SCR 50

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEES ON
ENERGY AND ENVIRONMENT
AND
WATER AND LAND
Thursday, April 3, 2008
2:45 p.m.
State Capitol, Conference Room No. 414
in consideration of
SCR 50

REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY THE FEASIBILITY OF CREATING A RENEWABLE ENERGY SUB-DISTRICT CLASSIFICATION OF LANDS AS PERMISSIBLE LOCATIONS FOR RENEWABLE ENERGY GENERATION AND TO STUDY, WITH THE ASSISTANCE OF THE DEPARTMENT OF TAXATION, THE COST OF PROVIDING A NON-REFUNDABLE INCOME TAX CREDIT TO RESIDENTS OF COMMUNITIES OF RENEWABLE ENERGY SUB-DISTRICTS THAT PRODUCE RENEWABLE ENERGY.

Chair Menor, Chair Hee, and Members of the Committees.

SCR 50 requests the Department of Business, Economic Development, and Tourism (DBEDT)and the Department of Land and Natural Resources(DNLR) to conduct a study on the feasibility of creating a renewable energy sub-district classification of lands as permissible locations for renewable energy generation, and with the help of the Department of Taxation (DoTAX) to study the cost of providing financial incentives such as a non-refundable income tax credit to residents of communities of renewable energy sub-districts that produce renewable energy.

DBEDT supports the intent of the bill to assist the private sector to secure locations for land-based renewable energy production that would facilitate the achievement of the renewable portfolio standards mandated under Section 196-41, Hawaii Revised Statutes. However, having DBEDT conduct the study requires additional staff resources not currently available for this effort.

Further, the Hawaii Clean Energy Initiative (HCEI) will evaluate various alternative plans and proposals for the development of renewable energy resources. The HCEI implementation structure includes working groups in four energy areas whose members represent a broad cross-section of stakeholders and local and national energy experts, who will identify and prioritize the action plans to achieve the objective of 70% of Hawaii's energy being supplied by clean energy by 2030. DBEDT has limited available staff and resources focused on providing support to the HCEI, as well as on supporting the State Energy Program. Given the comprehensive nature of the current HCEI effort, DBEDT respectfully recommends that the study proposed by SCR 50 be deferred until the plans and projects are identified by the HCEI and DBEDT's staff resources are available for this effort.

Thank you for the opportunity to testify.

LINDA LINGLE
GOVERNOR OF HAWAII

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

TESTIMONY OF THE CHAIRPERSON OF THE BOARD OF LAND AND NATURAL RESOURCES

On Senate Concurrent Resolution 50– REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY THE FEASIBILITY OF CREATING A RENEWABLE ENERGY SUB-DISTRICT CLASSIFICATION OF LANDS AS PERMISSIBLE LOCATIONS FOR RENEWABLE ENERGY GENERATION AND TO STUDY, WITH THE ASSISTANCE OF THE DEPARTMENT OF TAXATION, THE COST OF PROVIDING A NON-REFUNDABLE INCOME TAX CREDIT TO RESIDENTS OF COMMUNITIES OF RENEWABLE ENERGY SUB-DISTRICTS THAT PRODUCE RENEWABLE ENERGY

BEFORE THE SENATE COMMITTEES ON ENERGY AND ENVIRONMENT and WATER AND LAND

April 3, 2008

Senate Concurrent Resolution 50 requests the Department of Business, Economic Development, and Tourism (DBEDT) and the Department of Land and Natural Resources (Department) to study: 1) The feasibility of creating a renewable energy sub-district classification of lands as permissible locations for renewable energy generation; and 2) The cost of providing a non-refundable income tax credit to residents of communities of renewable energy sub-districts that produce renewable energy, with the assistance of the Department of Taxation. The Department is uncertain what is meant by creating a "sub district". Currently, the State Land Use classification gives the Counties the exclusive authority to zone within the Urban District; and renewable energy is a permissible use in the Agricultural District. While the Department acknowledges the intent of the measure, the Department however, does not believe that it is the appropriate agency to perform the types of analyses that the measure contemplates. The Department lacks the expertise required to conduct feasibility studies of land classification for specific uses and cost analyses of the impact of tax credits. The Department will provide whatever information it has that will support such study. As such, the Department defers to DBEDT and Department of Taxation regarding whether the resources necessary to undertake the tasks are available within their respective departments.

Testimony of ERIK KVAM
Chief Executive Officer of Zero Emissions Leasing LLC
2800 Woodlawn Drive, Suite 131, Honolulu, Hawaii 96822
tel: 808-371-1475 e-mail: ekvam@zeroemissions.us

In SUPPORT of S.C.R. NO. 50 REQUESTING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO STUDY THE FEASIBILITY OF CREATING A RENEWABLE ENERGY SUB-DISTRICT CLASSIFICATION OF LANDS AS PERMISSIBLE LOCATIONS FOR RENEWABLE ENERGY GENERATION AND TO STUDY, WITH THE ASSISTANCE OF THE DEPARTMENT OF TAXATION, THE COST OF PROVIDING A NON-REFUNDABLE INCOME TAX CREDIT TO RESIDENTS OF COMMUNITIES OF RENEWABLE ENERGY SUB-DISTRICTS THAT PRODUCE RENEWABLE ENERGY

before the
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
and the
SENATE COMMITTEE ON WATER AND LAND

April 3, 2008 2:45 pm

Good afternoon, Chairs Menor and Hee, Vice-Chairs Hooser and Kokubun and members of the Committees.

My name is Erik Kvam. I am the CEO of a Hawaii solar power project developer called Zero Emissions Leasing LLC ("Zero Emissions").

I support entirely the proposed feasibility study of creating a sub-district classification of lands as permissible locations for renewable energy generation. Such a study is a natural complement to the bills that have been moving through the legislature to permit solar energy facilities in Class D & E agricultural districts (HB2502) and to establish an expedited renewable energy facility siting process (HB2863).

I support the intent of the proposed study to determine the cost of providing a non-refundable renewable energy income tax credit to the residents of such sub-districts.

I believe, however, that a new tax credit for such residents would be ineffective and unnecessary as an incentive for encouraging acceptance of renewable energy generation in the residents' community. Renewable energy tax credits are designed to encourage financial investors to make financial investments in renewable energy projects. Renewable energy tax credits are not designed to encourage citizens generally, as residents with a stake in both the energy and non-energy needs of their community, to accept siting of renewable energy projects in their communities. Community residents are customers of the energy generated by the project, but are not likely to be financial investors in the project. Because community residents are not financial investors in the project, but are obliged to look at the project every day for their rest of their lives, they are not likely to be encouraged, by a tax credit incentive, to mute their objections to the project.

The way to encourage community buy-in for the project is not to give residents a one-time refundable tax credit based on a fiction that they are financial investors in the project. The way to get community acceptance for the project is to give them a reduced rate and substantial, sustained cost savings on the energy they receive from the project, based on the fact they are customers of such energy.

Renewable energy project developers like me are able to use the existing renewable energy tax credit to give community residents a sustained reduction in the price that they pay for electricity. We do that by finding investors who have Hawaii state income tax liabilities. The investors give us funds and we give the tax credits to the investors. We use the funds to build a renewable energy project that serves a good portion of the community's energy needs. We sell the renewable energy from that project to the community residents at a long-term price that's as much as 25% lower than what they would pay the utility for the same amount of energy.

This method of using existing tax credits to deliver energy cost savings to customers is called the "power purchase agreement" model. This is the financial model that the Department of Transportation Airports Division is using to develop 12 MW of solar power projects at Hawaii's airports. It can work just as well for renewable energy projects that supply power to entire communities.

The big obstacle now to community-level renewable energy project development in Hawaii is not lack of incentives to obtain community buy-in. The big obstacle is the utilities' potential to impose "stand-by charges" on the community residents that purchase renewable energy from the project designed to serve their community. The amounts of these stand-by charges would be enough to wipe out the energy cost savings that the community realizes from the existing tax credit under the "power purchase agreement" model. And wiping out energy cost savings means wiping out the community buy-in effect of the existing tax credit incentive.

The way to eliminate this obstacle is passage of a bill (like HB 2550 as originally introduced or HB 2550 HD2), that would bring community-level wind or PV projects of up to 2 MW (enough to serve a community of 1000 homes) within the net energy metering regime, and so avoid the imposition of stand-by charges on community residents that purchase renewable energy from such projects.

Thank you for giving me this chance to testify.

HB3407 HD1

DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND AFFORDABLE HOUSING
Thursday, April 3, 2008
2:45 pm
State Capitol, Conference Room 414

in consideration of
HB 3407 HD1
RELATING TO GASOLINE DEALERS.

Chair Menor, Chair Kokubun, Vice Chair Hooser, Vice Chair Ige, and members of the joint Committee on Energy and Environment and Committee on Commerce, Consumer Protection and Affordable Housing.

The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 3407 HD1, whose purpose is to repeal the service station anti-encroachment laws.

There is a need to help lower the price of gasoline for Hawaii consumers by ensuring competitive pricing of this important energy resource. Published economic research studies showed that divorcement and anti-encroachment laws tend to increase retail gasoline prices. One such study was done by

Michael G. Vita, Deputy Assistant Director, Bureau of Economics, Federal Trade Commission. In 1999, he conducted an independent analysis of the effects of divorcement policies in Hawaii, Connecticut, Delaware, Maryland, Nevada, Virginia, and the District of Columbia. His analysis concluded that divorcement added about 2.7 cents per gallon at retail on regular unleaded gasoline, costing consumers an estimated $100 million annually[1]. Another economic study found Maryland's divorcement law, the first in the nation, raised self-service gasoline prices by 1.4 to 1.7 cents and full-service prices by 5 to 7 cents per gallon at stations that were formerly company-operated.

Further, evidence from the record of Anzai v. Chevron, Hawaii's now-settled gasoline lawsuit, showed that Hawaii's divorcement law stifled the efforts of BHP, former owner of the Tesoro refinery, to embark on what it hoped would be a low-priced volume retail business.

In conclusion, there is evidence that these policies actually sacrifice market efficiencies and, thus increase prices that gasoline consumers pay at the pump. Removing these

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[1] *Regulatory Restrictions on Vertical Integration and Control: The Competitive Impact of Gasoline Divorcement Policies*; July 21, 1999, by Michael G. Vita, Deputy Assistant Director, Bureau of Economics, Federal Trade Commission. An econometric analysis of the effects of divorcement policies in Hawaii, Connecticut, Delaware, Maryland, Nevada, Virginia, and the District of Columbia, which concluded divorcement added about 2.7¢/gallon at retail on regular unleaded gasoline, costing consumers an estimated $100 million annually.

restrictions will benefit the public by helping to lower gasoline prices for Hawaii consumers. If passed this measure will lower barriers to entry thereby allow for increased competition, and restore the value of negatively impacted dealers' stations to facilitate a fair return on their investments.

Thank you for the opportunity to offer these comments.

WSPA

Western States Petroleum Association

April 03, 2008
2:45 p.m.
Senate Committee on Energy and Environment
Senate Committee on Water and Land
Senate Committee on Commerce, Consumer Protection and Affordable Housing
Room 414
Testifier: Melissa Pavlicek

Re: ***HB 3407, HD1*** - Relating to Gasoline

I am testifying in support of ***HB 3407, HD1*** on behalf of the Western States Petroleum Association ("WSPA"), a non-profit trade organization representing a broad spectrum of companies in the petroleum industry in Hawaii.

Anti-competitive state regulations further add to the price at the pump according to the Federal Trade Commission. Hawaii's federal court also concluded that barriers to competition in the petroleum industry in Hawaii include an "adverse political climate, including rent controls, government proposals to take over petroleum terminals and restrictions on the location and types of states that may be built." Hawaii's current anti-encroachment legislation, also known as partial divorcement, creates further upward pressure on prices, according to the Federal Trade Commission. The FTC also attributes rent cap legislation and other government regulations with reducing the total number and quality of service stations, raising prices and causing inconvenience to consumers who have fewer service stations to choose from.

We believe that ***HB 3407, HD1*** is an important step toward addressing some of the real reasons, identified by experts that contribute to Hawaii's gas prices.

ALOHA
Petroleum, Ltd.

TESTIMONY TO THE
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
ON
H.B. 3407, HD1 RELATING TO GASOLINE DEALERS
Thursday, April 3, 2008 at 2:45 p.m.
State Capitol, Room 414

By
Robert F. Maynard
President and CEO
Aloha Petroleum, Ltd.

Chair Menor and Members of the Senate Committee on Energy and Environment, I am Robert F. Maynard, President and CEO of Aloha Petroleum, Ltd.

Aloha Petroleum supports House Bill 3407, HD1 relating to Gasoline Dealers, which repeals the service station anti-encroachment laws.

Anti-encroachment laws have an anti-competitive effect and work to increase gas prices for consumers. As we learned from the FTC during the earlier gas cap hearings, a senior FTC economist conducted a comprehensive study of state divorcement and anti-encroachment laws in 2000 and found that these types of laws reduce competition and ultimately result in higher retail prices. For this reason, Aloha Petroleum supports the intent of House Bill 3407, HD1.

Thank you for the opportunity to testify in support of House Bill 3407, HD1.

1132 Bishop Street, 17th Floor • Honolulu, Hawai'i 96813
P.O. Box 500 • Honolulu, Hawai'i 96809 • Telephone (808) 522-9700 • Facsimile (808) 522-9707

Testimony to the Senate Committees on
Energy and Environment and Commerce and Consumer Protection
2:45pm Thursday April 3rd, 2008
Room 414

HB3407 HD1
Relating to Gasoline Dealers

By
Jim R. Yates
President and CEO
Mid Pac Petroleum, LLC

Mid Pac Petroleum, LLC is a locally owned and operated distributor of petroleum products, primarily through the 76 brand of stations. We employ around 120 citizens across Hawaii.

Mid Pac supports House Bill 3407 relating to Gasoline Dealers and respectfully requests that these committees pass this bill in its current form.

When originally passed, the divorcement legislation was thought to provide a degree of protection to local independent dealers. Many of those same dealers (and the industry in general) have now come to realize that the law has been damaging to consumers and the dealers themselves. The number of stations in Hawaii (particularly on Oahu) has continued to decline, reducing competition and customer convenience. Although there are several reasons for the dwindling number of sites, many of these closures have been influenced by this legislation. Several studies, both in Hawaii and on the mainland, have shown that such legislation has in fact led to higher gasoline prices for consumers.

For the dealers, they have found that it is difficult for them to find a buyer for their business when they decide to exit. For oil companies, it has had a chilling effect on further investment on existing sites or on developing new locations.

On behalf of both our company and many of our dealers, we ask for your support of this important piece of legislation.

Thank you for the opportunity to submit this testimony in support of House Bill 3407.

Aiea Shell

Thursday, April 3,2008
2:45pm
Testimony to the
Senate Committee on Energy & Environment
Senate Committee on Commerce, Consumer Protection & Affordable Housing
Rm. 414

By
Harvey Okamura
Vice President
Aiea Shell

I represent Aiea Shell & **oppose** HB3407. We have served the Aiea community for 38 years and presently service 10 to 12 thousand customers per month. HB3407 will have no positive benefit for consumers and if passed will create a controlled market for oil companies to increase fuel prices. It's original intent was to protect dealer run stations and keep fuel prices competitive. With respect to the law, it has for many years done it's original intent but is now being overlooked and laughed at because there is no enforcement. If HB3407 passes, oil companies will not offer to buy desirable sites from dealers, they will as done historically find ways to financially evict dealer. With dealer eliminated they will able to control market and increase fuel prices.
I have attached sample gas prices from website, HonoluluGasPrice.com
These prices are from same company and are all company run stations.
Note that all lower prices are in vicinity of dealer run stations and higher price sites do not have any dealers to compete with. There is a **plus 6-cent difference**
At 6 cents, consumers will have to pay additional $60000 at this site alone.

99-170 Moanalua Rd, Aiea, HI 96701
1-808-488-0905

Not logged in [Log In] [Sign Up] [Points Leaders] [My Points Statistics] Thursday, March 13, 20

Add gas prices to your web site Click here to find out how!

HonoluluGasPrices.com

Home | Message Forum | Price Charts | Map Gas Prices | Gas Price Temperature Map | Fuel Logbook | Wi
Master Station List | Contact Us | Link To Us | In The News | What's New | Related Links | Helpful Tips | FAQ | C

Honolulu Classified ads

Report a Price Here

☑ Reg ☐ Mid ☐ Prem ☐ Diesel

9

Station (Other) **Area (Other)**

Station Address

Comments

Time Spotted

Now ☐ **Add to my Favorite Stations**

Submit **Prices removed after 60 hours**

Save 5%-10% on gas with the Discover card *

Looking for more prices in Hawaii ? Try:
Hawaii

Search For Gas Prices

(•) **Regular** ( ) **Mid** ( ) **Premium** ( ) **Diesel**

Area: All Areas, Ahuimanu, Aiea, Aina Haina, Aliamanu
Station: All Stations, 7-Eleven, 76, Aloha, ARCO

(Hold Ctrl to select multiple areas/stations)

Other Area **Prices in the last** 60 **hours**

Search Now! **[Top Low & High Prices]**

My Saved Searches [Edit saved searches]

Honolulu Gas Prices

When you enter a gas price into the above form, you are assisting in the fight against high gasoline prices in Honolulu. Together we can work to promote competition and drive down the retail price of gasoline.

Not from Honolulu? Try one of these www.GasBuddy.com gas prices sites:

Metro Areas OR **States/Provinces** Go!

Tell a friend about our site!

Become A I
Join Now to become member, and help e on fuel purchases. A membership is entire

Local Price
Today
Yesterday
One Week Ago
One Month Ago
One Year Ago
Tren
Prices
[Points Lea

Regular Gas | **Midgrade** | **Premium** | **Dies**

Lowest Regular Gas Prices in the Last 60 Hours

Price	Station		Area	Time
3.45	Kamehameha & Waimano Home Rd	Find Map	Pearl City	Tue 3:57 PM
3.46	99-187 Aiea Heights Dr & Ulune St	Find Map	Aiea	Thu 7:33 AM
3.46	1311 Palama St & NVineyard	Find Map	Kapalama	Wed 1:11 AM
3.47	249 Keahole St & Kalanianaole Hwy	Find Map	Hawai'i Kai	Thu 11:25 AM
3.47	Kam Hwy & Waimano Home Rd.	Find Map	Pearl City	Wed 4:29 PM
3.47	707 Kapahulu Ave & Williams St acrs Ono's Hawn Fd	Find Map	Kapahulu	Wed 2:00 AM
3.48	759 S King St & Cooke St	Find Map	Kaka'ako	Thu 5:55 AM
3.48	Mililani Mauka	Find Map	Mililani Town	Wed 5:15 AM
3.49	66-580 Kamehameha Hwy	Find Map	Haleiwa	Wed 6:37 PM
3.51	Ft.Weaver Rd. & Renton Rd.	Find Map	Ewa Beach	Wed 4:51 AM

Station I
DE

Member Log In

SHELL SERVICE
110 South Puunene Ave.
Kahului, Hawaii 96732

April 2, 2008

Honorable Senators,

Please do not allow HB3407.

The current divorcement law allows small dealer run locations to compete on a level playing field against oil company locations. High gasoline prices in Hawaii are due to a number of reasons and it is **NOT** because of the limitations placed on oil companies and jobbers.

High gas prices are a result of high real estate and construction costs, high cost of doing business (which includes insurance, rent, electricity and labor), transportation costs, geographic barriers and most importantly **lack of competition due to a very small market.**

The current law does not prevent oil companies from building new locations. Oil companies and jobbers can still build new locations as long as it is 1/8 of a mile from a dealer location in an urban area or 1/4 of a mile in other areas.

New competition would find it very difficult to enter Hawaii's small market. High start up costs and a relatively small market wouldn't justify the return on investment. To blame the divorcement law is an inaccurate assumption. The oil companies know this. Taking over existing locations is less expensive. In fact they have been doing it illegally for years. They just want to change the law so they can continue doing what they have been doing.

If getting rid of the law will allow more competition to lower price, what's preventing the company stations from pricing below dealer locations now? Oil companies know that in a small market they need to price higher to get a return on their investment. There are not enough gallons to support "more" competition. Does it make sense to have 20 more gas station locations on Molokai to lower the price?

We **are** the competition and oil companies and jobbers want to eliminate us or take over our locations by financially evicting us to acquire more control of the market.

I have been at this station for forty-one years and do not want to sell my station to the oil company or anyone else. We still offer full service, automotive repairs, towing and Hi5 redemption. Try asking an oil company owned station to check your oil, unlock a vehicle with a baby inside or change your flat tire in the pouring rain on a dark and isolated highway.

Please do not allow bill HB3407. Thank you.

Paul Hanada
Owner, Aloha Shell Service and Ilima Shell
Kahului, Maui
808-877-5894

Bill Green, consultant to:
Kahala Shell Auto Care, Inc.
Honolulu, HI 96816

April 1, 2008

RE: HB3407, HD 1
Chairman Menor, ENE
Chairman Kokubun, CPH

I ask for your support of HB 3407. My name is Bill Green, former owner and now consultant to Kahala Shell. I have had 57 years experience in the retail gasoline business; 34 years in Hawaii and 23 years in every major market on the mainland.

Ten years ago, we had a very active organization of independent dealers. We came before you and asked you to pass a bill that now, HB 3407 would partially repeal. Our dealer organization no longer exists, most of the dealers who came here with me ten years ago are out of business and many of their stations are closed to some extent because of the bill passed back then.

Under the heading "be careful what you ask for…you might get it", we thought that the past legislation protected the dealers and yet, in many cases, it had the opposite effect.

We now ask that you pass HB 3407 and let natural market forces operate before more stations close or are torn down which deprives the consumer of convenient service.

Thank you for allowing me to submit this written testimony.

Bill Green

menor1 - Corinne

From: Ronald Amemiya [ramemiya@hawaii.rr.com]

Sent: Monday, March 31, 2008 9:26 PM

To: testimony

Cc: Sen. Ron Menor; Sen. Russell Kokubun

Subject: HB 3407, HD1, Relating to Gasoline Dealers

Honorable Ron Menor, Chair of the Senate ENE Committee
Honorable Russell S. Kokubun, Chair of the Senate CPH Committee
State Capitol
Honolulu, Hawaii 96813

Dear Senators Menor & Kokubun:

As a private citizen, I testify in favor of HB 3407, HD1, Relating to Gasoline Dealers, that will be heard by your joint committees on Thursday, April 3, 2008, at 2:45 p.m., in Conference Room 414. As you may know, I did represent Shell Oil before the legislature in past sessions. My main concern about the present law is its negative effect on competition in the marketplace. From my past experience, I know that there are at least 4 Shell stations, Waianae, Vineyard, Manoa and Beretania that closed primarily because of the present law. Although I do not know for certain, I believe there must be other non-Shell stations that had to close for the same reason.

In reviewing the status of the voting on this measure in the house, it should be significant to note that there was not a single "no" vote in the 3 committees, EEP, CPC and JUD, that the measure was referred to.

For these reasons, I respectfuly request that HB 3407, HD1 be passed by your joint committees.

Sincerely,
Ronald Y. Amemiya
45-650 Kapunahala Road
Kaneohe, Hawaii 96744

Testimony to the Senate Committees on
Energy and Environment and Commerce and Consumer Protection
2:45pm Thursday April 3rd, 2008
Room 414

HB3407 HD1
Relating to Gasoline Dealers

Bob Dixson
76 Service Station Dealer
75-5756 Hualalai Road
Kailua-Kona, Hawaii

I am a 76 service station Dealer in Kailua-Kona on the Big Island and lease my station from Mid Pac Petroleum LLC. My business focuses primarily upon selling gasoline and repairing vehicles. In addition to this I have a small snack shop which sells various soft drinks and snack items.

I support House Bill 3407 relating to Gasoline Dealers and respectfully request that these committees pass this bill in its current form.

Divorcement legislation was born out of the idea that Dealers such as myself needed protection from oil companies. This so called protection stated that once the service station was "dealer operated "that it always had to stay that way. The consequences of this legislation have had many negative and unanticipated effects and have been in some cases damaging to some Dealers. One example relates to the sale of my business if and when I eventually want to sell. The current divorcement legislation limits the time that an oil company can operate a previous Dealer location so they are eliminated as a potential buyer candidate. Due to the high cost of getting into this business it will be difficult to find an individual that would have enough money to buy me out. Simply stated, I should have the right to sell my business to anyone I want. I would expect the government to support my efforts as an independent business man. When I am ready to retire I want to have the freedom to sell my business to anyone who is financially capable. The current law will have a serious negative impact on me.

I ask that you to do the right thing for me and many other Dealers by supporting this important piece of legislation.

Thank you for this opportunity to submit this testimony in support of House Bill 3407.

testimony

From: George Williamson Jr [georgewilliamsonjr@gmail.com]

Sent: Wednesday, April 02, 2008 5:20 PM

To: testimony

Subject: H. B. 3407

Although I support the changes to H. B. 3407. I believe that the Bill is flawed as follows, Firstly the bill stipulates that the Oil Companies can charge me 15% of the Gross sales of my business except gasoline. Throughout the United States of America the Oil Companies are charging only 10%. This has caused my rent to increase by over $8,000.00 a month. Thats $100,000.00 a year. This has caused my small business to become unable to compete competitively with the likes of 7eleven and others who don't have to pay these rediculous rents. The inception of these factors in H. B. 3407 were vehimently opposed by many in the industry who understood what they would cause. The National Rent programs are very competitive and are so because of the nature of this very low margin business. Obviously from the amount of recent station closings this rent structure does not work here on Oahu. The rent restriction of 15% on gasoline doesn't help here on Oahu because there is and has never been enough retail margin in this super competitive marketplace. The National rent programs are driven by the free market at work. Legislating rent structure is like legislating gas prices. It simply doesn't work. I have already been taken for over $300,000.00 by this rediculous methodology. It must be corrected as soon as possible. Sincerely George R. Williamson Jr

Re: HB 3407

Dear Committees, I OPPOSE HB 3407.

The Dealer Divorcement law has been on the books for 10 years and for the last 7 or so years there has been no introduction of legislation to repeal this law. The Divorcement law has been good for the consumers of Hawaii. Dealers still have a strong influence on the market and continue to offer the consumer a variety of services, unlike the Company operations who offer only gas and snacks. Today there are more independent dealers in the Hawaii market than ten years ago, this is good. Unlike ten years ago, there is more price variation from location to location, sometimes as much as a 10 cent difference. Ten years ago, it seemed that all stations prices the same or have only a 3 cent variation, again this is good for the consumer.

So why now is there a sudden push to repeal this law? Rumor has it that Maui Petroleum has an interest in purchasing the Shell Oil operation in Hawaii. Is this a bad thing to want to expand an operation. Mid Pacific Petroleum sold its 76 operation to an investment group that included Walter Dods last year, but no one came to the Legislature to repeal the Divorcement law. So what may be the underlying current that is driving this Legislation? Dealers that operated 76 Stations did not call me with concerns that they would be economically evicted if Mid Pacific sold its operation, so why are Shell dealers calling me with concerns of economic eviction?

Rumor has it that this sale in contingent upon THE REPEAL OF THE DIVORCEMENT LAW! In a nutshell, this could mean the buyer of the Shell operation has the intention of turning all or many of these dealer operated stations to Company operated stations. Especially on the out islands, many dealer operations acquire their fuel through jobber operations such as Maui Petroleum but the price the dealer pays is determined by its parent operation not the jobber. If Maui Petroleum were to purchase the Shell operation, then Maui Petroleum will control the wholesale price that the dealer would pay and that price could be much higher than other independent dealers. This in turn would force the Shell dealer to price higher than the competition and lose all its volume or price the dealer could price with the competition and go broke, such as the case of Aloha Airlines competing with MESA Airlines.

Is it the wishes of the Legislature to have a more concentrated market with less competitors? Jobbers such as Maui Petroleum are currently running operations on the outer Islands and selling gasoline for as much as 20 cents below dealer retail prices, and selling it at a profit. There seems to be a lot of margin there. Maybe this is why Maui consumers have questioned why Maui prices are 40 cents higher than Oahu prices. What will prices be on Maui if the market is allowed to concentrate?

The repeal of the excise tax was a good faith effort of the Legislature to reduce gas prices to consumers yet Maui still stays 70 to 90 CENTS ABOVE THE NATIONAL AVERAGE! This is higher than the historical difference before the repeal of the excise tax. Is it possible for Maui prices to go higher above the National average if the market is allowed to concentrate? The answer is YES.

In the recent past, K-1 Associates purchased the Union 76 operation, then sold it to Mid Pacific Petroleum, who sold it to the investment group with Walter Dods. Aloha Petroleum purchased the BC Oil operation. COSTCO came into the market and expanded to the outer Islands. Through all this action, no one asked for the repeal of the divorcement law. Something is going on, something that may not be good for the consumers.

A last example of market concentration exists on Kauai where the jobber Brian Barbatta controls all the terminals on the Island. For COSTCO to enter the Kauai market, they needed to purchase 18 fuel containers for Young Brothers to ship gasoline to Kauai because the jobber would not sell COSTCO gasoline at a competitive price. COSTCO ships in 99,000 gallons per week into Kauai via Young Brothers and sells gasoline to COSTCO customers for around 15 to 20 cents less than the outside retail price. Hawaii gas prices.com had Princeville at $4.07 this week.

Aloha,
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