
A BILL FOR AN ACT

RELATING TO UNDERGROUND STORAGE TANKS.

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

PART I

SECTION 1. The legislature finds that the lands and waters of Hawaii are unique, delicately balanced resources, and their protection is vital to the economy of the State. Specifically, the protection of the State's groundwater supply is a matter of utmost concern. As the primary source of potable water in the State, Hawaii's groundwater must be preserved in as close to pristine condition as possible while accommodating the needs of multiple public and private users.

The legislature finds that the regulation of underground storage tanks and tank systems is intended to protect the environment by preventing the release of petroleum and other hazardous substances into the environment. The storage of petroleum products and hazardous substances in underground storage tank systems is a precarious undertaking, and the spills, discharges, and releases of the substances that may occur as a result of private and governmental actions involving



1 the storage of these products pose serious threats to the
2 environment, people, and other interests deriving livelihood
3 from the State.

4 The catastrophic potential of these storage systems was
5 made very clear in late 2021, when a fourteen thousand-gallon
6 release of fuel associated with the United States Navy's Red
7 Hill Bulk Fuel Storage Facility made its way into the
8 underground aquifer and entered the United States Navy's potable
9 water distribution system. More than five thousand people,
10 including both military and local families, reported falling ill
11 after drinking or coming into contact with the contaminated
12 water. A later analysis by the department of health determined
13 that water from the United States Navy's Red Hill shaft was
14 contaminated with diesel fuel at a rate three hundred fifty
15 times above the State's environmental action level. As a
16 result, the United States Navy shut down the Red Hill shaft and
17 the Honolulu board of water supply was forced to close three
18 crucial nearby wells, including Halawa shaft, which has long
19 been Oahu's largest water source. The board of water supply has
20 indicated that the closure of these wells may be permanent due



1 to the risk of further contamination from the underground
2 storage tanks at Red Hill.

3 Accordingly, the legislature finds that future potentially
4 catastrophic threats must be addressed and mitigated.

5 The purpose of this part is to protect the State's
6 underground drinking water sources and surrounding environment
7 by requiring the administrative rules adopted by the department
8 of health relating to underground storage tanks and tank systems
9 that are more stringent than federal regulations governing
10 underground storage tank systems.

11 SECTION 2. Section 342L-32, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§342L-32 Standards for underground storage tanks and tank**
14 **systems.** (a) The department shall adopt [~~standards under~~]
15 rules, pursuant to chapter 91 [which shall apply to], that
16 establish standards for underground storage tanks and tank
17 systems[-]; provided that standards shall be more stringent than
18 the federal regulations relating to underground storage tanks in
19 title 40 Code of Federal Regulations part 280, as amended, and
20 shall reflect the State's unique aquifer and groundwater system
21 and water supply.



1 (b) Underground storage tank and tank system standards
2 shall include, but are not limited to the following
3 specifications:

4 (1) The tank and tank system shall be designed,
5 constructed, installed, upgraded, maintained,
6 repaired, and operated to prevent releases of the
7 stored regulated substances for the operational life
8 of the tank or tank system; and

9 (2) The material used in the construction or lining of the
10 tank or tank system is compatible with the substance
11 to be stored[; ~~and~~

12 ~~(3) Existing underground storage tanks or existing tank~~
13 ~~systems shall be replaced or upgraded not later than~~
14 ~~December 22, 1998, to prevent releases for their~~
15 ~~operating life]."~~

16 PART II

17 SECTION 3. The legislature finds that the Red Hill bulk
18 fuel storage facility, the State's largest field-constructed
19 underground storage tank system, stores more fuel in a single
20 location than any other underground storage tank system in
21 Hawaii. The facility stores up to 187,000,000 gallons of fuel



1 per day, has a total capacity of 250,000,000 gallons, and is
2 located only one hundred feet above a federally designated sole-
3 source aquifer drinking water source.

4 Petroleum-related compounds have been detected at
5 groundwater monitoring wells at Red Hill on multiple occasions,
6 even before the catastrophic release of fuel in November 2021
7 that contaminated the United States Navy's drinking water
8 distribution system, made thousands of people sick, and forced
9 the closure of several nearby water sources. The legislature
10 notes that an earlier release of approximately twenty-seven
11 thousand gallons of petroleum products in 2014 also endangered
12 Hawaii's groundwater resources and briefly forced the Honolulu
13 board of water supply to close down nearby wells as a
14 precaution.

15 The purpose of this part is to establish the Red Hill task
16 force to ensure that the Red Hill bulk fuel storage facility is
17 in compliance with the administrative order on consent with the
18 department of health, docket no. 15-UST-EA-01, the emergency
19 order issued by the department of health on December 6, 2021,
20 docket no. 21-UST-EA-02, and administrative rules adopted



1 pursuant to section 342L-32, Hawaii Revised Statutes, with the
2 goal of protecting Hawaii's groundwater supply.

3 SECTION 4. (a) There is established the Red Hill task
4 force to study the implementation of containment actions
5 relating to mitigating the unplanned release of petroleum
6 products from the Red Hill fuel storage facility, and to report
7 to the legislature.

8 (b) The task force shall be composed of the following
9 members or their designees:

10 (1) The governor;

11 (2) The director of health;

12 (3) The attorney general;

13 (4) The president of the senate;

14 (5) The speaker of the house of representatives;

15 (6) The mayor of the city and county of Honolulu; and

16 (7) The chair of the Honolulu board of water supply;

17 provided that a representative from each of the following
18 entities shall also be invited to be members: United States
19 Environmental Protection Agency; United States Navy; and Sierra
20 Club of Hawaii.



1 The governor or the governor's designee shall serve as
2 chairperson of the task force.

3 (c) The task force shall be administratively attached to
4 the department of health.

5 (d) The task force shall study and report to the
6 legislature on the implementation of the administrative order on
7 consent with the department of health, docket no. 15-UST-EA-01,
8 the emergency order issued by the department of health on
9 December 6, 2021, docket no. 21-UST-EA-02, and the
10 implementation of rules pursuant to section 342L-32, Hawaii
11 Revised Statutes. As part of the study, the task force shall
12 consider:

13 (1) Whether the United States Department of the Navy is in
14 compliance with the:

15 (A) Terms of the administrative order of consent;

16 (B) Terms of the emergency order issued by the
17 department of health on December 6, 2021, docket
18 no. 21-UST-EA-02; and

19 (C) Department of health's administrative rules
20 adopted pursuant to section 342L-32, Hawaii
21 Revised Statutes;



- 1 (2) The implementation of containment measures to ensure
2 storage tank safety;
- 3 (3) The possibility of the President of the United States
4 issuing an Executive Order that would allow for the
5 use of the Red Hill storage tanks without any
6 additional review or safety precautions or measures;
- 7 (4) The feasibility of:
- 8 (A) Relocating the Red Hill underground storage tank
9 system to another location in the State; and
- 10 (B) Eliminating the use of the Red Hill underground
11 storage tank system;
- 12 (5) The fiscal impact to the State of having the Red Hill
13 underground storage tank system in Hawaii, including
14 the cost considerations of the various options to
15 keep, maintain, move, or eliminate the Red Hill
16 underground storage tank system; and
- 17 (6) Whether the Red Hill underground storage tank system
18 is essential to the security of the United States.
- 19 (e) The task force shall submit an initial report of its
20 findings and recommendations, including any proposed
21 legislation, to the legislature no later than twenty days prior



1 to the convening of the 2023 regular session. The task force
2 shall submit a final report of its findings and recommendations,
3 including any proposed legislation, to the legislature no later
4 than twenty days prior to the convening of the 2024 regular
5 session. The task force shall submit a follow-up report to the
6 legislature each year thereafter until its dissolution.

7 (f) The task force shall have a minimum of two meetings
8 prior to the convening of the 2023 regular session. Beginning
9 January 1, 2023, the task force shall meet a minimum of
10 times a year. Beginning January 1, 2028, the task force shall
11 meet a minimum of times a year.

12 (g) No member of the task force shall be made subject to
13 chapter 84, Hawaii Revised Statutes, solely because of that
14 member's participation as a member of the task force.

15 (h) The task force shall cease to exist on January 1,
16 2033.

17 PART III

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

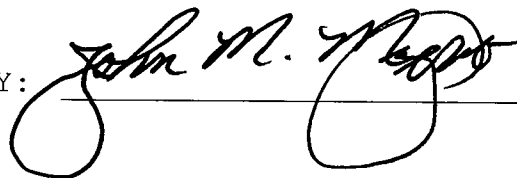


H.B. NO. 2031

1 SECTION 6. This Act shall take effect on July 1, 2022.

2

INTRODUCED BY:

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JAN 24 2022



H.B. NO. 2031

Report Title:

Underground Storage Tanks and Systems; DOH; Environmental Protection; Red Hill Task Force

Description:

Requires the Department of Health to adopt rules for underground storage tanks and tank systems that are more stringent than federal underground storage tank regulations. Establishes the Red Hill Task Force to study the implementation of containment measures at, or the elimination of, underground storage tanks at Red Hill.

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