part II."



1 SECTION 10. Section 125C-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§125C-8 Personnel; delegation of powers.** (a) The
4 director is the governor's authorized representative to fulfill
5 and effectuate the purposes of this chapter.

6 (b) The governor may appoint or employ temporary boards,
7 agencies, officers, employees, and other persons, or any of
8 them, for the purpose of carrying out the provisions of this
9 chapter. All such temporarily appointed or employed officers
10 and employees, whether or not employed by contract, shall be
11 exempt from and not subject to nor entitled to the benefits of
12 the provisions of chapters 76 and 88, or any other law,
13 collective bargaining agreement, executive order, executive
14 directive, or rule that is inapplicable to temporary employees
15 of the State."

16 SECTION 11. Section 125C-9, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"[+]§125C-9[+] Investigations, information collection, and**
19 **surveys.** The governor or the governor's authorized
20 representative may make investigations, collect information,
21 including confidential information, and conduct surveys for the
22 purpose of ascertaining facts to be used in administering this



1 chapter, and in making the investigations, collecting the
2 information, and conducting the surveys, may require the making,
3 filing, or keeping of applications, schedules, records, reports,
4 or statements, under oath or otherwise, administer oaths, take
5 evidence under oath, subpoena witnesses, and require the
6 production of books, papers, and records. Witnesses shall be
7 allowed their fees and mileage as in cases in the circuit
8 courts. The circuit court of any circuit or judge thereof may
9 enforce by proper proceedings the attendance and testimony of
10 any witness subpoenaed to appear within the circuit, or the
11 production of books, papers, and records."

12 SECTION 12. Chapter 125C, Hawaii Revised Statutes, is
13 amended by amending the title of part II to read as follows:

14 **"PART II. HARDSHIP SET-ASIDE AND ALLOCATION OF [PETROLEUM]**
15 **FUEL PRODUCTS DURING A SHORTAGE"**

16 SECTION 13. Section 125C-21, Hawaii Revised Statutes, is
17 amended by amending the definitions of "petroleum product" and
18 "prime supplier" to read as follows:

19 ""[~~Petroleum~~] Fuel product" means heating oils, [~~light and~~
20 ~~heavy diesel oil,~~] all classifications of diesel fuels, motor
21 gasoline and all blends of motor gasoline with other fuel
22 products, propane, butane, residual fuel oils, kerosene, [~~and~~]



1 naphtha, biodiesel, ethanol, suboctane motor gasoline, aviation
2 fuels used for emergency and essential intrastate air transport
3 services, but excluding all other aviation fuels~~[]~~, and any
4 other blends of fuel products used by services supported by the
5 set-aside system described in this chapter.

6 "Prime supplier" means any individual, trustee, agency,
7 partnership, association, corporation, company, municipality,
8 political subdivision or other legal entity [~~which~~] that makes
9 the first sale of any [~~liquid fossil~~] fuel product into the
10 state distribution system for consumption within the State."

11 SECTION 14. Section 125C-22, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§125C-22 When set-aside required.** When a shortage as
14 defined in section 125C-2 exists, all prime suppliers shall set
15 aside supplies of each [~~petroleum~~] fuel product for which there
16 is a shortage. The amount set aside shall be in accordance with
17 [~~the~~] any rules adopted by the state energy resources
18 coordinator."

19 SECTION 15. Section 125C-23, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§125C-23 Set-aside system.** The state energy resources
2 coordinator shall adopt rules establishing a [~~petroleum~~] fuel
3 products set-aside system. The purpose of this system shall be:

4 (1) The protection of public health, safety, and welfare;

5 (2) The maintenance of public services, utilities, and
6 transportation, including emergency and essential
7 intrastate air transport services;

8 (3) The maintenance of agricultural operations, including
9 farming, horticulture, dairy, fishing, and related
10 services;

11 (4) The preservation of economically sound and competitive
12 industry, through the equitable acquisition and
13 distribution of [~~petroleum~~] fuel products; and

14 (5) The promotion of efficiency, with minimum economic
15 disruptions, during a shortage of [~~petroleum~~] fuel
16 products.

17 The rules establishing the set-aside system shall be adopted in
18 accordance with chapter 91."

19 SECTION 16. Section 125C-31, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "~~[+]§125C-31[+]~~ [~~Biennial-state~~] State energy emergency
22 preparedness plan. (a) The department of business, economic



1 development, and tourism shall prepare a comprehensive and
2 integrated [~~biennial~~] state energy emergency preparedness plan
3 to be implemented in the event of, or in anticipation of, a
4 change in the State's [~~petroleum~~] energy supply or demand
5 situation that is judged by the governor to be unmanageable by
6 the [~~free~~] prevailing [~~market.~~] markets. The department of
7 business, economic development, and tourism shall prepare a
8 [~~biennial~~] state energy emergency preparedness plan [~~in every~~
9 ~~even-numbered year~~] in accordance with the following:

10 (1) The [~~biennial~~] state energy emergency preparedness
11 plan shall replace the previous state energy emergency
12 plan developed by the [~~energy resources coordinator,~~
13 director, who shall act as the governor's authorized
14 representative under this chapter;

15 (2) In preparing the [~~biennial~~] state energy emergency
16 preparedness plan, the department shall:

17 (A) Solicit input, comment, and review from the
18 governor's energy emergency preparedness advisory
19 committee composed of representatives of federal,
20 state, and county governments; [~~private energy~~
21 ~~suppliers;~~] distributors, major energy producers,
22 major fuel storers, major energy transporters,



1 and major energy marketers; consumer and other
2 public interest groups; and the public at-large;
3 and

4 (B) Establish other task forces and advisory groups,
5 as may be deemed necessary, to assist in the
6 preparation and review of the [~~biennial~~] state
7 energy emergency preparedness plan;

8 (3) The [~~biennial~~] state energy emergency preparedness
9 plan shall be comprehensive and encompassing, and
10 shall integrate into its analytic and planning
11 framework the emergency preparedness plans of
12 [~~electric and gas utilities and other energy~~
13 ~~suppliers,~~] distributors, major energy producers,
14 major fuel storers, major energy transporters, major
15 energy marketers, and relevant state agencies,
16 including the Hawaii state civil defense, the
17 department of transportation, counties, and such other
18 entities as deemed appropriate[+] by the director; and

19 (4) The [~~biennial~~] state energy emergency preparedness
20 plan shall include a review and update of the previous
21 [~~biennial~~] state energy emergency preparedness plan
22 and [~~a review of the energy emergency plans prepared~~



1 ~~by the counties,]~~ shall be prepared or updated as
2 determined by the director to be necessary to comport
3 with changes in federal or state overall emergency
4 management policies and plans that significantly
5 affect the State's energy emergency preparedness plans
6 or as warranted by changes in Hawaii's energy security
7 situation.

8 (b) The department shall prepare an energy emergency
9 communication plan, which shall be [~~updated biennially and shall~~
10 ~~be]~~ consistent with the energy emergency preparedness plans
11 prepared by the counties. The energy emergency communication
12 plan shall be used by the State and counties to communicate and
13 otherwise coordinate state and county actions taken in response
14 to implementing the [~~biennial]~~ state energy emergency
15 preparedness plan."

16 SECTION 17. Section 125C-32, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§125C-32[+] [~~Biennial county]~~ County energy emergency
19 preparedness plans. The mayor of each county, or the mayor's
20 authorized representative, shall prepare a comprehensive county
21 energy emergency preparedness plan. The plan shall be prepared
22 in coordination with and be consistent with the [~~biennial]~~ state



1 energy emergency preparedness plan[7] and shall be implemented
2 in coordination with the state energy emergency preparedness
3 plan upon declaration of an energy emergency by the governor.
4 ~~[Not later than September 30 of every even-numbered year, each~~
5 ~~county shall prepare and transmit to the director of business,~~
6 ~~economic development, and tourism the county's biennial county~~
7 ~~energy emergency preparedness plan.]"~~

8 SECTION 18. Section 196-1, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§196-1 Findings and declaration of necessity.** The
11 legislature finds that:

12 (1) The global demand for petroleum and its derivatives
13 has resulted in a sharp jump in energy prices and has
14 caused severe economic hardships throughout the State
15 and threatens to impair the public health, safety and
16 welfare.

17 The State of Hawaii, with its near total
18 dependence on imported fossil fuel, is particularly
19 vulnerable to dislocations in the global energy
20 market. This ~~[is an anomalous]~~ situation[7] can be
21 changed, as there are few places in the world so
22 generously endowed with natural energy: geothermal,



1 solar radiation, ocean temperature differential, wind,
2 biomass, waves, and currents--all potential non-
3 polluting power sources;

4 (2) There is a real need for comprehensive strategic
5 [~~comprehensive~~] planning in the effort towards
6 achieving full utilization of Hawaii's energy
7 [~~resource programs~~] resources and the most effective
8 allocation of energy resources throughout the State.
9 Planning is necessary and desirable in order that the
10 State may recognize and declare the major problems and
11 opportunities in the field of energy resources. Both
12 short-range and long-range planning will permit the
13 articulation of:

14 (A) Broad policies, goals, and objectives;

15 (B) Criteria for measuring and evaluating
16 accomplishments of objectives;

17 (C) Identification and implementation of programs
18 that will carry out such objectives; and

19 (D) A determination of requirements necessary for the
20 optimum development of Hawaii's energy resources.

21 Such planning efforts will identify present conditions
22 and major problems relating to energy resources, their



1 exploration, development, production, and
2 distribution. It will show the projected nature of
3 the situation and rate of change and present
4 conditions for the foreseeable future based on a
5 projection of current trends in the development of
6 energy resources in Hawaii[+] and include initiatives
7 designed to fundamentally change how Hawaii consumes
8 energy, by accelerating the production of renewable
9 and alternative energy, increasing energy efficiency,
10 developing and adopting new technologies, and ensuring
11 the State's energy security;

12 (3) The State requires an in-depth understanding of the
13 causes and effects of any transitional issues and
14 trends related to changes in the State's energy
15 resources, systems, and markets;

16 [~~(3)~~] (4) There are many agencies of the federal, state,
17 and county governments in Hawaii, as well as many
18 private agencies[7] and a broad set of non-
19 governmental entities, engaged in, or expressing an
20 interest in, various aspects of the exploration,
21 research, distribution, transportation, storage,
22 conservation, and production of all forms of energy



1 resources in Hawaii. Some of these agencies include
2 the University of Hawaii, the department of land and
3 natural resources, the department of business,
4 economic development, and tourism, the division of
5 consumer advocacy, the public utilities commission,
6 the state civil defense, the federal energy office,
7 and various county agencies, as well as [~~the oil~~
8 ~~companies, gas stations, and other private~~
9 ~~enterprises,~~] Hawaii's energy and energy-related
10 companies; and

11 [(+4)] (5) There is [~~immediate~~] an ongoing need in this
12 State to coordinate the efforts of [all these
13 agencies,] statewide industry and government energy
14 sectors, maintain the technical capability and
15 adequate capacity to quantitatively and qualitatively
16 evaluate, analyze, develop, and coordinate
17 implementation of private and public sector energy
18 planning efforts, and recommend market-based policies
19 to develop Hawaii's energy resources, systems, and
20 markets, establish and coordinate programs to preserve
21 and protect the State's energy security, maintain a
22 robust energy emergency preparedness program,



1 effectuate the conservation of [~~fuel,~~] energy
2 resources, to provide for the equitable distribution
3 thereof, and to formulate plans for the development
4 and use of alternative energy sources. There is a
5 need for such coordination, capability, and capacity
6 so that there will be maximum conservation and
7 utilization of energy resources in the State."

8 SECTION 19. Section 196-2, Hawaii Revised Statutes, is
9 amended by amending the definitions of "coordinator" and "energy
10 resources" to read as follows:

11 ""Coordinator" means the energy resources coordinator[~~,-~~]
12 who, for the purposes of this chapter, is the director of the
13 department of business, economic development, and tourism.

14 "Energy resources" means [~~and includes fossil fuel,~~
15 ~~nuclear, geothermal, solar, hydropower, wind, and other means of~~
16 ~~generating energy.] fuels, whether liquid, solid, or gaseous,
17 commercially usable for energy needs, power generation, and
18 fuels manufacture, that may be manufactured, grown, produced, or
19 imported into the State or that may be exported therefrom,
20 including petroleum and petroleum products and gases, including
21 all fossil fuel-based gases, coal tar, vegetable ferments,
22 biomass, municipal solid waste, biofuels, hydrogen, agricultural~~



1 products used as fuels and as feedstock to produce fuels, and
2 all fuel alcohols. "Energy resources" also includes all
3 electrical energy produced by combustion of any fuel, or
4 generated or produced using wind, the sun, geothermal, ocean
5 water, falling water, currents, and waves, or any other source."

6 SECTION 20. Section 196-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§196-4 Powers and duties.** Subject to the approval of the
9 governor, the coordinator shall:

- 10 (1) Formulate plans, including objectives, criteria to
11 measure accomplishment of objectives, programs through
12 which the objectives are to be attained, and financial
13 requirements for the optimum development of Hawaii's
14 energy resources;
- 15 (2) Conduct systematic analysis of existing and proposed
16 energy resource programs, evaluate the analysis
17 conducted by government agencies and other
18 organizations and recommend to the governor and to the
19 legislature programs [~~which~~] that represent the most
20 effective allocation of resources for the development
21 of energy [~~sources,~~] resources;



- 1 (3) Formulate and recommend specific proposals, as
2 necessary, for conserving [~~energy and fuel,~~] energy
3 resources, including the allocation and distribution
4 thereof, to the governor and to the legislature;
- 5 (4) Assist public and private agencies in implementing
6 energy conservation and related measures;
- 7 (5) Coordinate the State's energy conservation and
8 allocation programs with that of the federal
9 government, other state governments, governments of
10 nations with interest in common energy resources, and
11 the political subdivisions of the State;
- 12 (6) Develop programs to encourage private and public
13 exploration and research of alternative energy
14 resources [~~which~~] that will benefit the State;
- 15 (7) Conduct public education programs to inform the public
16 of the energy resources situation as may exist from
17 time to time and of the government actions taken
18 [~~thereto~~];
- 19 (8) Serve as consultant to the governor, public agencies,
20 and private industry on matters related to the
21 acquisition, utilization, and conservation of energy
22 resources;



- 1 (9) Contract for services when required for implementation
2 of this chapter;
- 3 (10) Review proposed state actions [~~which~~] that the
4 coordinator finds to have significant effect on energy
5 [~~consumption~~] resources and report to the governor
6 their effect on the energy conservation program, and
7 perform such other services as may be required by the
8 governor and the legislature;
- 9 (11) Prepare and submit an annual report and such other
10 reports as may be requested to the governor and to the
11 legislature on the implementation of this chapter and
12 all matters related to energy resources; [~~and~~]
- 13 (12) Adopt rules for the administration of this chapter
14 pursuant to chapter 91, provided that the rules shall
15 be submitted to the legislature for review[~~-~~]; and
- 16 (13) Develop and maintain a comprehensive and systematic
17 quantitative and qualitative capacity to analyze the
18 status of energy resources, systems, and markets, both
19 in-state and those to which Hawaii is directly tied,
20 particularly in relation to the State's economy, and
21 to recommend, develop proposals for, and assess the



1 effectiveness of policy and regulatory decisions,
2 conduct energy emergency planning."

3 SECTION 21. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$100,000, or so much
5 thereof as may be necessary for fiscal year 2007-2008, and the
6 same sum, or so much thereof as may be necessary for fiscal year
7 2008-2009, to support the purposes of this Act, of which so much
8 as may be deemed necessary by the director shall be allocated to
9 support the creation of one temporary full-time equivalent
10 position within the department of business, economic
11 development, and tourism to support the State's energy emergency
12 preparedness and energy security analytic functions. The sums
13 appropriated shall be expended by the department of business,
14 economic development, and tourism.

15 SECTION 22. In codifying the new sections added by
16 sections 2 and 3 of this Act, the revisor of statutes shall
17 substitute appropriate section numbers for the letters used in
18 designating the new sections in this Act.

19 SECTION 23. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 24. This Act shall take effect upon its approval
22 except that section 21 shall take effect on July 1, 2007.



Report Title:

Emergency preparedness; coordinator

Description:

Establishes chapter 125C as the enabling statute for the State's energy emergency preparedness program's coverage of all forms of energy emergencies, irrespective of cause, consistent with the threats to energy security and the state energy emergency preparedness program. Clarifies that the Director of the Department of Business, Economic Development, and Tourism is the state energy resource coordinator who is authorized to acquire and use energy industry information obtained by the public utilities commission. Redefines the types of information that all energy companies may be required to submit to the energy resources coordinator in case of an energy emergency or shortage. Authorizes Department of Business, Economic Development, and Tourism to compile and analyze information, including confidential information, for energy emergency planning and preparedness, mitigation, response, and recovery. Appropriates \$100,000 for FY 2007-2008 and FY 2008-2009 to fund 1 temporary full-time professional position to support the State's energy emergency preparedness and energy security analytic functions.

