
A BILL FOR AN ACT

RELATING TO WASTE DISPOSAL FACILITIES.

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

1 SECTION 1. The legislature finds that the search for a new
2 landfill for the city and county of Honolulu cannot be
3 prioritized over the protection of Oahu's freshwater aquifers.
4 In 2021, approximately twenty thousand gallons of jet fuel
5 leaked from the Red Hill bulk fuel storage facility and
6 contaminated the Pearl Harbor-Hickam water system that serves
7 ninety-three thousand military and civilian customers. The leak
8 also affected the Honolulu board of water supply, and the city
9 and county has shut down three wells that supply fourteen
10 million gallons of water a day to urban Honolulu. The Honolulu
11 board of water supply is in search of new wells that can supply
12 urban Honolulu, which may not be ready until 2025. To protect
13 and preserve fresh water, a new landfill cannot be built over a
14 freshwater aquifer.

15 The legislature further finds that prime agricultural land
16 should be protected, preserved, and reserved for agricultural



1 and related uses. Therefore, a new landfill should not be
2 located on those agricultural lands.

3 The legislature also finds that the city and county of
4 Honolulu is required to relocate the Waimanalo Gulch sanitary
5 landfill by 2028. The department of environmental services of
6 the city and county of Honolulu proposed six potential sites
7 upon which to relocate the landfill, and all sites were rejected
8 by the landfill advisory committee because of concerns that
9 locating a landfill above freshwater aquifers may damage the
10 State's water sources. Section 183C-4(d), Hawaii Revised
11 Statutes, prohibits waste or disposal facilities in a
12 conservation district, except in emergency circumstances to
13 mitigate significant risks where it may be necessary to mitigate
14 significant risks to public health and safety. Furthermore,
15 section 342H-52(b), Hawaii Revised Statutes, prohibits the
16 construction, modification, or expansion of a waste or disposal
17 facility within a one-half mile buffer zone between the edge of
18 the waste or waste activity and the nearest residential, school,
19 or hospital property line.

20 The purpose of this Act is to:



- 1 (1) Prohibit landfill units on land in an agricultural
2 district having soil classified by the land study
3 bureau's detailed land classification as overall
4 (master) productivity rating class A or B;
- 5 (2) Prohibit the construction, modification, or expansion
6 of any waste or disposal facility for solid waste or
7 hazardous waste on land that is near or above a
8 significant aquifer;
- 9 (3) Clarify that beginning July 1, 2025, the existing
10 buffer zone between waste or disposal facilities and
11 residential, school, or hospital property lines
12 applies to municipal solid waste landfill units or
13 components, construction and demolition landfill
14 units, and their components; and
- 15 (4) Prohibit the construction, modification, or expansion
16 of a landfill unit inland of the underground injection
17 control line in a county with a population greater
18 than five hundred thousand, with certain exemptions.

19 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:

21 "(d) Agricultural districts shall include:



- 1 (1) Activities or uses as characterized by the cultivation
2 of crops, crops for bioenergy, orchards, forage, and
3 forestry;
- 4 (2) Farming activities or uses related to animal husbandry
5 and game and fish propagation;
- 6 (3) Aquaculture, which means the production of aquatic
7 plant and animal life within ponds and other bodies of
8 water;
- 9 (4) Wind-generated energy production for public, private,
10 and commercial use;
- 11 (5) Biofuel production, as described in
12 section 205-4.5(a)(16), for public, private, and
13 commercial use;
- 14 (6) Solar energy facilities; provided that:
 - 15 (A) This paragraph shall apply only to land with soil
16 classified by the land study bureau's detailed
17 land classification as overall (master)
18 productivity rating class B, C, D, or E; and
 - 19 (B) Solar energy facilities placed within land with
20 soil classified as overall productivity rating
21 class B or C shall not occupy more than ten per



1 cent of the acreage of the parcel, or twenty
2 acres of land, whichever is lesser, unless a
3 special use permit is granted pursuant to
4 section 205-6;

5 (7) Bona fide agricultural services and uses that support
6 the agricultural activities of the fee or leasehold
7 owner of the property and accessory to any of the
8 above activities, regardless of whether conducted on
9 the same premises as the agricultural activities to
10 which they are accessory, including farm dwellings as
11 defined in section 205-4.5(a) (4), employee housing,
12 farm buildings, mills, storage facilities, processing
13 facilities, photovoltaic, biogas, and other
14 small-scale renewable energy systems producing energy
15 solely for use in the agricultural activities of the
16 fee or leasehold owner of the property,
17 agricultural-energy facilities as defined in
18 section 205-4.5(a) (17), vehicle and equipment storage
19 areas, and plantation community subdivisions as
20 defined in section 205-4.5(a) (12);

21 (8) Wind machines and wind farms;



- 1 (9) Small-scale meteorological, air quality, noise, and
2 other scientific and environmental data collection and
3 monitoring facilities occupying less than one-half
4 acre of land; provided that these facilities shall not
5 be used as or equipped for use as living quarters or
6 dwellings;
- 7 (10) Agricultural parks;
- 8 (11) Agricultural tourism conducted on a working farm, or a
9 farming operation as defined in section 165-2, for the
10 enjoyment, education, or involvement of visitors;
11 provided that the agricultural tourism activity is
12 accessory and secondary to the principal agricultural
13 use and does not interfere with surrounding farm
14 operations; and provided further that this paragraph
15 shall apply only to a county that has adopted
16 ordinances regulating agricultural tourism under
17 section 205-5;
- 18 (12) Agricultural tourism activities, including overnight
19 accommodations of twenty-one days or less, for any one
20 stay within a county; provided that this paragraph
21 shall apply only to a county that includes at least



1 three islands and has adopted ordinances regulating
2 agricultural tourism activities pursuant to
3 section 205-5; provided further that the agricultural
4 tourism activities coexist with a bona fide
5 agricultural activity. For the purposes of this
6 paragraph, "bona fide agricultural activity" means a
7 farming operation as defined in section 165-2;

8 (13) Open area recreational facilities;

9 (14) Geothermal resources exploration and geothermal
10 resources development, as defined under section 182-1;

11 (15) Agricultural-based commercial operations registered in
12 Hawaii, including:

13 (A) A roadside stand that is not an enclosed
14 structure, owned and operated by a producer for
15 the display and sale of agricultural products
16 grown in Hawaii and value-added products that
17 were produced using agricultural products grown
18 in Hawaii;

19 (B) Retail activities in an enclosed structure owned
20 and operated by a producer for the display and
21 sale of agricultural products grown in Hawaii,



1 value-added products that were produced using
2 agricultural products grown in Hawaii, logo items
3 related to the producer's agricultural
4 operations, and other food items;

5 (C) A retail food establishment owned and operated by
6 a producer and permitted under chapter 11-50,
7 Hawaii administrative rules, that prepares and
8 serves food at retail using products grown in
9 Hawaii and value-added products that were
10 produced using agricultural products grown in
11 Hawaii;

12 (D) A farmers' market, which is an outdoor market
13 limited to producers selling agricultural
14 products grown in Hawaii and value-added products
15 that were produced using agricultural products
16 grown in Hawaii; and

17 (E) A food hub, which is a facility that may contain
18 a commercial kitchen and provides for the
19 storage, processing, distribution, and sale of
20 agricultural products grown in Hawaii and



1 value-added products that were produced using
2 agricultural products grown in Hawaii.

3 The owner of an agricultural-based commercial
4 operation shall certify, upon request of an officer or
5 agent charged with enforcement of this chapter under
6 section 205-12, that the agricultural products
7 displayed or sold by the operation meet the
8 requirements of this paragraph;

9 (16) Hydroelectric facilities as described in
10 section 205-4.5(a)(23); and

11 (17) Composting and co-composting operations; provided that
12 operations that process their own green waste and do
13 not require permits from the department of health
14 shall use the finished composting product only on the
15 operation's own premises to minimize the potential
16 spread of invasive species.

17 Agricultural districts shall not include golf courses and golf
18 driving ranges, except as provided in section 205-4.5(d). No
19 landfill unit, as defined in section 342H-52, shall be located
20 on land within the agricultural district that has soil
21 classified by the land study bureau's detailed land



1 classification as overall (master) productivity rating class A
2 or B. Agricultural districts include areas that are not used
3 for, or that are not suited to, agricultural and ancillary
4 activities by reason of topography, soils, and other related
5 characteristics."

6 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Uses not expressly permitted in subsection (a),
9 including landfill units as defined in section 342H-52, shall be
10 prohibited, except the uses permitted as provided in sections
11 205-6 and 205-8, and construction of single-family dwellings on
12 lots existing before June 4, 1976. Any other law to the
13 contrary notwithstanding, no subdivision of land within the
14 agricultural district with soil classified by the land study
15 bureau's detailed land classification as overall (master)
16 productivity rating class A or B shall be approved by a county
17 unless those A and B lands within the subdivision are made
18 subject to the restriction on uses as prescribed in this section
19 and to the condition that the uses shall be primarily in pursuit
20 of an agricultural activity.



1 Any deed, lease, agreement of sale, mortgage, or other
2 instrument of conveyance covering any land within the
3 agricultural subdivision shall expressly contain the restriction
4 on uses and the condition, as prescribed in this section that
5 these restrictions and conditions shall be encumbrances running
6 with the land until such time that the land is reclassified to a
7 land use district other than agricultural district.

8 If the foregoing requirement of encumbrances running with
9 the land jeopardizes the owner or lessee in obtaining mortgage
10 financing from any of the mortgage lending agencies set forth in
11 the following paragraph, and the requirement is the sole reason
12 for failure to obtain mortgage financing, then the requirement
13 of encumbrances shall, insofar as such mortgage financing is
14 jeopardized, be conditionally waived by the appropriate county
15 enforcement officer; provided that the conditional waiver shall
16 become effective only in the event that the property is
17 subjected to foreclosure proceedings by the mortgage lender.

18 The mortgage lending agencies referred to in the preceding
19 paragraph are the Federal Housing Administration, Federal
20 National Mortgage Association, Department of Veterans Affairs,
21 Small Business Administration, United States Department of



1 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate
2 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any
3 other federal, state, or private mortgage lending agency
4 qualified to do business in Hawaii, and their respective
5 successors and assigns."

6 SECTION 4. Section 342H-52, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§342H-52 Prohibitions; buffer zones.** (a) No person,
9 including any federal agency, the State, or any county, shall
10 construct, operate, modify, expand, or close a municipal solid
11 waste landfill unit, or any component of a municipal solid waste
12 landfill unit, without first obtaining a permit from the
13 director. All permits for municipal solid waste landfill units
14 shall be subject to any terms and conditions that the director
15 determines are necessary to protect human health or the
16 environment.

17 (b) No person, including the State or a county, shall
18 construct, modify, or expand a waste or disposal facility,
19 including:

20 (1) A municipal solid waste landfill unit;



1 (2) Any component of a municipal solid waste landfill
2 unit;

3 (3) A construction and demolition unit; or

4 (4) Any component of a construction and demolition
5 landfill unit;

6 for solid waste or hazardous waste on land that is near or above
7 a significant aquifer, as determined by the department, in
8 consultation with the commission on water resource management.

9 [~~(b) No~~] (c) Beginning July 1, 2025, no person, including
10 the State or any county, shall construct, modify, or expand a
11 [~~waste or disposal facility including a municipal solid waste~~
12 ~~landfill unit, any component of a municipal solid waste landfill~~
13 ~~unit, a construction and demolition landfill unit, or any~~
14 ~~component of a construction and demolition]~~ landfill unit or
15 component of a landfill unit without first establishing a buffer
16 zone of no less than one-half mile around the [~~waste or disposal~~
17 ~~facility.]~~ landfill unit. This subsection shall not apply to
18 the continued operation of an existing [~~waste or disposal~~
19 ~~facility]~~ landfill unit that is properly permitted; provided
20 that continued operation does not require physical expansion,
21 vertical or horizontal, of the [~~facility]~~ landfill unit or



1 component of the landfill unit requiring additional permitting
2 review and a permit modification.

3 ~~[For the purposes of this subsection:~~

4 ~~"Buffer zone" means the distance between the edge of waste~~
5 ~~or waste activity and the nearest residential, school, or~~
6 ~~hospital property line.~~

7 ~~"Waste or disposal facility" excludes individual, state~~
8 ~~certified, non-industrial redemption centers.]~~

9 (d) Beginning July 1, 2025, no person, including the State
10 or any county, shall construct, modify, or expand a landfill
11 unit or any component of a landfill unit inland of the
12 underground injection control line in a county with a population
13 greater than five hundred thousand. This subsection shall not
14 apply to the continued operation of an existing landfill unit
15 that is properly permitted; provided that continued operation
16 does not require physical expansion, vertical or horizontal, of
17 the landfill unit or component of a landfill unit requiring
18 additional permitting review and a permit modification.

19 (e) For the purposes of this section:



1 "Buffer zone" means the distance between the edge of the
2 landfill unit or component of the landfill unit and the nearest
3 residential, school, or hospital property line.

4 "Hazardous waste" has the same meaning as in section 342J-
5 2.

6 "Landfill unit" means a municipal solid waste landfill unit
7 or a construction and demolition landfill unit.

8 "Significant aquifer" means a freshwater aquifer with the
9 potential for use as a drinking water source.

10 "Underground injection control line" means the line
11 determined by the department under rules adopted pursuant to
12 section 340E-2."

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

DOH; CWRM; Waste or Disposal Facilities; Landfill Units;
Hazardous Waste; Aquifers; Agricultural Districts; Buffer Zones;
Underground Injection Control Line; Prohibition

Description:

Prohibits landfill units on land in an agricultural district with class A or B soils. Prohibits the construction, modification, or expansion of any waste or disposal facility for solid waste or hazardous waste on land that is near or above a significant aquifer. Clarifies that beginning July 1, 2025, the existing buffer zone between waste or disposal facilities and residential, school, or hospital property lines applies to municipal solid waste landfill units or components, construction and demolition landfill units, and their components. Prohibits the construction, modification, or expansion of a landfill unit inland of the underground injection control line in a county with a population greater than five hundred thousand, with certain exemptions. Effective 7/1/3000. (HD1)

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