

JAN 26 2011

A BILL FOR AN ACT

RELATING TO THE PETROLEUM INDUSTRY.

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

1 SECTION 1. Section 486H-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§486H-13 Maximum pre-tax wholesale price for the sale of**
4 **gasoline; civil actions.** (a) Notwithstanding any law to the
5 contrary, no manufacturer, wholesaler, or jobber may sell
6 regular unleaded, mid-grade, or premium gasoline to a dealer
7 retail station, an independent retail station, or to another
8 jobber or wholesaler at a price above the maximum pre-tax
9 wholesale prices established pursuant to subsection (b). The
10 commission shall publish the maximum pre-tax wholesale prices by
11 means that shall include the internet website for the State of
12 Hawaii.

13 (b) On a weekly basis, the commission shall determine the
14 maximum pre-tax wholesale price of regular unleaded, mid-grade,
15 and premium gasoline as follows: the maximum pre-tax wholesale
16 price of regular unleaded gasoline shall consist of the baseline
17 price for regular unleaded gasoline, plus the marketing margin
18 factor and the zone price adjustment, and for mid-grade and



1 premium gasoline, the applicable mid-grade and premium
2 adjustment factor, such that the maximum pre-tax wholesale
3 gasoline prices reflect and correlate with competitive market
4 conditions.

5 (c) The baseline price for regular unleaded gasoline
6 referred to in subsection (b) shall be determined on a weekly
7 basis and shall be equal to the average of the three lowest of
8 the four weekly averages of the spot daily price for
9 conventional regular unleaded gasoline or its equivalent
10 standard:

11 (1) The weekly average of the spot daily price for
12 conventional regular unleaded gasoline for Los
13 Angeles;

14 (2) The weekly average of the spot daily price for
15 conventional regular unleaded gasoline for New York
16 Harbor;

17 (3) The weekly average of the spot daily price for
18 conventional regular unleaded gasoline for the United
19 States Gulf Coast; and

20 (4) The weekly average of the spot daily price for
21 conventional regular unleaded gasoline for Singapore,



1 as reported and published by the Oil Price Information Service
2 for the five business days of the preceding week; provided that
3 if the preceding week contains a holiday or holidays, then the
4 average of the remaining business days of the preceding week
5 shall be used; and provided further that the commission, in its
6 discretion, may determine a more appropriate baseline or a more
7 appropriate price information reporting service or use multiple
8 price information reporting services.

9 (d) The marketing margin factor referred to in subsection
10 (b) shall be 14 cents per gallon or as otherwise determined by
11 the commission and shall thereafter be subject to adjustment
12 pursuant to section 486H-16(a).

13 (e) The mid-grade adjustment factor shall be 5 cents per
14 gallon or as otherwise determined by the commission and shall
15 thereafter be subject to adjustment pursuant to section 486H-
16 16(a).

17 (f) The premium adjustment factor shall be 9 cents per
18 gallon or as otherwise determined by the commission and shall
19 thereafter be subject to adjustment pursuant to section 486H-
20 16(a).

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



- 1 (1) Zone 1 shall include the island of Oahu;
- 2 (2) Zone 2 shall include the island of Kauai;
- 3 (3) Zone 3 shall include the island of Maui, except the
- 4 district of Hana;
- 5 (4) Zone 4 shall include the district of Hana on the
- 6 island of Maui;
- 7 (5) Zone 5 shall include the island of Molokai;
- 8 (6) Zone 6 shall include the island of Lanai;
- 9 (7) Zone 7 shall include the districts of Puna, south
- 10 Hilo, north Hilo, and Hamakua on the island of Hawaii;
- 11 and
- 12 (8) Zone 8 shall include the districts of north Kohala,
- 13 south Kohala, north Kona, south Kona, and Kau on the
- 14 island of Hawaii.
- 15 (h) The commission shall establish zone price adjustments
- 16 to the maximum pre-tax wholesale regular unleaded, mid-grade,
- 17 and premium gasoline prices on a zone by zone basis.
- 18 (i) The zone price adjustments for zones 2 through 8, set
- 19 forth in subsection (g), shall be divided as follows:
- 20 (1) Thirty per cent of the zone price adjustment shall be
- 21 allocated to the shipper of the gasoline from zone to
- 22 zone;



1 (2) Twenty per cent of the zone price adjustment shall be
2 allocated to the terminal holding the gasoline in
3 zones 2 through 8; and

4 (3) Fifty per cent of the zone price adjustments shall be
5 allocated to the person or entity that delivers the
6 gasoline to the retail station in zones 2 through 8.

7 (j) Every manufacturer, wholesaler, or jobber [~~upon the~~
8 ~~request of the commission,~~] shall furnish to the commission, at
9 weekly intervals and in the form [requested,] prescribed by the
10 commission, all documents, data, and information the commission
11 may require to make its determination on zone price
12 adjustments[-]; provided that the documents, data, and
13 information shall also be submitted to the commission at any
14 time the commission so requests.

15 Any person who refuses or fails to comply with [~~a request~~
16 ~~for information by the commission]~~ this subsection shall be
17 subject to a fine of up to \$50,000 per day. Each day a
18 violation continues shall constitute a separate offense.

19 (k) The maximum pre-tax wholesale gasoline price imposed
20 by this section shall take effect on September 1, 2005,
21 notwithstanding the lack of the adoption of rules pursuant to
22 this section; provided that notwithstanding any law to the



1 contrary, the maximum pre-tax wholesale price under this section
2 shall be suspended indefinitely upon the effective date of Act
3 78, Session Laws of Hawaii 2006, and shall not thereafter become
4 effective until and unless [~~the governor publishes a notice~~
5 ~~statewide in accordance with section 1-28.5 that the~~
6 ~~reinstatement of the maximum pre-tax wholesale price under this~~
7 ~~section is beneficial to the economic well-being, health, and~~
8 ~~safety of the people of the State. The] the weekly average of
9 the spot daily price for conventional regular unleaded gasoline
10 in Hawaii for the five business days of the preceding week, as
11 reported and published by an oil price information reporting
12 service selected by the commission, exceeds the maximum pre-tax
13 wholesale price published by the commission for four consecutive
14 weeks. The commission shall thereupon publish a statewide
15 notice in accordance with section 1-28.5 regarding the
16 reinstatement of the maximum pre-tax wholesale price, which
17 shall become effective five days after the publication of the
18 notice by the [~~governor unless otherwise specified by the~~
19 ~~governor,~~] commission and shall remain in effect for thirty
20 days, after which time it shall be automatically suspended.
21 [~~Thereafter, the governor may reinstate the maximum pre-tax~~
22 ~~wholesale price for thirty-day periods on the same conditions as~~~~



1 ~~set forth above.]~~ Upon a finding that the maximum pre-tax
2 wholesale price would impose a financial hardship upon a
3 distributor within a zone, the [~~governor, in the governor's~~
4 ~~discretion,~~] commission may increase the maximum pre-tax
5 wholesale price for the zone in an amount determined necessary
6 to eliminate the financial hardship on any affected distributor
7 who does not operate a refinery within the State. Any increase
8 in the maximum pre-tax wholesale price shall be included in the
9 notice published by the [~~governor.~~] commission.

10 [~~(1) The suspension of the maximum pre-tax wholesale~~
11 ~~gasoline price shall suspend the commission's duty to calculate~~
12 ~~and publish the maximum pre-tax wholesale gasoline price that~~
13 ~~would have been in effect but for the suspension, but shall not~~
14 ~~suspend or affect:~~

15 ~~(1) Any duty to register, timely provide information, make~~
16 ~~a report, or file a statement under chapter 486J; or~~

17 ~~(2) Any duty of the commission to enforce chapter 486B.]~~

18 [~~(m)~~] (1) Any manufacturer, wholesaler, or jobber who
19 knowingly violates any requirement imposed or rule adopted under
20 this section, except for subsection (j), shall be subject to a
21 civil penalty, for each violation, equal to three times the
22 amount of the overcharge or \$250,000, whichever is greater, and



1 shall be liable for the costs of the action and reasonable
2 attorney's fees as determined by the court. Within two years
3 from the date the commission obtains actual knowledge of the
4 violation, the commission may institute a civil action in a
5 court of competent jurisdiction to collect the civil penalty,
6 the costs, and attorney's fees. In the case of ongoing
7 violation, the two-year period shall start from the date of the
8 last violation. The commission may refer any such action to the
9 attorney general as it deems appropriate. As used in this
10 subsection, "overcharge" means the number of gallons of gasoline
11 sold, times the wholesale price at which the manufacturer or
12 jobber sold regular unleaded, mid-grade, or premium gasoline to
13 a dealer retail station, an independent retail station, or
14 another jobber or wholesaler, less taxes assessed, less the
15 maximum pre-tax wholesale gasoline price established pursuant to
16 subsection (b).

17 ~~[(n)]~~ (m) The department of business, economic
18 development, and tourism shall have the power to determine the
19 extent to which a manufacturer, wholesaler, or jobber is
20 complying with any requirement imposed or rule adopted under
21 this section, including the power to compel a manufacturer,
22 wholesaler, or jobber to submit documents, data, and information



1 necessary and appropriate for the department of business,
2 economic development, and tourism to determine compliance.

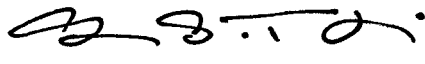
3 ~~(p)~~ (n) The commission shall report to the governor and
4 the legislature, in a timely manner, on any significant
5 aberrations, trends, or conditions that may adversely impact the
6 gasoline consumers in the State.

7 ~~(p)~~ (o) The commission may adopt rules pursuant to
8 chapter 91 as may be necessary to implement this section and
9 section 486H-16."

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

12 SECTION 3. This Act shall take effect upon its approval.

13

INTRODUCED BY: 



Report Title:

Gasoline Cap; Automatic Reinstatement; Reporting Requirements

Description:

Requires the statutory maximum pre-tax wholesale gasoline price (gas cap) to be automatically reinstated for one month after average weekly prices exceed the gas cap for a certain period of time. Requires zone price adjustment information to be reported regularly to PUC rather than upon request.

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