
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

1 SECTION 1. The legislature finds that the State's
2 environmental review process is designed to scrutinize new
3 projects with potential environmental impacts. However, recent
4 court decisions have broadened the definition of "action", which
5 includes long-permitted commercial activities which the State
6 did not originally intend to be subject to environmental review.
7 As a result, long-standing commercial operations may be forced
8 to cease operation despite their decades-long compliance with
9 regulatory requirements.

10 The legislature further finds that it is necessary to
11 clarify that the environmental review process is intended to
12 evaluate the environmental impact of new projects, not to
13 disrupt ongoing, well-regulated activities.

14 Accordingly, the purpose of this Act is to allow:

15 (1) A previously authorized or permitted activity or
16 operation to continue operation for a period of one
17 year while the appropriate agency determines whether



1 the activity or operation is subject to or exempt from
2 the environmental review process; and

3 (2) An operator of a previously authorized or permitted
4 activity or operation to renew the appropriate permits
5 while under the environmental review process.

6 SECTION 2. Chapter 343, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§343- Temporary continuation of authorized or permitted
10 activities; challenge; exemption. (a) Notwithstanding any law
11 to the contrary, when an activity or operation previously
12 permitted or authorized by a commercial entity is challenged as
13 being subject to the requirements of this chapter, the activity
14 or operation may continue for a period of one year pending the:

15 (1) Determination of the appropriate agency that the
16 activity or operation is subject to or exempt from the
17 requirements of this chapter; and

18 (2) Preparation and submission of an environmental
19 assessment or environmental impact statement to the
20 appropriate approving agency if it is determined that



1 the activity or operation is subject to the
2 requirements of this chapter;
3 provided that the activity or operation shall continue to comply
4 with regulatory requirements; provided further that the activity
5 or operation shall not include construction, grading, dredging,
6 or other structural modifications to land, waterways, or marine
7 environments; provided further that the activity or operation
8 may continue for an extended period at the discretion of the
9 court.

10 (b) If an agency determines that an activity or operation
11 previously authorized or permitted by a commercial entity is
12 subject to the requirements of this chapter, a person with
13 oversight of the activity or operation may renew the appropriate
14 permits while under the environmental review process; provided
15 that the activity or operation continues to comply with
16 regulatory requirements.

17 (c) For the purposes of this section, "previously
18 permitted or authorized" means permitted or authorized at the
19 time of the challenge."

20 SECTION 3. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect on January 1, 2050.



Report Title:

Environmental Assessment; Commercial Activities; Temporary Exemption; Challenge; Permits

Description:

Allows a previously authorized or permitted commercial activity or operations to continue operation for one year while the appropriate agency determines whether the activity or operation is subject to or exempt from the environmental review process when challenged. Allows a person with oversight of a previously authorized or permitted commercial activity to renew the appropriate permits while under the environmental review process. Effective 1/1/2050. (SD2)

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