

ACT 242

S.B. NO. 3193

A Bill for an Act Relating to Consumers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. During the 2002 legislative session, the legislature found that affirmative action was necessary to address the high price of gasoline in light of the strong tendency of the structure of the gasoline market in the State to perpetuate high and rising prices and the resulting supra-competitive margins realized by market participants. As a result, the legislature enacted Act 77, Session Laws of Hawaii 2002, which established maximum pre-tax wholesale and retail prices on regular unleaded gasoline to be sold in the State, on a self-serve basis.

Since the passage of Act 77, the legislature has found that the problem of high gasoline prices is principally due to a lack of vigorous competition in the oligopolistic wholesale market, a phenomenon that was acknowledged in the testimony and unsealed documents in Anzai v. Chevron et al., and described in the study of fuel prices and legislative initiatives for the State of Hawaii, prepared by Stillwater Associates for the department of business, economic development, and tourism.

The legislature has also found that there is competition at the retail level where there are approximately three hundred thirty-nine gasoline stations throughout the islands. Further, as stated on page 62 of the Stillwater Associates study, "Today, service stations in Hawaii derive revenues not just from the c-stores (convenience stores) that first replaced the service bays, but from multiple sources, ranging from car rentals to fast food, and discount stores to car washes." Thus, through the sale of these other profitable products and services, many of these service stations have additional revenue sources to provide a means to compete vigorously for gasoline sales by accepting lower margins on gasoline in order to

attract customers for gasoline, and thereby create opportunities for the sale of these other products and services, and vice-versa.

The legislature's findings on the lack of competition at the wholesale level and the existence of competition at the retail level are also supported by findings of fact made by the United States District Court in Chevron U.S.A., Inc. v. Cayetano, Civil No 97-00933, in which the court found that "Hawaii's gasoline market is an oligopoly at the wholesale level but very competitive at the retail level."

To address the lack of competition at the wholesale level, instead of imposing limits on gasoline prices, the legislature would prefer a structural solution that would yield, foster, or promote a competitive market environment that will benefit consumers. But despite the criticisms levied at Act 77, no one has proffered such a structural solution, with the only "solution" often advanced being a repeal of Act 77 and thereby allowing the maintenance of the status quo.

The legislature finds that maintaining the status quo will continue to work to the detriment of the consumer welfare. Thus, after much deliberation, the legislature finds that there continues to be a need for affirmative legislative action in regards to gasoline prices. But rather than the means chosen and reflected in Act 77, the legislature finds that enhancing the welfare of consumers will be better achieved by fostering the opportunity for prices that reflect and correlate with competitive market conditions. Accordingly, the objective of this Act is to enhance the consumer welfare by fostering the opportunity for prices that reflect and correlate with competitive market conditions.

It should be clearly understood that the objective of this Act is not to guarantee lower gasoline prices. And in this regard, the legislature anticipates that, from time to time, there may indeed be situations where the actual pre-tax wholesale price of gasoline may be less than the maximum pre-tax wholesale prices of gasoline. This phenomenon should be expected, for nothing in this Act compels any manufacturer, wholesaler, or jobber to price up to the maximum pre-tax wholesale prices of gasoline.

The legislature intends to keep a watchful eye on tendencies for the actual pre-tax wholesale price of gasoline to equal the maximum pre-tax wholesale prices of gasoline since such parity could well suggest that additional affirmative legislative action is needed. The possibility of the need for additional affirmative legislative action is not a sign of infirmities in the Act, but, rather, a recognition of the myriad options available to market participants to impair the consumer welfare.

In furtherance of the objective of this Act, the legislature finds that it should be sufficient to limit gasoline prices solely at the wholesale level and to not establish maximum pre-tax retail gasoline prices. The repeal of provisions in Act 77 relating to the setting of maximum pre-tax retail gasoline prices should allow competition to continue at the retail level.

Act 77 provided that the maximum pre-tax wholesale price was to be determined on a weekly basis, based on the average of the spot prices for regular unleaded gasoline for the markets of Los Angeles, San Francisco, and the Pacific Northwest. In furtherance of the objective of this Act, the legislature finds that a more appropriate basis for determining maximum gasoline prices to enhance consumer welfare is the use of the average of the spot prices for regular unleaded gasoline for the markets of New York Harbor, the United States Gulf Coast, and Los Angeles.

The legislature further finds that it is appropriate to set maximum pre-tax wholesale prices for mid-grade and premium gasoline to guard against unreasonable increases in the wholesale price of these grades of gasoline in the wake of the imposition of price limits on regular unleaded gasoline.

The legislature also recognizes that Hawaii, being a chain of islands with different demographics, populations, terminal and storage facilities, and economies

of scale, contains different sub-markets and that it is necessary to identify these sub-markets by zones. Accordingly, the public utilities commission should have the authority to make any necessary adjustments to the maximum pre-tax wholesale gasoline prices in recognition of any unique attributes of these sub-markets that may have an impact on the prices. As a check on the zone price adjustments, however, and to ensure that the market conditions and attributes of the neighbor island markets are confronted and properly addressed, it is appropriate that further study be undertaken by the legislature through a legislative task force.

The purposes of this Act are to:

- (1) Change the baseline for determining maximum pre-tax wholesale gasoline prices by using the average of the spot prices for regular unleaded gasoline for the markets of New York Harbor, the United States Gulf Coast, and Los Angeles;
- (2) Extend maximum pre-tax wholesale price limits to mid-grade and premium gasoline;
- (3) Repeal the maximum pre-tax retail gasoline price;
- (4) Establish zones within the State and authorize the public utilities commission to adjust the maximum pre-tax wholesale gasoline prices in the various zones;
- (5) Establish a legislative task force to investigate the petroleum industry and its operations on the islands of Kauai, Maui, Molokai, Lanai, and Hawaii;
- (6) Extend the effective date for the imposition of the maximum pre-tax wholesale gasoline price limit; and
- (7) Make an appropriation, to be expended by the public utilities commission, to carry out the purposes of chapter 486H and this Act.

SECTION 2. Chapter 486H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§486H-A Restricting supply of petroleum products. The attorney general shall immediately investigate any shortage or condition affecting the supply of any petroleum products or other matters relating to the requirements of this chapter and shall institute all appropriate criminal and civil actions and pursue all legal and equitable remedies that may be available to the State. The attorney general shall submit a report to the legislature regarding any shortage or condition affecting the supply of petroleum products.”

SECTION 3. Section 486H-13, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§486H-13]]~~ Maximum pre-tax wholesale price for the sale of gasoline; civil actions. (a) Notwithstanding any law to the contrary, no manufacturer, wholesaler, or jobber may sell regular unleaded, mid-grade, or premium gasoline to a dealer retail station, an independent retail station, or to another jobber or wholesaler at a price above the maximum pre-tax wholesale prices established pursuant to subsection (b). The commission shall publish the maximum pre-tax wholesale prices by means that shall include the [~~Internet~~] internet website for the State of Hawaii.

(b) On a weekly basis, the commission shall determine the maximum pre-tax wholesale price of regular unleaded, mid-grade, and premium gasoline [~~for each island~~] as follows:

- (1) ~~For the island of Oahu,~~ the maximum pre-tax wholesale price of regular unleaded gasoline shall consist of the baseline price for regular unleaded gasoline, plus the location adjustment factor, [~~and~~] the mar-

keting margin factor~~;~~, and the zone price adjustment, and for mid-grade and premium gasoline, the applicable mid-grade and premium adjustment factor, such that the maximum pre-tax wholesale gasoline prices reflect and correlate with competitive market conditions.

(2) ~~For the islands of Kauai, Molokai, Lanai, Maui, and Hawaii, the maximum pre-tax wholesale price of regular unleaded gasoline shall consist of the maximum pre-tax wholesale price of regular unleaded gasoline for Oahu, plus the neighbor island wholesale adjustment factor.]~~

(c) The baseline price for regular unleaded gasoline [for Oahu] referred to in subsection (b) shall be determined on a weekly basis~~;~~ and shall be equal to the average of:

- (1) The weekly average of the spot [pipeline] daily price for regular unleaded gasoline for Los Angeles;
- (2) The weekly average of the spot [pipeline] daily price for regular unleaded gasoline for [San Francisco;] New York Harbor; and
- (3) The weekly average of the spot daily price for [the Pacific Northwest,] regular unleaded gasoline for the United States Gulf Coast;

as reported and published by the Oil Price Information Service for the five business days of the preceding week~~[-];~~ provided that the commission, in its discretion, may determine a more appropriate baseline or a more appropriate price information reporting service.

(d) The location adjustment factor referred to in subsection (b) shall be \$.04 per gallon [for the first year after July 1, 2004,] or as otherwise determined by the commission and shall thereafter be subject to [annual] adjustment pursuant to section 486H-16(a).

(e) The marketing margin factor referred to in subsection (b) shall be \$.18 per gallon [for the first year after July 1, 2004,] or as otherwise determined by the commission and shall thereafter be subject to [annual] adjustment pursuant to section 486H-16(a).

~~[(f) The neighbor island wholesale adjustment factor shall be the sum of the neighbor island location adjustment factor, plus the neighbor island marketing factor.~~

~~(g) The neighbor island location adjustment factor shall be \$.04 per gallon for the first year after July 1, 2004, and shall thereafter be subject to annual adjustment pursuant to section 486H-16(a).~~

~~(h) The neighbor island marketing factor shall be \$.04 per gallon for the first year after July 1, 2004, and shall thereafter be subject to annual adjustment pursuant to section 486H-16(a).]~~

(f) The mid-grade adjustment factor shall be \$.05 per gallon or as otherwise determined by the commission and shall thereafter be subject to adjustment pursuant to section 486H-16(a).

(g) The premium adjustment factor shall be \$.09 per gallon or as otherwise determined by the commission and shall be thereafter be subject to adjustment pursuant to section 486H-16(a).

(h) For purposes of this chapter, the State shall be divided into the following zones:

- (1) Zone 1 shall include the island of Oahu;
- (2) Zone 2 shall include the island of Kauai;
- (3) Zone 3 shall include the island of Maui, except the district of Hana;
- (4) Zone 4 shall include the district of Hana on the island of Maui;
- (5) Zone 5 shall include the island of Molokai;
- (6) Zone 6 shall include the island of Lanai;

- (7) Zone 7 shall include the districts of Puna, south Hilo, north Hilo, and Hamakua on the island of Hawaii; and
- (8) Zone 8 shall include the districts of north Kohala, south Kohala, north Kona, south Kona, and Kau on the island of Hawaii.

(i) The commission shall establish zone price adjustments to the maximum pre-tax wholesale regular unleaded, mid-grade, and premium gasoline prices on a zone by zone basis.

(j) Every manufacturer, wholesaler, or jobber, upon the request of the commission, shall furnish to the commission, in the form requested, all documents, data, and information the commission may require to make its determination on zone price adjustments. Any person who refuses or fails to comply with a request for information by the commission shall be subject to a fine of up to \$50,000 per day. Each day a violation continues shall constitute a separate offense.

(k) The maximum pre-tax wholesale gasoline price imposed by this section shall take effect on September 1, 2005, notwithstanding the lack of the adoption of rules pursuant to this section.

~~[(h)]~~ (l) Any manufacturer, wholesaler, or jobber who knowingly violates any requirement imposed or rule adopted under this section, ~~except for subsection (j),~~ shall be subject to a civil penalty, for each ~~[such]~~ violation, ~~[which penalty shall be]~~ equal to three times the amount of the overcharge~~[-]~~ or \$250,000, whichever is greater, and shall be liable for the costs of the action~~[-]~~ and reasonable attorney's fees as determined by the court. Within two years from the date the commission obtains actual knowledge of the violation, the commission may institute a civil action in a court of competent jurisdiction to collect the civil penalty, the costs, and attorney's fees. In the case of ongoing violation, the two-year period shall start from the date of the last violation. The commission may refer any such action to the attorney general as it deems appropriate. As used in this subsection, "overcharge" means the number of gallons of gasoline sold, times the wholesale price at which the manufacturer or jobber sold regular unleaded, mid-grade, or premium gasoline to a dealer retail station, an independent retail station, or another jobber or wholesaler, less taxes assessed, less the maximum pre-tax wholesale price established pursuant to subsection (b).

~~[(j)]~~ (m) The commission shall have the power to determine the extent to which a manufacturer, wholesaler, or jobber is complying with any requirement imposed or rule adopted under this section, including the power to compel a manufacturer, ~~wholesaler,~~ or jobber to submit documents, data, and information necessary and appropriate for the commission to determine such compliance. The commission may use data collected by the department of business, economic development, and tourism pursuant to chapter 486J, as well as obtain the assistance of that department in determining such compliance.

(n) The commission shall report to the governor and the legislature, in a timely manner, on any significant aberrations, trends, or conditions that may adversely impact the gasoline consumers in the State.

~~[(k)]~~ (o) The commission shall adopt rules pursuant to chapter 91 as may be necessary to implement this section~~[-]~~ and section 486H-16."

SECTION 4. Section 486H-14, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 486H-15, Hawaii Revised Statutes, is amended to read as follows:

~~[(H)§486H-15]~~ **Governor's emergency powers.** (a) Notwithstanding any law to the contrary, the governor may suspend, in whole or in part, section 486H-13~~[-section 486H-14,-]~~ or any rule adopted pursuant to ~~[these sections]~~ that

section whenever the governor issues a written determination that strict compliance with [any] the section or a rule will cause a major adverse impact on the economy, public order, or the health, welfare, or safety of the people of Hawaii. In the written determination, the governor shall state the specific provision of the section or rule that strict compliance with will cause a major adverse impact on the economy, public order, or the health, welfare, or safety of the people of the State, along with specific reasons for that determination. The governor shall publish this determination in accordance with section 1-28.5. The suspension shall take effect upon issuance of the written determination by the governor.

(b) Except as provided in subsection (c), the suspension under subsection (a) shall remain in effect until the earlier of:

- (1) The adjournment of the next regular or special session of the legislature; or
- (2) The effective date of any legislative enactment intended to address the major adverse impact;

provided that if the legislature has ~~[enacted]~~ passed legislation to address the major adverse impact, and the governor vetoes the presented legislation, the suspension shall terminate on the date of that veto, and the ~~[pre-tax] maximum pre-tax wholesale [price or the pre-tax maximum retail price]~~ gasoline prices in effect immediately prior to the issuance of the written determination by the governor shall take effect on the day after the date of the veto; and provided further that if no action is taken by the legislature during the regular or special session to address the major adverse impact, then the ~~[pre-tax] maximum pre-tax wholesale [price or the pre-tax maximum retail price]~~ gasoline prices in effect immediately prior to the issuance of the written determination by the governor shall take effect on the day after adjournment sine die of the regular or special session.

(c) If the written determination is issued while the legislature is in session, the suspension under subsection (a) shall remain in effect until the earlier of:

- (1) The adjournment of that session of the legislature; or
- (2) The effective date of any legislative enactment intended to address the major adverse impact;

provided that if the legislature has ~~[enacted]~~ passed legislation to address the major adverse impact, and the governor vetoes the presented legislation, the suspension shall terminate on the date of that veto, and the ~~[pre-tax] maximum pre-tax wholesale [price or the pre-tax maximum retail price]~~ gasoline prices in effect immediately prior to the issuance of the written determination by the governor shall take effect on the day after the date of the veto; and provided further that if no action is taken by the legislature during the regular or special session to address the major adverse impact, then the ~~[pre-tax] maximum pre-tax wholesale [price or the pre-tax maximum retail price]~~ gasoline prices in effect immediately prior to the issuance of the written determination by the governor shall take effect on the day after adjournment sine die of the regular or special session.”

SECTION 6. Section 486H-16, Hawaii Revised Statutes, is amended to read as follows:

“~~[§486H-16]~~ **Adjustments.** (a) A manufacturer, wholesaler, or jobber may petition the commission to adjust the maximum pre-tax wholesale price of regular unleaded, mid-grade, or premium gasoline in the event of a change in the value of the baseline price for regular unleaded gasoline, the location adjustment factor, the marketing margin factor, ~~[or the neighbor island wholesale adjustment factor.]~~ the mid-grade adjustment factor, the premium adjustment factor, or a zone price adjustment. The petitioner shall bear the burden of proof to establish by clear

and convincing evidence the need for and the amount of any adjustment. The adjustments shall be determined as follows:

- (1) The value of the baseline price shall be equal to the average of:
 - (A) The weekly average of the spot [pipeline] daily price for regular unleaded gasoline for Los Angeles;
 - (B) The weekly average of the spot [pipeline] daily price for regular unleaded gasoline for [San Francisco;] New York Harbor; and
 - (C) The weekly average of the spot daily price for [the Pacific Northwest,] regular unleaded gasoline for the United States Gulf Coast,

as reported and published by the Oil Price Information Service for the five business days of the preceding week; provided that the commission, in its discretion, may determine a more appropriate baseline or a more appropriate price information reporting service;

- (2) The value of the location adjustment factor in effect at the time the petition is filed shall be adjusted to [equal] reflect the average of the actual acquisition cost to non-refiner marketers to obtain gasoline from refiners or importers for sale on the island of Oahu over the prior twelve-month period, which cost shall be taken from arm's length transactions between non-refiner marketers, and refiners or importers, such as exchange agreements, sales agreements, or other similar agreements; provided that the location adjustment factor shall not exceed the reasonable cost of importing gasoline to the island of Oahu. As used in this paragraph, "actual acquisition cost" means the amount over the base price of regular unleaded gasoline that a non-refiner marketer pays to a third party for delivery of such gasoline into a terminal located on the island of Oahu;
- (3) The value of the marketing margin factor in effect at the time the petition is filed shall be adjusted by adding to such value the difference between:
 - (A) The average of the difference over the prior twelve-month period between:
 - (i) The dealer tank wagon price for sales for resale[;] for "regular" gasoline; and
 - (ii) The bulk price for sales for resale[;] for "regular" gasoline, for Petroleum Administration for Defense (PAD) District V, as reported and published by the Energy Information Administration or its successor in Table 31 - "Motor Gasoline Prices by Grade, Sales Type, PAD District, and State" or other source containing the same information; less
 - (B) The average of the difference over the period from 1994 until the most current year between:
 - (i) The dealer tank wagon price for sales for resale[;] for "regular" gasoline; and
 - (ii) The bulk price for sales for resale[;] for "regular" gasoline, for Petroleum Administration for Defense (PAD) District V, as reported and published by the Energy Information Administration or its successor in Table 31 - "Motor Gasoline Prices by Grade, Sales Type, PAD District, and State" or other source containing the same information;
- ~~[(4) The value of the neighbor island location adjustment factor in effect at the time the petition is filed shall be adjusted to equal the actual acquisition cost to non-refiner marketers to obtain gasoline from a refiner or importer for sale on the island of Kauai, Molokai, Lanai,~~

Maui, or Hawaii, over the prior twelve-month period, which cost shall be taken from arm's length transactions between non-refiner marketers, and refiners or importers, such as exchange agreements, sales agreements, or other similar agreements; provided that the neighbor island location adjustment factor shall not exceed the reasonable cost of importing gasoline to the island of Kauai, Molokai, Lanai, Maui, or Hawaii, from any port on the island of Oahu. As used in this subsection, "actual acquisition cost" means the amount over the base price of regular unleaded gasoline that a non-refiner marketer [pays] to a third party for delivery of such gasoline into a terminal located on Kauai, Molokai, Lanai, Maui, or Hawaii; and

- (5) The value of the neighbor island marketing factor in effect at the time the petition is filed shall be adjusted if there are material changes in the cost factors associated with marketing gasoline on the island of Kauai, Molokai, Lanai, Maui, or Hawaii, such as terminaling, storage, or distribution costs.]
- (4) The value of the mid-grade and premium adjustment factors in effect at the time the petition is filed shall be adjusted by any material change in the mid-grade and premium adjustment factor as published by an appropriate price information reporting service; and
- (5) The value of any zone price adjustment in effect at the time the petition is filed shall be adjusted based upon material changes in the operating costs for a zone, such as terminaling, storage, or distribution costs, and other empirical data the commission deems appropriate.

(b) A retail station may petition the commission to adjust the maximum pre-tax retail price of gasoline in the event of a change in the maximum pre-tax wholesale price for regular unleaded gasoline, or the value of the retail marketing margin factor. The petitioner shall bear the burden of proof to establish by clear and convincing evidence the need for and the amount of any adjustment. The adjustment shall be determined as follows:

- (1) The value of the retail marketing margin factor for regular unleaded gasoline established in section 486H-14(c) shall be adjusted upward only if such value is less than the average of the difference over the prior twelve-month period between:
 - (A) The "through retail outlets" price for sales to end users for regular unleaded gasoline; and
 - (B) The dealer tank wagon price, for sales for resale for regular unleaded gasoline, for Petroleum Administration for Defense (PAD) District V,

as reported and published by the Energy Information Administration or its successor in Table 31 "Motor Gasoline Prices by Grade, Sales Type, PAD District, and State" or other source containing the same information.¹

(e) (b) If the commission adjusts the maximum pre-tax wholesale [price or the maximum pre-tax retail price of regular unleaded gasoline,] gasoline prices, the commission shall publish its findings and the adjusted prices by means that shall include the [Internet] internet website for the State of Hawaii.

(d) In its discretion and without a petition having been filed, the commission may adjust the maximum pre-tax wholesale price or the maximum pre-tax retail price of regular unleaded gasoline if an adjustment is necessary as a result of a change in the value of the baseline price for regular unleaded gasoline, the location adjustment factor, the marketing margin factor, the neighbor island wholesale adjustment factor, or the retail marketing margin factor.

(e) ~~Nothing in section 486H-13 or 486H-14 shall be construed to prohibit the filing of a petition during the first year after July 1, 2004.]~~

(c) Regardless of whether a petition has been filed and notwithstanding a determination of the adjustments made pursuant to subsection (a), the commission, in its discretion, may make such other and further adjustments deemed necessary and appropriate to establish maximum pre-tax wholesale gasoline prices that reflect and correlate with competitive market conditions.”

SECTION 7. (a) There shall be convened a special task force comprised of eight members of the legislature representing districts on the islands of Kauai, Maui, Molokai, Lanai, and Hawaii to investigate the petroleum industry and its operations and impacts on the islands of Kauai, Maui, Molokai, Lanai, and Hawaii. The director of business, economic development, and tourism and the director of transportation or their respective representatives shall serve as ex officio members of the task force.

(b) Four members of the task force shall be appointed by the speaker of the house of representatives and four members shall be appointed by the president of the senate. Of the eight members, the speaker of the house of representatives and the president of the senate shall each select a co-chairperson for the task force.

(c) The duties of the task force are as follows:

- (1) Obtain an inventory of petroleum facilities serving each of the islands of Kauai, Maui, Molokai, Lanai, and Hawaii, including, but not limited to, ships, barges, and other modes of transporting, loading and off-loading facilities, storage facilities, and pipelines and rolling stock for the movement and distribution of petroleum products;
- (2) Meet with persons involved in the petroleum industry on the islands of Kauai, Maui, Molokai, Lanai, and Hawaii, including, but not limited to, shippers, wholesalers, jobbers, retailers, and consumers;
- (3) Determine the special needs and concerns of the petroleum suppliers and consumers on the islands of Kauai, Maui, Molokai, Lanai, and Hawaii;
- (4) Determine what, if any, special barriers to competition exist on the islands of Kauai, Maui, Molokai, Lanai, and Hawaii;
- (5) Review the need for a tax credit program to encourage the development of additional fuel storage terminal facilities on the islands Kauai, Maui, Molokai, Lanai, and Hawaii;
- (6) Consider the need for a Hawaii fuel authority that would own and operate a fuel import terminal, buy gasoline in the world market, and resell the gasoline at retail at cost throughout the State;
- (7) Determine the appropriateness of the delineation of the various zones and the zone price adjustments; and
- (8) Consider any other issues or concerns that it may have relating to the petroleum industry in the State.

(d) The public utilities commission shall provide necessary staff and logistical support to serve the task force.

(e) The task force shall prepare and submit a report with recommendations, including any proposed legislation, to the legislature twenty days before the convening of the regular session of 2005.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 2004-2005, to carry out the purposes of chapter 486H and this Act, including the hiring of necessary staff and the retaining of professional consultants, without regard to chapters 76 and 103D for the purposes of this Act. The sum appropriated shall be expended by the public utilities commission.

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SECTION 9. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 10. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 12. This Act shall take effect on July 1, 2004.

(Became law on July 13, 2004, without the Governor's signature, pursuant to Art III, §16, State Constitution.)

Notes

1. No end bracket.
2. Edited pursuant to HRS §23G-16.5.