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## A BILL FOR AN ACT

RELATING TO FUGITIVE DUST CONTROL.

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

1           SECTION 1. The legislature finds that there is large  
2 acreage of former agricultural land that has become vacant for  
3 various reasons. In windy conditions, large dust storms arise  
4 from these lands, depositing precious topsoil into the ocean,  
5 thereby damaging the reefs and the marine environment as well as  
6 detrimentally affecting the health of the residents down-wind.  
7 The legislature further finds that the department of health's  
8 clean air branch regulates the discharge of fugitive dust in the  
9 State and imposes penalties for violations; however, existing  
10 rules do not require land owners to have fugitive dust  
11 mitigation plans approved by the director of health and the  
12 existing penalty structure does not consider the scale of the  
13 dust emission. Therefore, there is a disincentive for owners of  
14 large areas of vacant undeveloped land to take immediate action  
15 to control the fugitive dust discharge from their lands to  
16 preserve the topsoil, prevent contamination of the marine



1 environment, and protect the health and safety of the nearby  
2 communities.

3 Accordingly, the purpose of this Act is to protect Hawaii's  
4 valuable farmlands, marine environment, and health of people who  
5 reside near vacant undeveloped lands by:

6 (1) Clarifying that owners of vacant undeveloped land are  
7 prohibited from causing or permitting visible fugitive  
8 dust to become airborne from their land without taking  
9 reasonable precautions;

10 (2) Clarifying that, except for owners implementing the  
11 best practical operation or treatment, owners of  
12 vacant undeveloped land are prohibited from causing or  
13 permitting visible fugitive dust that originates from  
14 their land to be discharged beyond the land's lot  
15 line;

16 (3) Requiring owners of vacant undeveloped lands to  
17 periodically submit to the department of health a  
18 fugitive dust mitigation plan for their land, which  
19 shall be subject to approval by the director of  
20 health;



- 1 (4) Requiring the department of health to adopt rules to
- 2 carry out the purposes of these prohibitions and
- 3 requirements, including penalties for violations based
- 4 on the scale of visible fugitive dust made airborne or
- 5 discharged from the vacant undeveloped land; and
- 6 (5) Requiring the department of health to submit annual
- 7 reports of its activities to the legislature.

8 SECTION 2. Chapter 342B, Hawaii Revised Statutes, is  
 9 amended by adding a new section to be appropriately designated  
 10 and to read as follows:

11 "§342B- Fugitive dust control; vacant undeveloped land;  
 12 fugitive dust mitigation plan; rulemaking. (a) No owner of  
 13 vacant undeveloped land shall cause or permit visible fugitive  
 14 dust to become airborne from the owner's land without taking  
 15 reasonable precautions.

16 (b) No owner of vacant undeveloped land, except for owners  
 17 implementing the best practical operation or treatment, shall  
 18 cause or permit visible fugitive dust that originates from the  
 19 owner's vacant developed land to be discharged beyond the land's  
 20 lot line.



1        (c) Beginning December 31, 2023, and every third year  
2 thereafter, an owner of vacant undeveloped land in the State  
3 shall submit to the department a fugitive dust mitigation plan  
4 for the owner's vacant undeveloped land, which shall be subject  
5 to approval by the director.

6        (d) The department shall adopt rules in accordance with  
7 chapter 91 to carry out the purposes of this section. The rules  
8 shall include, at minimum:

9        (1) Definitions of "reasonable precautions" and "best  
10 practical operation or treatment" that can be taken or  
11 implemented by an owner of vacant undeveloped land to  
12 comply with this section;

13        (2) Dust mitigation plan approval process, including  
14 information to be included in a fugitive dust  
15 mitigation plan; and

16        (3) Penalty for any violation of this section or any rule  
17 adopted by the department pursuant to this section,  
18 including penalties based on the scale of visible  
19 fugitive dust made airborne or discharged from the  
20 vacant undeveloped land.



# H.B. NO. 703

1        (e) The department shall, no later than twenty days prior  
 2 to each regular session, submit a report to the legislature, or  
 3 the department's activities and enforcement of this section,  
 4 including any proposed legislation.

5        (f) For the purposes of this section, "fugitive dust"  
 6 shall have the same meaning as defined in section 11-60.1-1,  
 7 Hawaii Administrative Rules."

8        SECTION 3. This Act does not affect rights and duties that  
 9 matured, penalties that were incurred, and proceedings that were  
 10 begun before its effective date.

11        SECTION 4. New statutory material is underscored.

12        SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 20 2023



# H.B. NO. 703

**Report Title:**

Vacant Land; Fugitive Dust Control; Department of Health; Plan Approval; Report

**Description:**

Prohibits owners of vacant undeveloped land to cause or permit visible fugitive dust to become airborne from their land or to cause or permit visible fugitive dust that originates from their vacant developed land to be discharged beyond their land's lot line. Requires owners of vacant undeveloped land to submit to the Department of Health a Fugitive Dust Mitigation Plan no later than December 31, 2023, and every three years thereafter, and obtain approval from the Director of Health. Requires the Department of Health to adopt rules and submit reports to the Legislature.

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

