
A BILL FOR AN ACT

RELATING TO ENERGY ASSURANCE.

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

1 SECTION 1. Chapter 125C, Hawaii Revised Statutes, is
2 amended by adding to part I four new sections to be
3 appropriately designated and to read as follows:

4 "§125C- Information and analysis required for state
5 energy resiliency planning, energy assurance planning, and
6 energy supply risk assessment planning. (a) The Hawaii state
7 energy office, with its own staff and agents whom the chief
8 energy officer designates as authorized representatives, shall
9 use the information, including confidential information,
10 received from all sources solely to effectuate the purposes of
11 this chapter, chapter 127A, and chapter 196.

12 (b) The chief energy officer shall conduct systematic
13 quantitative and qualitative analyses of the State's energy
14 resources that the chief energy officer determines are necessary
15 to:

16 (1) Assess and report on any actual or potential energy
17 supply disruption or shortage that threatens to impair



- 1 the public health, safety, and welfare and to preserve
2 the lives and property of the people of the State;
- 3 (2) Produce energy ecosystem assessments to determine
4 risks, vulnerabilities, criticalities,
5 interdependencies, impacts, consequences, and
6 mitigation strategies related to any actual or
7 potential emergency or disaster impacting the State;
- 8 (3) Develop an understanding of causes and effects of
9 transitional issues and trends related to changes in
10 the State's energy resources, systems, and markets;
- 11 (4) Establish and maintain baseline data and information
12 on Hawaii's statewide energy resources, systems, and
13 markets and their relationships to energy investment
14 decisions and the economy in support of measures to
15 increase energy resiliency, reduce vulnerabilities,
16 and preserve Hawaii's energy security;
- 17 (5) Develop energy resiliency and emergency response plans
18 and measures, which, in the event of an actual energy
19 shortage or supply disruption, are used to determine
20 and recommend what, if any, emergency government
21 intervention may be necessary and appropriate, and to



1 implement and evaluate the effectiveness of such
2 emergency intervention while promoting informed,
3 transparent, and defensible decision making; and
4 (6) Produce other relevant energy analyses that the chief
5 energy officer deems necessary to administer the
6 energy resiliency planning, energy emergency planning,
7 energy assurance planning, and energy security
8 policies pursuant to this chapter, and other
9 activities in support of the chief energy officer's
10 role and responsibilities pursuant to chapters 127A,
11 196, and other relevant laws.

12 **§125C- Confidential information.** (a) Information
13 provided to the Hawaii state energy office for the purposes of
14 this chapter shall be kept confidential to the extent it falls
15 under an exception to disclosure in section 92F-13.

16 (b) Unless otherwise provided by law, with respect to data
17 that the public utilities commission or Hawaii state energy
18 office obtained or was provided pursuant to this chapter,
19 neither the public utilities commission or Hawaii state energy
20 office nor any employee of the commission or Hawaii state energy
21 office shall do any of the following:



- 1 (1) Use the information furnished or obtained for any
2 purpose other than the purposes for which it is
3 supplied;
- 4 (2) Make any publication whereby the data furnished by any
5 person can be identified; or
- 6 (3) Permit any person other than the public utilities
7 commission, department of taxation, the attorney
8 general, the consumer advocate, Hawaii state energy
9 office, and authorized representatives and employees
10 of said agencies to examine the individual reports or
11 statements provided.

12 **§125C- Confidential information obtained by another**
13 **state agency.** Any confidential information pertinent to the
14 responsibilities of the Hawaii state energy office specified in
15 this chapter that is obtained by another state agency, including
16 the department of taxation, the attorney general, and the
17 consumer advocate, shall be available only to the attorney
18 general, the attorney general's authorized representatives,
19 Hawaii state energy office, and public utilities commission and
20 shall be treated in a confidential manner.



1 §125C- Definitions. As used in this chapter, unless
2 the context otherwise requires:

3 "Agent" means a person who is designated by the chief
4 energy officer as an authorized representative.

5 "Chief energy officer" means the chief energy officer of
6 the Hawaii state energy office, pursuant to section 196-72, and
7 the governor's authorized representative for energy.

8 "Dealer" means any person engaged in the retail sale of
9 fuel in Hawaii.

10 "Distributor" means any person who:

11 (1) Refines, manufactures, produces, or compounds fuel in
12 the State and sells it at wholesale or at retail;

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

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

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



1 provided that "distributor" shall not include a marina, lessee
2 dealer-operated station, owner-operated station, or other
3 retailer that retails fuel only to end users or the public.

4 "Electricity" means all electrical energy produced by
5 combustion of any fuel, or generated or produced using wind, the
6 sun, geothermal heat, ocean water, falling water, currents, and
7 waves, or any other source.

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

10 "Energy resources" means fuel and also includes all
11 electrical or thermal energy produced by combustion of any fuel
12 or generated, produced, or stored using wind, the sun,
13 geothermal heat, ocean water, falling water, currents, and
14 waves, or any other source.

15 "Fuel" means fuels, whether liquid, solid, or gaseous,
16 commercially usable for energy needs, power generation, and
17 fuels manufacture, that may be manufactured, grown, produced, or
18 imported into the State or that may be exported therefrom,
19 including petroleum, petroleum products, and gases to include
20 all fossil fuel-based gases, coal tar, vegetable ferments,
21 biomass, municipal solid waste, biofuels, hydrogen, agricultural



1 products used as fuels and as feedstock to produce fuels, and
2 all fuel alcohols.

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

7 "Major energy producer" means any person who produces
8 energy resources in amounts determined by the chief energy
9 officer as having a major effect on the supplies of, or demand
10 for, energy resources.

11 "Major energy transporter" means any person who transports
12 energy resources in amounts determined by the chief energy
13 officer as having a major effect on the supplies of, or demand
14 for, energy resources.

15 "Major energy user" means any person who uses energy
16 resources in the manufacture of products or for the generation
17 of electricity in amounts determined by the chief energy officer
18 as having a major effect on the supplies of, or demand for,
19 energy resources.



1 representative the clear authority, when the governor by
2 proclamation declares the existence of a state of emergency in
3 the State or when shortages of [~~petroleum products~~] energy
4 resources occur or are anticipated, to acquire and analyze
5 information, including confidential information, to conduct
6 systematic quantitative and qualitative analyses required for
7 state energy planning, energy assurance planning, energy
8 emergency planning, and energy supply risk assessment and
9 resilience. This authority allows the governor to adequately
10 plan and prepare for, respond to, recover from, and mitigate
11 against any actual or potential energy supply disruption or
12 shortage, and to preserve the State's energy security. Another
13 purpose of this chapter is to control the distribution and sale
14 of [~~petroleum~~] fuel products in this State, to procure such
15 products, and to impose rules that will provide extraordinary
16 measures for the conservation of [~~petroleum~~] energy resources
17 and the allocation of fuel products and for [~~their~~] the
18 distribution and sale of fuel in an orderly, efficient, and safe
19 manner."

20 SECTION 4. Section 125C-2, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§125C-2 "Shortage" and "state of emergency" defined. As
2 used in this chapter, unless otherwise indicated by the context,
3 a "shortage" exists whenever the governor determines that there
4 is an increase in the demand for any [~~petroleum~~] fuel product or
5 there is a decrease in the available supply for the [~~petroleum~~]
6 fuel product in question, or both; and [~~such~~] the decrease in
7 the 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. "State of emergency" means an occurrence
13 in any part of the State that requires efforts by state
14 government to protect property, public health, welfare, or
15 safety in the event of an emergency or disaster, or to reduce
16 the threat of an emergency or disaster, or to supplement the
17 local efforts of the county. Further, the governor may, by
18 proclamation of a state of emergency in the State under section
19 127A-14, require [~~importers~~] major energy producers,
20 distributors, major energy marketers, major fuel storers, major
21 energy transporters, and major energy users of any [~~petroleum~~]



1 energy resource or fuel product [~~or other fuel~~] to monitor and
 2 report to the [~~department of business, economic development, and~~
 3 ~~tourism~~] Hawaii state energy office relevant supply and demand
 4 data[-] and information, including confidential information, on
 5 aspects of the State's energy resources, systems, and markets.
 6 The governor shall review the status of a shortage within one
 7 hundred twenty days after the governor's initial determination
 8 of a shortage as defined under this chapter; thenceforth, the
 9 governor shall conduct a review of the shortage to make a new
 10 determination every thirty days until a shortage no longer
 11 exists. Further, the monitoring and reporting authorities
 12 pursuant to a declared state of emergency in the State shall
 13 terminate under the provisions contained in section 127A-14(d)."

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

16 "**§125C-3 Powers in a shortage[-] or state of emergency.**
 17 When a shortage or a state of emergency in the State as defined
 18 in section 125C-2 [~~exists,~~] has been declared by the governor,
 19 the governor or the governor's authorized representative, to
 20 plan and prepare for, respond to, recover from, and mitigate
 21 against any actual or potential energy supply disruption or



1 shortage, to preserve the State's energy security, and to ensure
2 that [~~petroleum~~] fuel products and energy resources are made
3 available to the public in an orderly, efficient, and safe
4 manner, may:

5 (1) Control the retail distribution and sale of
6 [~~petroleum~~] fuel products by adopting rules that may
7 include, but are not limited to, the following
8 measures:

9 (A) Restricting the sale of [~~petroleum~~] fuel products
10 to specific days of the week, hours of the day or
11 night, odd- and even-numbered calendar days, and
12 vehicles having less than a specified amount of
13 gasoline in their tanks, with exceptions for
14 certain designated geographical areas;

15 (B) Restricting sales of [~~petroleum~~] fuel products by
16 dealers to daily allocations, which shall be
17 determined by dividing the monthly allocation by
18 the number of selling days per month;

19 (C) Requiring dealers to post signs designating their
20 hours of operation and the sell-out of daily
21 allocation;



- 1 (D) Instituting a statewide [~~rationing~~] shortage
2 management plan; and
- 3 (E) Allowing for special handling for essential
4 commercial and emergency-user vehicles;
- 5 (2) Require that a percentage of [~~petroleum~~] fuel
6 products, not to exceed five per cent, be set aside to
7 alleviate hardship; provided that aviation gasoline
8 set aside shall not exceed ten per cent;
- 9 (3) Purchase and resell or otherwise distribute
10 [~~petroleum~~] fuel products [~~, and purchase and resell or~~
11 ~~otherwise distribute ethanol that is produced within~~
12 ~~the State and can be used as a substitute for~~
13 ~~petroleum products~~];
- 14 (4) Temporarily suspend, for the duration of a shortage or
15 a state of emergency, standards that may affect or
16 restrict the use of a substitute fuel to meet energy
17 demand;
- 18 (5) Implement fuel shortage emergency response measures,
19 including state government supply enhancement, supply
20 management, regulatory waivers, and demand restraint



- 1 measures, to assure fuel supplies for essential public
2 service during a shortage or state of emergency;
- 3 (6) Acquire and analyze information, including
4 confidential information, to conduct systematic
5 quantitative and qualitative analyses required for
6 state energy planning, energy assurance planning,
7 energy emergency planning, and energy supply risk
8 assessment and resilience;
- 9 ~~(4)~~ (7) Receive, expend, or use contributions or grants
10 in money or property, or special contributions thereof
11 for special purposes not inconsistent with this
12 chapter;
- 13 ~~(5)~~ (8) Borrow and expend moneys needed to exercise the
14 powers granted under this section;
- 15 ~~(6)~~ (9) Contract in the name of the State for the purpose
16 of implementing this chapter or any part ~~[thereof;]~~
17 hereof; and
- 18 ~~(7)~~ (10) Exercise the powers granted under this section
19 to the degree and extent deemed by the governor to be
20 necessary, including the temporary or indefinite



1 suspension of all or part of the measures taken, as
2 the governor deems appropriate."

3 SECTION 6. Section 125C-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§125C-4 Adopting, filing, and taking effect of rules.**

6 The governor or the governor's authorized representative shall
7 adopt rules pursuant to chapter 91, to [~~insure~~] ensure that
8 [~~petroleum~~] fuel products and energy resources are made
9 available to the public in an orderly, efficient, and safe
10 manner, to become effective when a shortage, as defined in
11 section 125C-2, exists. If additional and unforeseen measures
12 are required to [~~insure~~] ensure that [~~petroleum~~] fuel products
13 are distributed in an orderly, efficient, and safe manner, the
14 governor or the governor's authorized representative may proceed
15 without prior notice or hearing or upon such abbreviated notice
16 and hearing as the governor finds practicable to adopt
17 additional rules authorized under this chapter with the
18 additional rules to be effective for a period of not longer than
19 one hundred twenty days without renewal. Any rule so adopted
20 may be amended or repealed by the governor without prior notice
21 or hearing or upon abbreviated notice and hearing prior to the



1 expiration of the one hundred twenty-day period; provided that
2 no amendment shall extend the rule beyond the original period of
3 one hundred [~~and~~] twenty days. To be effective after the one
4 hundred twenty-day period, the rules shall be adopted pursuant
5 to chapter 91. Each rule adopted, amended, or repealed shall
6 become effective as adopted, amended, or repealed upon approval
7 by the governor and filing with the lieutenant governor. Each
8 rule in effect shall have the force and effect of law, but the
9 effect of each rule may be temporarily or indefinitely suspended
10 by the governor by written declaration filed with the lieutenant
11 governor. Each rule temporarily suspended shall take effect
12 again immediately upon expiration of the suspension period.
13 Each rule indefinitely suspended shall take effect immediately
14 upon the filing with the lieutenant governor of the written
15 declaration by the governor terminating the suspension."

16 SECTION 7. 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



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

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

15 "[~~§~~125C-10~~]~~ **Fraud; ~~misdemeanor.~~ penalties.** Any
16 person required by the governor or the governor's authorized
17 representative, pursuant to [~~section 125C-9,~~] this chapter, to
18 make, keep, or file any application, schedule, record, report,
19 or statement, whether or not under oath, who intentionally
20 makes, files, or keeps a false or fraudulent application,
21 schedule, report, or statement or intentionally conceals therein



1 any material fact, and any person who in any other manner
2 intentionally deceives or attempts to deceive the governor or
3 the governor's authorized representative with respect to any
4 fact to be used in administering this chapter, and any person
5 who intentionally fails to observe and comply with any rule
6 [~~promulgated~~] adopted under this chapter, shall be [~~guilty of a~~
7 ~~misdemeanor.~~] assessed a civil penalty of not more than \$10,000
8 per violation."

9 SECTION 9. Chapter 125C, Hawaii Revised Statutes, is
10 amended by amending the title of part II to read as follows:

11 **"PART II. HARDSHIP SET-ASIDE AND ALLOCATION OF [PETROLEUM] FUEL**
12 **PRODUCTS DURING A SHORTAGE OR STATE OF EMERGENCY"**

13 SECTION 10. Section 125C-21, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§125C-21 Definitions.** [~~"Petroleum~~] As used in this part,
16 unless the context otherwise requires:

17 "Fuel product" means any fuel subject to the set-aside
18 system described in this chapter, including heating oils, [~~light~~
19 and heavy diesel oil,] all classifications of diesel fuels,
20 motor gasoline[~~7~~] and all blends of motor gasoline with other
21 fuel products, propane, butane, residual fuel oils, kerosene,



1 naphtha, biodiesel, ethanol, suboctane motor fuel, and aviation
2 fuels used for emergency and essential intrastate air transport
3 services, but excluding all other aviation fuels.

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

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

11 "**§125C-22 When set-aside required.** When a shortage or a
12 state of emergency, as defined in section 125C-2, exists, should
13 the governor determine it necessary, all prime suppliers shall
14 set aside supplies of each [~~petroleum~~] fuel product for which
15 there is a shortage. The amount set aside shall be in
16 accordance with [~~the~~] any rules adopted by the chief energy
17 officer of the Hawaii State energy office."

18 SECTION 12. Section 125C-23, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§125C-23 Set-aside system.** The chief energy officer of
21 the Hawaii state energy office shall adopt rules establishing a



1 ~~[petroleum]~~ fuel products set-aside system. The purpose of this
2 system shall be:

- 3 (1) The protection of public health, safety, and welfare;
4 (2) The maintenance of public services, utilities, and
5 transportation, including emergency and essential
6 intrastate air and maritime transport services;
7 (3) The maintenance of critical agricultural and
8 aquaculture operations~~[, including farming,~~
9 ~~horticulture, dairy, fishing,]~~ and related services;
10 (4) The preservation of economically sound and competitive
11 industry, through the equitable acquisition and
12 distribution of ~~[petroleum]~~ fuel products; and
13 (5) The promotion of efficiency~~[,]~~ and conservation, with
14 minimum economic disruptions, during a shortage of
15 ~~[petroleum]~~ fuel products.

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

18 SECTION 13. Section 125C-31, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[~~§~~125C-31~~]~~ ~~Biennial state]~~ State energy [emergency
21 preparedness] assurance plan. (a) The ~~[department of business,~~



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

12 [~~(1)~~] ~~The biennial state energy emergency preparedness plan~~
13 ~~shall replace the energy emergency plan developed by~~
14 ~~the chief energy officer of the Hawaii State energy~~
15 ~~office, who shall act as the governor's authorized~~
16 ~~representative under this chapter;~~

17 ~~(2)]~~ (1) In preparing the [~~biennial~~] state energy
18 [~~emergency preparedness~~] assurance plan, the
19 [~~department~~] Hawaii state energy office shall:

20 (A) Solicit input, comment, and review from [~~the~~
21 ~~governor's energy emergency preparedness advisory~~



1 ~~committee composed of representatives of federal,~~
2 ~~state, and county governments; private energy~~
3 ~~suppliers; consumer and other public interest~~
4 ~~groups; and the public at large;] stakeholders,~~
5 ~~including public, private, and nonprofit sector~~
6 ~~organizations at the county, state, and federal~~
7 ~~level; and~~

8 (B) Establish [~~other~~] task forces and advisory
9 groups, as may be deemed necessary, to assist in
10 the preparation and review of the [~~biennial~~]
11 state energy [~~emergency preparedness~~] assurance
12 plan;

13 [~~(3)~~] (2) The [~~biennial~~] state energy [~~emergency~~
14 ~~preparedness~~] assurance plan shall be comprehensive
15 and encompassing, and shall integrate into its
16 analytic and planning framework the plans of electric
17 and gas utilities and other energy suppliers, relevant
18 state agencies, [~~including the department of~~
19 ~~transportation,~~] counties, and such other entities as
20 deemed appropriate; and



1 ~~(4)~~ (3) The ~~biennial~~ state energy ~~emergency~~
2 ~~preparedness~~ assurance plan shall include a review
3 and update of the previous ~~biennial~~ state energy
4 ~~emergency preparedness~~ assurance plan and ~~a review~~
5 ~~of the energy emergency plans prepared by the~~
6 ~~counties.~~ shall be prepared or updated as determined
7 by the chief energy officer to be necessary to comport
8 with changes in federal or state overall emergency
9 management policies and plans that significantly
10 affect the State's energy assurance plan or as
11 warranted by changes in Hawaii's energy security.

12 (b) The ~~department~~ Hawaii state energy office shall
13 prepare an energy emergency communication plan, which shall be
14 ~~updated biennially~~ part of the state energy assurance plan and
15 shall be consistent with ~~the energy emergency preparedness~~ any
16 other energy emergency management plans prepared by the
17 ~~counties~~ and the State. The energy emergency communication
18 plan shall be used by the ~~State and counties~~ Hawaii state
19 energy office to communicate and otherwise coordinate ~~state and~~
20 ~~county~~ actions taken in response to implementing the ~~biennial~~
21 state energy ~~emergency preparedness~~ assurance plan."



1 SECTION 14. Section 125C-32, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~{}~~\$125C-32~~{}~~ ~~Biennial county~~ County energy emergency
4 preparedness plans. The mayor of each county, or the mayor's
5 authorized representative, shall ~~[prepare a comprehensive]~~ be
6 responsible for preparing a county energy emergency preparedness
7 plan. The plan shall be prepared in coordination with and be
8 consistent with the ~~[biennial]~~ state energy ~~[emergency~~
9 ~~preparedness]~~ assurance plan~~[7]~~ and shall be implemented in
10 coordination with the state energy ~~[emergency preparedness]~~
11 assurance plan upon declaration of ~~[an energy emergency by the~~
12 ~~governor. Not later than September 30 of every even-numbered~~
13 ~~year, each county shall prepare and transmit to the director of~~
14 ~~business, economic development, and tourism the county's~~
15 ~~biennial county energy emergency preparedness plan.]~~ a shortage
16 or a state of emergency."

17 SECTION 15. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 16. This Act shall take effect on July 1, 2050.



Report Title:

Energy Resiliency; Energy Resources; Energy Shortage; State of
Emergency

Description:

Addresses deficiencies in Hawaii's fuel shortage response and energy emergency statutes. Provides policy guidance on energy resiliency and actual or potential energy supply disruptions or shortages to preserve the State's energy resiliency and security and to ensure that fuel products and energy resources are made available to emergency services and the public in an orderly, efficient, and safe manner. Effective 7/1/2050. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

