

A Bill for an Act Relating to Safe Drinking Water.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

**“CHAPTER  
SAFE DRINKING WATER**

**Sec. -1 Definitions.** As used in this chapter:

- (1) “Department” means the department of health.
- (2) “Director” means the director of the department of health or his authorized agent.
- (3) “Public water system” means a system which provides piped water for human consumption if the system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes:
  - (A) Any collection, treatment, storage, and distribution facilities controlled by the system and used primarily in connection with the system; and
  - (B) Any collection or pretreatment storage facilities not under the control of, but which are used primarily in connection with the system.
- (4) “Person” means an individual, corporation, company, association, partnership, county, city and county, or federal agency.
- (5) “Federal agency” means any department, agency, or instrumentality of the United States.
- (6) “Supplier of water” means any person who owns or operates a public water system.
- (7) “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.
- (8) “Administrator” means the administrator of the United States Environmental Protection Agency.
- (9) “Federal Act” means the Safe Drinking Water Act, P.L. 93-523.

- (10) "Primary Drinking Water Regulation" means a regulation which:
- (A) Applies to public water systems;
  - (B) Specifies contaminants which, in the judgment of the director, may have any adverse effect on the health of persons;
  - (C) Specifies for each contaminant either
    - (i) A maximum contaminant level if, in the judgment of the director, it is economically and technologically feasible to ascertain the level of such contaminant in public water systems; or
    - (ii) If, in the judgment of the director, it is not economically or technologically feasible to ascertain the contaminant level, each treatment technique known to the director which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section -2; and
  - (D) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, it includes quality control and testing procedures to insure compliance with such levels and proper operation and maintenance of the system, and requirements as to:
    - (i) The minimum quality of water which may be taken into the system; and
    - (ii) Siting for new facilities for public water systems.
- (11) "Secondary Drinking Water Regulation" means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the director, are requisite to protect the public welfare.
- (12) "National Primary Drinking Water Regulations" means primary drinking water regulations promulgated by the administrator pursuant to the Federal Act.
- (13) "Injection" means the subsurface emplacement of any material, liquid, semi-solid, or solid, or any admixture thereof, which may add a contaminant to underground waters.

**Sec. -2 Drinking water standards.**

- (1) The director shall promulgate and enforce State Primary Drinking Water Regulations and may promulgate and enforce State Secondary Drinking Water Regulations. State Primary Drinking Water Regulations shall protect health to the extent feasible, using technology, treatment techniques, and other means which are generally available, taking cost into consideration. Maximum contaminant levels covered by revised National Primary Drinking Water Regulations shall be set at a level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. Treatment techniques covered by revised National Primary Drinking Water Regulations shall require treatment necessary to prevent known or anticipated adverse effects on the health of persons. The State Primary Drinking Water Regulations shall be not less

stringent than the National Primary Drinking Water Regulations in effect at that time.

- (2) Subject to section -3, State Primary and Secondary Drinking Water Regulations shall apply to each public water system in the State; however, such regulations shall not apply to a public water system which:
  - (A) Consists only of distribution and storage facilities (and which does not have any collection and treatment facilities); and
  - (B) Obtain all of its water from, but is not owned or operated by, a public water system to which such regulations apply.
- (3) The director shall adopt and implement procedures for the enforcement of State Primary Drinking Water Regulations, including monitoring, inspection, and recordkeeping procedures, that comply with regulations established by the administrator pursuant to the Federal Act.
- (4) The director may promulgate and enforce regulations relating to cross-connection and backflow prevention control.
- (5) The director shall promulgate regulations establishing an underground injection control program. Such program shall prohibit, effective not later than December 16, 1977, any underground injection which is not authorized by a permit issued by the director, except that the director may authorize underground injection by regulation. Underground injection authorized by regulation shall not endanger drinking water sources. Any underground injection control program shall:
  - (A) Set standards and prohibitions controlling any underground injection if such injection may result in the presence of any contaminant in underground water which supplies or may be expected to supply any public water system, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.
  - (B) Require, in the case of a program which authorizes underground injection by permit, that the applicant for the permit satisfy the director that the underground injection will meet the requirements of subsection (A) of this section.
  - (C) Conform to all requirements of the Federal Act and any applicable regulations promulgated thereunder.
  - (D) Include inspection, monitoring, recordkeeping, and reporting requirements.

**Sec. -3 Variances and exemptions.** The director may issue variances or exemptions from the regulations issued pursuant to section -2 under conditions and in a manner consistent with the public interest; however, such variances or exemptions are not permitted under conditions less stringent than the conditions under which variances and exemptions may be granted under the Federal Act.

**Sec. -4 Imminent hazards.** The director may, upon learning that a contaminant is present in or is likely to enter a public water system and may

present an imminent and substantial danger to the public, take such actions necessary to protect the health of the public. The actions which the director may take include but are not limited to:

- (1) Issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers); and
- (2) Commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

**Sec. -5 Plan for emergency provision of water.** The director shall promulgate a plan for the provision of safe drinking water under emergency circumstances. When the director determines that emergency circumstances exist in the State with respect to a need for safe drinking water, he may take such actions as necessary to provide water where it otherwise would not be available.

**Sec. -6 Notification of users and regulatory agencies.** Whenever a public water system:

- (1) Is not in compliance with the State Primary Drinking Water Regulations;
- (2) Fails to perform monitoring required by regulations adopted by the director;
- (3) Is subject to a variance granted for an inability to meet a maximum contaminant level requirement;
- (4) Is subject to an exemption; or
- (5) Fails to comply with the requirements prescribed by a variance or exemption,

the public water system shall promptly notify the department, the administrator, and local communications media of the conditions and the extent to which they may impose adverse effects on public health. At least once every three months so long as the violation, variance, or exemption continues, the public water system shall also publish notice in a newspaper of general circulation within the areas served by the public water system. Such notice shall also accompany the water bills of the public water system so long as the violation, variance, or exemption continues, as follows: if the water bills are issued more than once every three months, such notice shall be included in at least one water bill of the system for each customer every three months; if the water bills are issued less than once every three months, such notice shall be included in each of the water bills issued by the system for each customer. However, the director may prescribe by regulations alternative notice requirements for systems principally serving non-resident users.

**Sec. -7 Prohibited acts.** The following acts are prohibited:

- (1) Failure by a supplier of water to comply with the requirements of section -5, or dissemination by any supplier of false or misleading information with respect to notices required pursuant to section -6 or with respect to remedial actions undertaken to achieve compliance with State Primary Drinking Water Regulations;
- (2) Failure by a supplier of water to comply with regulations promulgated pursuant to section -2 or with the conditions for variances or exemptions issued under section -3; and

- (3) Failure by any person to comply with any order issued by the director pursuant to this chapter.

**Sec. -8 Remedies.** The director may enforce this chapter in either administrative or judicial proceedings:

- (1) **Administrative.** If the director determines that any person is violating any provision of this chapter, any rule or regulation promulgated thereunder, or any variance or exemption issued pursuant thereto, the director may have that person served with a notice of violation and an order. The notice shall specify the alleged violation. The order may require that the alleged violator do any or all of the following: cease and desist from the violation, pay a civil penalty not to exceed \$5,000 for each day of violation, or appear before the director at a time and place specified in the order and answer the charges complained of. The order shall become final twenty days after service unless within those twenty days the alleged violator requests in writing a hearing before the director. Upon such request the director shall specify a time and place for the alleged violator to appear. When the director issues an order for immediate action to protect the public health from an imminent and substantial danger, the department shall provide an opportunity for a hearing within 24 hours after service of the order. After a hearing pursuant to this subsection, the director may affirm, modify, or rescind his order as he deems appropriate. The director may institute a civil action in any court of appropriate jurisdiction for the enforcement of any order issued pursuant to this subsection.
- (2) **Judicial.** The director may institute a civil action in any court of appropriate jurisdiction for injunctive relief to prevent violation of any order or regulation issued pursuant to this Act, in addition to any other remedy provided for under this section.

**Sec. -9 Administration.** The director may:

- (1) Perform any and all acts necessary to carry out the purposes and requirements of this chapter;
- (2) Administer and enforce the provisions of this chapter and all rules, regulations, and orders promulgated;
- (3) Enter into agreements, contracts, or cooperative arrangements with any person;
- (4) Receive financial and technical assistance from the federal government and other public or private agencies;
- (5) Participate in related programs of any public or private agencies or organizations;
- (6) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of an accounting for funds appropriated or received for the purpose of carrying out this chapter;
- (7) Delegate those responsibilities and duties as appropriate for the purpose of administering the requirements of this chapter;
- (8) Establish and collect fees for conducting plan reviews, inspections and laboratory analyses as necessary; and

(9) Prescribe such regulations as necessary to carry out his function under this chapter.”

SECTION 2. Repeal. Chapter 328A, Hawaii Revised Statutes, is repealed.

SECTION 3. Severability. The provisions of this Act are severable; if any provision or application of this Act is held invalid, such invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application.

SECTION 4. Effective Date. This Act shall take effect upon its approval.

(Approved May 12, 1976.)