
A BILL FOR AN ACT

RELATING TO CRUISE SHIPS.

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

1 SECTION 1. Chapter 342B, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . AIR POLLUTION FROM COMMERCIAL PASSENGER VESSELS**

5 **§342B-A Definitions.** As used in this part, "commercial
6 passenger vessel", "large commercial passenger vessel", "marine
7 waters of the State", "passengers for hire", "small commercial
8 passenger vessel, "vessel", and "voyage" have the same meanings
9 as those terms are defined in section 342D-101.

10 **§342B-B Prohibited air pollution.** (a) No person shall
11 operate an incinerator of a large commercial passenger vessel in
12 any state port for the combustion of any waste materials.

13 (b) Except as provided under section 342B-F, large
14 commercial passenger vessels shall limit visible emissions,
15 excluding condensed water vapor, to no more than twenty per cent
16 opacity for periods of time exceeding six minutes in any sixty-
17 minute period except for the following:



- 1 (1) When the large commercial passenger vessel is
2 maneuvering to or from the dock or anchor;
- 3 (2) In the event of a navigational or safety concern on
4 the large commercial passenger vessel; or
- 5 (3) In the event of an equipment failure; provided that
6 the large commercial passenger vessel, upon request,
7 shall provide information to the department that
8 describes the subject equipment, malfunction,
9 corrective actions taken, and the start and end times
10 of the malfunctioning period.

11 **§342B-C Information-gathering requirements.** (a) Except
12 as provided under section 342B-J, the owner or operator of a
13 commercial passenger vessel shall maintain records and, upon
14 request of the department, provide to the department a report,
15 with copies of the records related to the period of operation in
16 the marine waters of the State, detailing the dates, times, and
17 locations, and the opacity of air emissions.

18 (b) Except as provided under section 342B-J, while a
19 commercial passenger vessel is present in the marine waters of
20 the State, the department, through an independent contractor,
21 may monitor the opacity of air emissions.



1 (c) The owner or operator of a commercial passenger vessel
2 shall pay for all monitoring under subsection (a) and (b).

3 (d) If the owner or operator of a commercial passenger
4 vessel, when complying with another state or federal law that
5 requires substantially equivalent information gathering, has
6 gathered the type of information required under subsection (a)
7 and (b), the owner or operator shall be considered to be in
8 compliance with that subsection so long as the information is
9 also provided to the department. The department shall
10 establish, by rule, requirements for determining substantially
11 equivalent information gathering.

12 **§342B-D Recordkeeping requirements.** An owner or operator
13 of a commercial passenger vessel subject to section 342B-C shall
14 record the information required to be gathered under that
15 section and shall maintain the records for three years after the
16 date the information was gathered.

17 **§342B-E Reporting requirements.** (a) An owner or operator
18 of a commercial passenger vessel who becomes aware of an air
19 emission in violation of section 342B-B shall immediately report
20 that air emission to the department. The report shall not be
21 deemed to be privileged information.



1 (b) If the owner or operator of a commercial passenger
 2 vessel operating in the marine waters of the State is required
 3 by the Administrator of the United States Environmental
 4 Protection Agency or the Secretary of Homeland Security to
 5 collect samples and test the opacity of air emissions and keep
 6 records of the sampling and testing, then the owner or operator,
 7 within twenty-one days after the opacity of air emissions is
 8 tested, shall submit to the department a copy of the records.

9 (c) Upon request of the department, the information
 10 required under this section shall be submitted electronically.

11 (d) This section does not relieve the owner or operator of
 12 a commercial passenger vessel from other applicable reporting
 13 requirements of state or federal law.

14 (e) The requirements of this section are subject to
 15 alternative terms and conditions established under section 342B-
 16 J.

17 **§342B-F Memorandum of understanding; recognition program.**

18 (a) Nothing contained in this part shall prevent the State
 19 from:

- 20 (1) Entering into voluntary agreements with any owners or
- 21 operators of commercial passenger vessels, or their



1 representatives, for the purpose of controlling
2 pollution outside the marine waters of the State; or
3 (2) Adopting pollution controls more stringent than those
4 contained in this part.

5 (b) The department may engage in efforts to encourage and
6 recognize superior environmental protection efforts made by the
7 owners or operators of commercial passenger vessels that exceed
8 the requirements established by law.

9 **§342B-G Exemption for vessels in innocent passage.** This
10 part does not apply to a commercial passenger vessel that
11 operates in the marine waters of the State solely in innocent
12 passage. For purposes of this section, a vessel is engaged in
13 innocent passage if its operation in marine waters of the State,
14 regardless of whether the vessel is a United States or foreign-
15 flag vessel, would constitute innocent passage under the United
16 Nations Convention on the Law of the Sea 1982, December 10,
17 1982, United Nations Publication No. E.83.V.5, 21 I.L.M. 1261
18 (1982), were the vessel a foreign-flag vessel.

19 **§342B-H Activities of the department.** The department may
20 engage in the following activities relating to commercial
21 passenger vessels operating in the marine waters of the State:



- 1 (1) Direct monitoring of the opacity of air emissions from
- 2 those vessels;
- 3 (2) Monitoring and studying of direct or indirect
- 4 environmental effects of those vessels; and
- 5 (3) Researching ways to reduce effects of those vessels on
- 6 marine waters and other coastal resources.

7 **§342B-I Fine schedules for illegal air pollution.** (a)

8 Any person who fails to comply with any requirement of this part
9 shall be subject to the fines established by the department
10 pursuant to subsection (b).

11 (b) The department, by rule under chapter 91, shall
12 establish fines for the failure to comply with any requirement
13 of this part.

14 **§342B-J Alternative terms and conditions of vessel**

15 **discharges.** (a) The department may establish alternative terms
16 and conditions of vessel air pollution applicable to an owner or
17 operator of a commercial passenger vessel who cannot practicably
18 comply with the standard terms and conditions of vessel air
19 pollution under sections 342B-B, 342B-C, 342B-D, and 342B-E or
20 who wishes to use or test alternative environmental protection
21 equipment or procedures. Except as specified in alternative
22 terms and conditions set by the department under this



1 subsection, the alternative terms and conditions of vessel air
2 pollution shall require compliance with the standard terms and
3 conditions of vessel air pollution under sections 342B-B, 342B-
4 C, 342B-D, and 342B-E. The department, on a case-by-case basis,
5 may set alternative terms and conditions of vessel air pollution
6 if:

7 (1) The vessel owner or operator demonstrates to the
8 department's reasonable satisfaction that equivalent
9 environmental protection can be attained through other
10 terms or conditions appropriate for the specific
11 configuration or operation of the vessel;

12 (2) The vessel owner or operator agrees to make necessary
13 changes to the vessel to allow it to comply with the
14 standard terms and conditions of vessel air pollution
15 under sections 342B-B, 342B-C, 342B-D, and 342B-E, but
16 demonstrates to the department's reasonable
17 satisfaction that additional time is needed to make
18 the necessary changes; or

19 (3) An experimental technology or method for pollution
20 control of air pollution is being used or is proposed
21 as one of the alternative terms and conditions of
22 vessel air pollution, and the department determines



1 that the experimental technology or method has a
2 reasonable likelihood of success in providing
3 increased protection for the environment.

4 (b) Alternative terms and conditions of vessel air
5 pollution approved by the department under subsection (a), if
6 determined appropriate by the department, may include a waiver
7 by the department of portions of the requirements of sections
8 342B-B, 342B-C, and 342B-D for the time period that the
9 department determines to be appropriate."

10 SECTION 2. Section 342D-104, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending subsection (a) to read:

13 "(a) Except as provided under section 342D-111, the owner
14 or operator of a commercial passenger vessel shall maintain
15 records and, upon request of the department, provide to the
16 department a report, with copies of the records related to the
17 period of operation in the marine waters of the State, detailing
18 the dates, times, and locations, and the volumes or flow-rates
19 of any discharge of sewage or other wastewater into the marine
20 waters of the State[~~, or the opacity of air emissions~~]."

21 2. By amending subsection (c) to read:



1 "(c) Except as provided under section 342D-111, while a
 2 commercial passenger vessel is present in the marine waters of
 3 the State, the department through an independent contractor may
 4 collect additional samples of the vessel's treated sewage that
 5 are being discharged into the marine waters of the State~~[, or~~
 6 ~~monitor the opacity of air emissions]~~."

7 SECTION 3. Section 342D-106, Hawaii Revised Statutes, is
 8 amended by amending subsection (e) to read as follows:

9 "(e) If the owner or operator of a commercial passenger
 10 vessel operating in the marine waters of the State is required
 11 by the ~~[administrator]~~ Administrator of the Environmental
 12 Protection Agency or the ~~[secretary]~~ Secretary of ~~[the federal~~
 13 ~~department in which the United States Coast Guard is operating]~~
 14 Homeland Security to collect samples and test sewage ~~[or opacity~~
 15 ~~of air emissions]~~ and keep records of the sampling and testing,
 16 then the owner or operator, within twenty-one days after the
 17 sewage ~~[or opacity of air emissions]~~ is tested, shall submit to
 18 the department a copy of the records."

19 SECTION 4. Section 342D-109, Hawaii Revised Statutes, is
 20 amended to read as follows:

21 "~~[+]~~**§342D-109**~~[+]~~ **Activities of the department.** The
 22 department may engage in the following activities relating to



1 commercial passenger vessels operating in the marine waters of
2 the State:

- 3 (1) Direct in-water monitoring of discharges or releases
4 of sewage [~~and direct monitoring of the opacity of air~~
5 ~~emissions~~] from those vessels;
- 6 (2) Monitoring and studying of direct or indirect
7 environmental effects of those vessels; and
- 8 (3) Researching ways to reduce effects of those vessels on
9 marine waters and other coastal resources."

10 SECTION 5. Section 342D-111, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§342D-111[+] **Alternative terms and conditions of**
13 **vessel discharges.** (a) The department may establish
14 alternative terms and conditions of vessel discharges applicable
15 to an owner or operator of a vessel who cannot practicably
16 comply with the standard terms and conditions of vessel
17 discharges under sections 342D-102, [~~342D-103,~~] 342D-104, and
18 342D-106 or who wishes to use or test alternative environmental
19 protection equipment or procedures. Except as specified in
20 alternative terms and conditions set by the department under
21 this subsection, the alternative terms and conditions of vessel
22 discharges must require compliance with the standard terms and



1 conditions of vessel discharges under sections 342D-102, [~~342D-~~
2 ~~103,~~] 342D-104, and 342D-106. The department, on a case-by-case
3 basis, may set alternative terms and conditions of vessel
4 discharges if:

5 (1) The vessel owner or operator demonstrates to the
6 department's reasonable satisfaction that equivalent
7 environmental protection can be attained through other
8 terms or conditions appropriate for the specific
9 configuration or operation of the vessel;

10 (2) The vessel owner or operator agrees to make necessary
11 changes to the vessel to allow it to comply with the
12 standard terms and conditions of vessel discharges
13 under sections 342D-102, [~~342D-103,~~] 342D-104, and
14 342D-106 but demonstrates to the department's
15 reasonable satisfaction that additional time is needed
16 to make the necessary changes; or

17 (3) An experimental technology or method for pollution
18 control of a discharge is being used or is proposed as
19 one of the alternative terms and conditions of vessel
20 discharges, and the department determines that the
21 experimental technology or method has a reasonable



1 likelihood of success in providing increased
2 protection for the environment.

3 (b) Alternative terms and conditions of vessel discharges
4 approved by the department under subsection (a), if determined
5 appropriate by the department, may include a waiver by the
6 department of portions of the requirements of sections 342D-102,
7 [~~342D-103,~~] and 342D-104 for the time period that the department
8 determines to be appropriate."

9 SECTION 6. Section 342D-103, Hawaii Revised Statutes, is
10 repealed.

11 ["~~§342D-103~~ ~~Prohibited air emissions.~~ (a) ~~No person~~
12 ~~shall operate an incinerator of a large commercial passenger~~
13 ~~vessel in any Hawaiian port for the combustion of any waste~~
14 ~~materials.~~

15 ~~(b) Except as provided under section 342D-106, large~~
16 ~~commercial passenger vessels shall limit visible emissions,~~
17 ~~excluding condensed water vapor, to no more than twenty per cent~~
18 ~~opacity for periods of time exceeding six minutes in any sixty-~~
19 ~~minute period except for the following:~~

20 ~~(1) When the ship is maneuvering to or from the dock or~~
21 ~~anchor;~~



1 ~~(2) In the event of a navigational or safety concern on~~
2 ~~the ship; or~~

3 ~~(3) In the event of an equipment failure; provided that~~
4 ~~the cruise line shall upon request, provide~~
5 ~~information to the department that describes the~~
6 ~~subject equipment, malfunction, corrective actions~~
7 ~~taken, and the start and end times of the~~
8 ~~malfunctioning period."]~~

9 SECTION 7. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun, before its effective date.

12 SECTION 8. In codifying the new sections added to chapter
13 342B, Hawaii Revised Statutes, by section 1 of this Act, the
14 revisor of statutes shall substitute appropriate section numbers
15 for the letters used in the designations of and references to
16 those new sections in this Act.

17 SECTION 9. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 10. This Act shall take effect on July 1, 2008.



Report Title:

Cruise Ships

Description:

Consolidates statutory regulation of air emissions from large commercial passenger vessels under the State's air pollution control law. (HB3160 HD1)

