
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. The legislature finds that the health of
2 Hawaii's people and quality of Hawaii's waters are being harmed
3 by pollution from cesspools. Hawaii has more than eighty
4 thousand cesspools that discharge about fifty million gallons of
5 wastewater into the State's groundwater every day. Cesspools
6 are antiquated, substandard systems that damage public health;
7 pollute drinking water; and lower water quality in streams,
8 ground waters, nearshore marine areas, and the ocean. Cesspool
9 pollution also harms public recreation and the precious coral
10 reefs on which Hawaii's economy, shoreline, fisheries, and
11 native species depend.

12 In Act 125, Session Laws of Hawaii 2017, the legislature
13 required that all cesspools be upgraded to a septic system or
14 aerobic treatment unit system or connected to a sewerage system
15 by 2050 and directed the department of health to develop a
16 system to prioritize the upgrade, conversion, or connection of
17 cesspools based on their impact on public health.



1 Furthermore, in Act 132, Session Laws of Hawaii 2018, the
2 legislature authorized the department of health to establish the
3 cesspool conversion working group to develop a long-range,
4 comprehensive plan for conversion of cesspools statewide by 2050
5 and consider and recommend means by which the department can
6 ensure that cesspools are converted to more environmentally-
7 responsible waste treatment systems or connected to sewer
8 systems. The legislature also commissioned a statewide study of
9 sewage contamination in nearshore marine areas to further
10 supplement reports conducted by the department of health on
11 cesspools.

12 The legislature notes that the cesspool conversion working
13 group recently issued its final report to the legislature. In
14 its final report, the working group indicated that over the past
15 four years, it had gathered and considered new scientific and
16 policy data, studies by wastewater experts, activities in other
17 jurisdictions, owners' ability to pay, financing mechanisms, and
18 the latest technologies for treating wastewater. Based on this
19 work, the working group recommended ways to facilitate the
20 upgrading of cesspools in Hawaii. The University of Hawaii's
21 2022 Hawaii cesspool hazard assessment and prioritization tool



1 was developed for the working group and applied to determine
2 which cesspools should be upgraded first.

3 The legislature further finds that in its final report, the
4 working group recommended staggering the upgrades of cesspools
5 and prioritizing them based on their environmental impact.
6 Priority level 1 cesspools are those that cause the most
7 pollution and represent the greatest contamination hazard. The
8 report categorized 13,821 cesspools in the State as priority
9 level 1. Priority level 2 cesspools are those cesspools that
10 cause the next most pollution and represent a significant
11 contamination hazard. The report categorized 12,367 cesspools
12 in the State as priority level 2.

13 The working group recommended, based on updated information
14 about pollution impacts, that priority level 1 cesspools be
15 required to upgrade by 2030 and the next most-polluting priority
16 level 2 cesspools be required to upgrade by 2035. The working
17 group recommended that the remaining cesspools categorized as
18 priority level 3 (55,237, or approximately sixty-nine per cent
19 of the total) not be required to upgrade until 2050, pursuant to
20 existing law.



1 Therefore, the purpose of this Act is to implement the
2 recommendation of the working group to accelerate the dates for
3 required upgrades, conversions, or connections of priority level
4 1 cesspools and priority level 2 cesspools by requiring:

5 (1) Priority level 1 cesspools, with certain exceptions,
6 to be upgraded, converted, or connected before
7 January 1, 2030; and

8 (2) Priority level 2 cesspools to be upgraded, converted,
9 or connected before January 1, 2035.

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

13 "§342D- Cesspools; mandatory upgrade, conversion, or
14 connection; priority level 1; priority level 2. (a)

15 Notwithstanding section 342D-72, every cesspool in the State
16 categorized as priority level 1 according to the University of
17 Hawaii's 2022 Hawaii cesspool hazard assessment and
18 prioritization tool shall be:

19 (1) Upgraded or converted to a director-approved
20 wastewater system; or

21 (2) Connected to a sewerage system,



1 before January 1, 2030; provided that priority level 1 cesspools
2 on recreational residence leases within the Kokee state park and
3 Waimea Canyon state park on the island of Kauai shall be
4 upgraded, converted, or connected before January 1, 2035.

5 (b) Notwithstanding section 342D-72, every cesspool in the
6 State designated as priority level 2 according to the University
7 of Hawaii's 2022 Hawaii cesspool hazard assessment and
8 prioritization tool shall be:

9 (1) Upgraded or converted to a director-approved
10 wastewater system; or

11 (2) Connected to a sewerage system,
12 before January 1, 2035.

13 (c) The director of health may grant an exemption from the
14 requirements of subsections (a) and (b) to the property owner of
15 a cesspool who applies for an exemption and presents
16 documentation showing a legitimate reason that makes it
17 infeasible to upgrade, convert, or connect the cesspool. For
18 the purposes of this subsection, a legitimate reason shall
19 include but not be limited to:

20 (1) Small lot size;

21 (2) Steep topography;



1 (3) Poor soils;
 2 (4) Accessibility issues; or
 3 (5) A planned development of sewerage upgrades to an area.
 4 (d) The department of health may grant extensions of up to
 5 five years at a time from the requirements of subsections (a)
 6 and (b) based on demonstration of financial inability to pay for
 7 or finance a cesspool upgrade, conversion, or connection;
 8 provided that the department of health may adopt rules pursuant
 9 to chapter 91 necessary to effectuate the purposes of this
 10 subsection.

11 (e) As used in this section, "cesspool" has the same
 12 meaning as in section 342D-72."

13 SECTION 3. Section 342D-72, Hawaii Revised Statutes, is
 14 amended by amending subsection (a) to read as follows:

15 "(a) [~~Before~~] Except as otherwise provided in section
 16 342D- , before January 1, 2050, every cesspool in the State,
 17 excluding cesspools granted exemptions by the director of health
 18 pursuant to subsection (b), shall be:

- 19 (1) Upgraded or converted to a director-approved
- 20 wastewater system; or
- 21 (2) Connected to a sewerage system."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on June 30, 3000.



Report Title:

Cesspools; Mandatory Upgrade, Conversion, or Connection;
Cesspool Conversion Working Group; Prioritization

Description:

Implements the recommendation of the cesspool conversion working group to accelerate the dates for required upgrades, conversions, or connections of priority level 1 cesspools and priority level 2 cesspools by requiring priority level 1 cesspools to be upgraded, converted, or connected before 1/1/2030, with certain exceptions, and priority level 2 cesspools to be upgraded, converted, or connected before 1/1/2035, rather than before 1/1/2050. Effective 6/30/3000.
(HD1)

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