

By: Representative Franks

To: Conservation and Water  
Resources

## HOUSE BILL NO. 849

1 AN ACT TO REQUIRE THAT EACH REFINER AND MAJOR MARKETER OF  
2 PETROLEUM PRODUCTS SUBMIT CERTAIN INFORMATION TO THE OFFICE OF  
3 CONSUMER PROTECTION WITHIN THE ATTORNEY GENERAL'S OFFICE; TO  
4 AUTHORIZE THE OFFICE OF CONSUMER PROTECTION TO MONITOR THE PROCESS  
5 OF REPORTING THE INFORMATION; TO PROVIDE FOR CIVIL PENALTIES FOR  
6 THOSE PERSONS WHO FAIL TO MAKE REPORTS; TO AMEND SECTION 75-24-25,  
7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE PRICE RESTRICTION  
8 FOR GOODS AND SERVICES DURING EMERGENCIES SHALL APPLY STATEWIDE;  
9 AND FOR RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** The Legislature finds and determines that the  
12 petroleum industry is an essential element of the Mississippi  
13 economy and is therefore of vital importance to the health and  
14 welfare of all Mississippians.

15 The Legislature further finds and determines that a  
16 complete and thorough understanding of the operations of the  
17 petroleum industry is required by state government at all times to  
18 enable it to respond to possible shortages, oversupplies, or other  
19 disruptions and to assess whether all consumers, including  
20 emergency service agencies, state and local government agencies,  
21 and agricultural and business consumers of petroleum products have  
22 adequate and economic supplies of fuel.

23 The Legislature further finds and determines that  
24 information and data concerning all aspects of the petroleum  
25 industry, including, but not limited to, crude oil production,  
26 production and supplies of finished branded and unbranded  
27 gasoline, supplies of diesel fuel and other distillates, supplies  
28 of blendstocks used to make gasoline and other refined products,  
29 refining, product output, exports of finished gasoline, diesel  
30 fuel, and blendstocks, prices, distribution, demand and investment

31 choices and decisions are essential for the state to develop and  
32 administer energy policies that are in the interest of the state's  
33 economy and the public's well-being.

34 **SECTION 2.** (1) Each refiner and major marketer shall  
35 submit information each month to the Office of Consumer Protection  
36 within the Attorney General's Office in such form and extent as  
37 the Office of Consumer Protection prescribes under this section.  
38 The information shall be submitted within thirty (30) days after  
39 the end of each monthly reporting period and shall include the  
40 following:

41 (a) Refiners shall report, for each of their  
42 refineries, feedstock inputs, origin of petroleum receipts,  
43 imports of finished petroleum products and blendstocks, by type,  
44 including the source of those imports, exports of finished  
45 petroleum products and blendstocks, by type, including the  
46 destination of those exports, refinery outputs, refinery stocks  
47 and finished product supply and distribution, including all  
48 gasoline sold unbranded by the refiner, blender, or importer; and

49 (b) Major marketers shall report on petroleum  
50 product receipts and the sources of these receipts, inventories of  
51 finished petroleum products and blendstocks, by type,  
52 distributions through branded and unbranded distribution networks  
53 and exports of finished petroleum products and blendstocks, by  
54 type, from the state.

55 (2) Each major oil producer, refiner, marketer, oil  
56 transporter and oil storer shall annually submit information to  
57 the Office of Consumer Protection in such form and extent as the  
58 Office of Consumer Protection prescribes under this section. The  
59 information shall be submitted within thirty (30) days after the  
60 end of each reporting period, and shall include the following:

61 (a) Major oil transporters shall report on petroleum  
62 by reporting the capacities of each major transportation system,  
63 the amount transported by each system, and inventories thereof.

64 The Office of Consumer Protection may prescribe rules and  
65 regulations that exclude pipeline and transportation modes  
66 operated entirely on property owned by major oil transporters from  
67 the reporting requirements of this section if the data or  
68 information is not needed to fulfill the purposes of this act.

69 (b) Major oil storers shall report on storage  
70 capacity, inventories, receipts and distributions, and methods of  
71 transportation of receipts and distributions.

72 (c) Major oil producers shall, with respect to  
73 thermally enhanced oil recovery operations, report annually by  
74 designated oil field, the monthly use, as fuel, of crude oil and  
75 natural gas.

76 (d) Refiners shall report on facility capacity, and  
77 utilization and method of transportation of refinery receipts and  
78 distributions.

79 (e) Major oil marketers shall report on facility  
80 capacity and methods of transportation of receipts and  
81 distributions.

82 (3) Each person required to report under subsection (1) of  
83 this section shall submit a projection each month of the  
84 information to be submitted under subsection (1) for the quarter  
85 following the month in which the information is submitted to the  
86 Office of Consumer Protection.

87 (4) The Office of Consumer Protection may by order or  
88 regulation modify the reporting period as to any individual item  
89 of information setting forth in the order or regulation its reason  
90 for so doing.

91 (5) The Office of Consumer Protection may request  
92 additional information as necessary to perform its  
93 responsibilities under this act.

94 (6) Any person required to submit information or data  
95 under this act, in lieu thereof, may submit a report made to any  
96 other governmental agency, if:

97 (a) The alternate report or reports contain all of  
98 the information or data required by specific request under this  
99 act; and

100 (b) The person clearly identifies the specific  
101 request to which the alternate report is responsive.

102 (7) Each refiner shall submit to the Office of Consumer  
103 Protection, within thirty (30) days after the end of each monthly  
104 reporting period, all of the following information in such form  
105 and extent as the Office of Consumer Protection prescribes:

106 (a) Monthly Mississippi weighted average prices and  
107 sales volumes of finished leaded regular, unleaded regular, and  
108 premium motor gasoline sold through company-operated retail  
109 outlets, to other end-users, and to wholesale customers.

110 (b) Monthly Mississippi weighted average prices and  
111 sales volumes for residential sales, commercial and institutional  
112 sales, industrial sales, sales through company-operated retail  
113 outlets, sales to other end-users, and wholesale sales of No. 2  
114 diesel fuel and No. 2 fuel oil.

115 (c) Monthly Mississippi weighted average prices and  
116 sales volumes for retail sales and wholesale sales of No. 1  
117 distillate, kerosene, finished aviation gasoline, kerosene-type  
118 jet fuel, No. 4 fuel oil, residual fuel oil with 1 percent (1%) or  
119 less sulfur, residual fuel oil with greater than 1 percent (1%)  
120 sulfur and consumer grade propane.

121 (i) 1. An oil refiner, oil producer,  
122 petroleum product transporter, petroleum product marketer,  
123 petroleum product pipeline operator and terminal operator, as  
124 designated by the Office of Consumer Protection, shall submit a  
125 report in the form and extent as the Office of Consumer Protection  
126 prescribes under this section. The Office of Consumer Protection  
127 may determine the form and extent necessary by order or by  
128 regulation.

129 2. A report may include any of the  
130 following information:

131 a. Receipts and inventory levels of  
132 crude oil and petroleum products at each refinery and terminal  
133 location.

134 b. Amount of gasoline, diesel, jet  
135 fuel, blending components, and other petroleum products imported  
136 and exported.

137 c. Amount of gasoline, diesel, jet  
138 fuel, blending components, and other petroleum products  
139 transported intrastate by marine vessel.

140 d. Amount of crude oil imported,  
141 including information identifying the source of the crude oil.

142 e. The regional average of invoiced  
143 retailer buying price. This subparagraph does not either preclude  
144 or augment the current authority of the Office of Consumer  
145 Protection to collect additional data under subsection (5) of this  
146 section.

147 **SECTION 3.** (1) The Office of Consumer Protection shall  
148 notify those persons who have failed to timely provide the  
149 information specified in Section 2 of this act. If, within five  
150 (5) days after being notified of the failure to provide the  
151 specified information, the person fails to supply the specified  
152 information, the person shall be subject to a civil penalty of not  
153 less than Five Hundred Dollars (\$500.00) nor more than Two  
154 Thousand Dollars (\$2,000.00) per day for each day the submission  
155 of information is refused or delayed, unless the person has timely  
156 filed objections with the Office of Consumer Protection regarding  
157 the information and the Office of Consumer Protection has not yet  
158 held a hearing on the matter, or the Office of Consumer Protection  
159 has held a hearing and the person has properly submitted the issue  
160 to a court of competent jurisdiction for review.

161           (2) Any person who willfully makes any false statement,  
162 representation or certification in any record, report, plan or  
163 other document filed with the Office of Consumer Protection shall  
164 be subject to a civil penalty not to exceed Two Thousand Dollars  
165 (\$2,000.00).

166           **SECTION 4.** Section 75-24-25, Mississippi Code of 1972, is  
167 amended as follows:

168           75-24-25. (1) For the purposes of this section, the  
169 following terms shall have the meanings herein ascribed:

170           (a) "Person" means a natural person, corporation,  
171 trust, partnership, incorporated or unincorporated association, or  
172 any other legal entity.

173           (b) "State of emergency" means the duly proclaimed  
174 existence of conditions of disaster or extreme peril to the safety  
175 of persons or property within the state caused by air or water  
176 pollution, fire, flood, storm, epidemic, earthquake, hurricane,  
177 resource shortages or other natural or man-made conditions other  
178 than conditions causing a "state of war emergency," which  
179 conditions by reasons of their magnitude are or are likely to be  
180 beyond the control of the services, personnel, equipment and  
181 facilities of any single county and/or municipality and require  
182 combined forces of the state to combat.

183           (c) "Local emergency" means the duly proclaimed  
184 existence of conditions of disaster or extreme peril to the safety  
185 of persons and property within the territorial limits of a county  
186 and/or municipality caused by such conditions as air or water  
187 pollution, fire, flood, storm, epidemic, earthquake, hurricane,  
188 resource shortages or other natural or man-made conditions, which  
189 conditions are or are likely to be beyond the control of the  
190 services, personnel, equipment and facilities of the political  
191 subdivision and require the combined forces of other subdivisions  
192 or of the state to combat.

193           (d) "Value received" means the consideration or payment  
194 given for the purchase of goods and services.

195           (2) Whenever, under the Mississippi Emergency Management  
196 Law, Sections 33-15-1 through 33-15-49, a state of emergency or a  
197 local emergency is declared to exist in this state, then the value  
198 received for all goods and services sold within the state shall  
199 not exceed the prices ordinarily charged for comparable goods or  
200 services in the same market area at or immediately before the  
201 declaration of a state of emergency or local emergency. However,  
202 the value received may include: any expenses, the cost of the  
203 goods and services which are necessarily incurred in procuring  
204 such goods and services during a state of emergency or local  
205 emergency. The prices ordinarily charged for comparable goods or  
206 services in the same market area do not include temporarily  
207 discounted goods or services. The same market area does not  
208 necessarily mean a single provider of goods or services.

209           (3) Any person who knowingly and willfully violates  
210 subsection (2) of this section, when the value unlawfully received  
211 is Two Hundred Fifty Dollars (\$250.00) or more, shall be guilty of  
212 a felony and upon conviction shall be punished by confinement for  
213 a term of not less than one (1) year nor more than five (5) years  
214 or a fine of not more than Five Thousand Dollars (\$5,000.00), or  
215 both.

216           (4) Any person who knowingly and willfully violates  
217 subsection (2) of this section, when the value unlawfully received  
218 is less than Two Hundred Fifty Dollars (\$250.00), shall be guilty  
219 of a misdemeanor and upon conviction shall be fined not more than  
220 One Thousand Dollars (\$1,000.00) or by imprisonment in the county  
221 jail for a term not to exceed six (6) months, or both.

222           (5) In addition to the criminal penalties prescribed in  
223 subsections (3) and (4), any knowing and willful violation of  
224 subsection (2) of this section shall be considered an unfair or  
225 deceptive trade practice subject to and governed by all the

226 procedures and remedies available under the provisions of this  
227 chapter for enforcement of prohibited acts and practices contained  
228 therein.

229         **SECTION 5.** This act shall take effect and be in force from  
230 and after July 1, 2006.