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# A BILL FOR AN ACT

RELATING TO THE PETROLEUM INDUSTRY.

**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 provided by

16 the petroleum industry monitoring, analysis, and reporting

17 program to effectuate the purposes of chapter 196, chapter 125C,

18 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 as follows:

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 definition of "distributor" to read as  
10 follows:

11 ""Distributor" means:

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

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

20 (3) Every person who acquires fuel through exchanges with  
21 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 3. By amending the definitions of "major marketer", "major  
9 oil producer", "major oil storer", and "major oil transporter"  
10 to read as follows:

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

15 "Major oil producer" means any person who produces oil in  
16 amounts determined by the [~~department~~] commission as having a  
17 major effect on energy supplies.

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

21 "Major oil transporter" means any person who transports oil  
22 or other petroleum products in amounts determined by the



1 [department] commission as having a major effect on energy  
2 supplies."

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

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

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



- 1           (2) The total number of gallons or units of fuel, by type  
2           or grade, imported or exported by the distributor; the  
3           total volumes of fuel, by type or grade, sold,  
4           exchanged, or otherwise transferred or used by the  
5           distributor; and if for ultimate sale or consumption  
6           in another county or on another island, the number of  
7           gallons or units of fuel, by type or grade, sold,  
8           exchanged, or otherwise transferred or used by the  
9           distributor in each county or island;
- 10          (3) The total number of gallons or units of fuel sold as  
11          liquid fuel, aviation fuel, diesel fuel, and other  
12          types of fuel as required by the commission;
- 13          (4) The total number of gallons or units of fuel, by type  
14          or grade, and their respective sales prices for all  
15          fuel sold to federal, state, and county agencies,  
16          ships stores, or base exchanges, commercial  
17          agricultural accounts, commercial nonagricultural  
18          accounts, retail dealers, and other customers as  
19          required by the commission;
- 20          (5) Weekly weighted average acquisition cost per barrel  
21          and volumes of foreign or domestic crude oil or other  
22          liquid fuels, finished or unfinished, imported to



- 1 Hawaii, including information identifying the source  
2 of the crude oil or other liquid fuels;
- 3 (6) The effective date and time, and the amount of change  
4 in cents per gallon, of any increase or decrease in  
5 wholesale price occurring during the week and the  
6 weekly weighted average wholesale 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, to retail outlets, by classes of retail trade,  
10 and to wholesale distributors;
- 11 (7) Weekly weighted average retail prices, and sales  
12 volumes of finished unleaded regular and premium motor  
13 gasoline, and of each other grade of gasoline sold, by  
14 island, by retail distributor outlets of all classes  
15 of retail trade and by any distributor to other  
16 end-users; provided that the commission may purchase  
17 retail price data from data service companies that the  
18 commission may use to substitute some or all data to  
19 meet the reporting requirement for retail price data  
20 under this paragraph;
- 21 (8) The effective date and time, and the amount of change  
22 in cents per gallon, of any increase or decrease in



1 wholesale price occurring during the week and the  
2 weekly weighted average wholesale prices, and sales  
3 volumes of No. 2 diesel fuel and No. 2 fuel oil, by  
4 island, to retail distributor outlets, by classes of  
5 retail trade, and to all other wholesale distributors.  
6 Weighted average wholesale prices and sales volumes  
7 shall be reported by type of wholesale liquid fuel  
8 price;

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

18 (10) Weekly weighted average prices, and sales volumes for  
19 retail sales and wholesale sales, by island, of No. 1  
20 distillate, kerosene, finished aviation gasoline,  
21 kerosene-type jet fuel, No. 4 fuel oil, residual fuel  
22 oil, and consumer grade propane;



1 (11) For each distributor that is a refiner, the gross  
2 margins or spreads between a refiner's average  
3 weighted acquisition price for each gallon of crude  
4 oil and blendstock refined within the State and the  
5 average weighted prices for each gallon or unit of  
6 fuel sold, by county or island, to another  
7 distributor, a retail dealer, end-user, and consumer;  
8 [~~and~~]

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

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

19 The commission shall prescribe applicable standards and  
20 practices for reporting to facilitate uniformity, consistency,  
21 and comparability of the data to be submitted.



1 (b) Each major marketer shall submit to the commission, at  
 2 a time and in a form as the commission shall prescribe,  
 3 information, including petroleum and petroleum product receipts,  
 4 exchanges, inventories, and distributions.

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

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

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

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

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



1           "(a) Each refiner, on a semi-annual basis, at reporting  
2 dates as the commission may establish, shall file with the  
3 commission, on forms prescribed, prepared, and furnished by the  
4 commission, a certified statement of operating and overhead  
5 costs for the refiner's Hawaii operations that shall include but  
6 not be limited to the following:

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

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

21           "(a) Confidential commercial information provided to the  
22 commission pursuant to this chapter that is exempt from public



1 disclosure under section [~~92F-13(4)~~] 92F-13 shall be held in  
2 confidence by the commission, or aggregated to the extent  
3 necessary in the commission's discretion to ensure  
4 confidentiality as required by chapter 92F.

5 (b) No data or information submitted to the  
6 [~~+~~]commission[~~+~~] shall be deemed confidential if it is shown  
7 that the person submitting the information or data has made it  
8 public."

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

11 "(b) [~~Notwithstanding any law to the contrary, including~~  
12 ~~any other section of this chapter, no later than fourteen days~~  
13 ~~after the reporting date established by the commission under~~  
14 ~~section 486J-3, the] The commission shall disclose to the  
15 public, using the best readily available technology, the  
16 information contained in the statements[~~, but not the statements~~  
17 themselves,] that are filed pursuant to section 486J-3[~~+~~],  
18 except to the extent where disclosure is prohibited under  
19 sections 486J-6. The commission shall publicly report this  
20 information within thirty days or as soon as practically and  
21 technically feasible after the receipt of this information~~



1 pursuant to the reporting dates established by the commission  
2 under section 486J-3."

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

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

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

15 "[+]§486J-11[+] **Powers of the public utilities commission.**

16 (a) The public utilities commission [~~shall have the authority~~  
17 ~~and power to~~] may take any action or make any determination  
18 under this chapter, including but not limited to action or  
19 determinations that affect persons not regulated under chapters  
20 269, 271, and 271G, as the commission deems necessary to carry  
21 out its responsibilities or otherwise effectuate chapter 269,  
22 271, or 271G.



1       (b) The public utilities commission may examine or  
2 investigate each distributor, the manner in which it is  
3 operated, the prices and rates charged by it, its operating  
4 costs and expenses, the value of its property and assets, the  
5 amount and disposition of its income, and all its financial  
6 transactions, its business relations with other persons,  
7 companies, or corporations, its compliance with all applicable  
8 state and federal laws, and all matters of every nature  
9 affecting the relations and transactions between it and the  
10 public or persons or businesses.

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



1        (d) Notwithstanding any provision of this chapter to the  
2 contrary, in order to effectively facilitate the efficient  
3 reporting and analysis of information collected pursuant to this  
4 chapter and to allow flexibility in applicable reporting  
5 requirements for the broad range of persons and businesses  
6 affected, the commission, in its discretion, may determine the  
7 specific information that must be reported by any person  
8 required to submit information under this chapter."

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

14        SECTION 12. There is appropriated out of the petroleum  
15 industry monitoring, analysis, and reporting special fund the  
16 sum of \$1,200,000, or so much thereof as may be necessary for  
17 fiscal year 2007-2008, to administer the petroleum industry  
18 monitoring, analysis, and reporting program established under  
19 chapter 486J, Hawaii Revised Statutes.

20        The sum appropriated shall be expended by the public  
21 utilities commission for the purposes of administering chapter  
22 486J, Hawaii Revised Statutes.

1           SECTION 13. In codifying the new sections added to the  
2 Hawaii Revised Statutes by this Act, the revisor of statutes  
3 shall substitute appropriate section numbers for the letters  
4 used in designating the new sections in this Act.

5           SECTION 14. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7           SECTION 15. This Act shall take effect upon its approval.



**Report Title:**

Petroleum Industry; Public Utilities Commission; Appropriation

**Description:**

Clarifies and strengthens the public utility commission's authority and powers under the petroleum industry monitoring, analysis, and reporting program. Appropriates \$1.2 million into and out of petroleum industry monitoring, analysis, and reporting special fund.

