

## ACT 261

H.B. NO. 1797

A Bill for an Act Relating to the Environment.

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

SECTION 1. The legislature finds that there is an approaching threat to essential public services and the State's economy, including, without limitation, the supply of electricity on the island of Hawaii, as a result of the bankruptcy status of Hamakua Sugar Company. The impending shutdown of Hamakua Sugar Company operations on March 31, 1993, will stop the supply of electricity to Hawaii Electric Light Company and its subsequent distribution to Hawaii Electric Light Company customers. Currently, Hamakua Sugar Company provides ten megawatts of capacity or approximately 5.5 per cent of the Big Island electrical system. Stoppage or disruption of the electricity supplied by Hamakua will have serious adverse impacts on the public health and welfare. The supply of electricity to residential homes, businesses, government offices, hospitals, and visitor destinations may be affected. The legislature further finds that, to avoid disruption of essential public services and to protect the public health and welfare of Big Island residents and visitors, independent operation of the Hamakua Sugar Company facility to supply electricity to the Hawaii Electric Light Company after March 31, 1993, will be required. This operation of the Hamakua Sugar Company facility will require the transfer or issuance of permits or variances previously issued pursuant to chapters 342B and 342D, Hawaii Revised Statutes. Because the transfer and issuance of these permits and variances cannot be completed by March 31, 1993, the purpose of this Act is to grant the director of health emergency authority to ensure the uninterrupted supply of electricity.

SECTION 2. Section 342B-43, Hawaii Revised Statutes, is amended to read as follows:

“**[§342B-43] Emergency powers; procedures.** (a) Notwithstanding any other law to the contrary, if the director determines that an imminent peril to the public health and safety is or will be caused by the release of any air pollutant or combination of air pollutants [which] that requires immediate action, the director, with the approval of the governor and without public hearing, may order any person causing or contributing to the release of the air pollutant [to] immediately to reduce or stop the release and the director may take any and all other actions as may be necessary. Any [such] order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director.

(b) Nothing in this section shall be construed to limit any power [which] that the governor or any other officer may have to declare an emergency and act on the basis of [such a] the declaration, if [such] the power is conferred by statute or constitutional provision[,] or inheres in the office.

(c) Notwithstanding any other law to the contrary, the director may approve the transfer and modification of permits, subject to review by the director, and enter into consent orders, schedules of compliance, and settlement agreements to ensure the uninterrupted supply of electricity from existing Hamakua Sugar Company electrical operations. The department shall provide for public notice of the department's actions by publishing at least once in a newspaper of general circulation in the State within five days after the permit transfer, modification, consent order, schedule of compliance, or settlement agreement; and based upon any public comments received, the department may take action as allowed by section 342B-27. This subsection shall not apply to any modification of a permit that is subject to

## ACT 261

federal standards for new stationary sources or federal regulations for the prevention of significant deterioration.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval and shall be repealed on November 1, 1993; provided that on November 1, 1993, section 342B-43, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the approval of this Act.

(Approved June 18, 1993.)