
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. The legislature finds that the health of
2 Hawaii's people and quality of Hawaii's waters are being harmed
3 by pollution from cesspools. Hawaii has more than eighty
4 thousand cesspools that discharge about fifty million gallons of
5 wastewater into the State's groundwater every day. Cesspools
6 are antiquated, substandard systems that damage public health;
7 pollute drinking water; and lower water quality in streams,
8 groundwater, nearshore marine areas, and the ocean. Cesspool
9 pollution also harms public recreation and the precious coral
10 reefs on which Hawaii's economy, shoreline, fisheries, and
11 native species depend.

12 In Act 125, Session Laws of Hawaii 2017, the legislature
13 required that, unless exempted, all cesspools be upgraded to a
14 septic system or aerobic treatment unit system or connected to a
15 sewerage system by 2050 and directed the department of health to
16 develop a system to prioritize the upgrade, conversion, or
17 connection of cesspools based on their impact on public health.



1 Furthermore, in Act 132, Session Laws of Hawaii 2018, the
2 legislature authorized the department of health to establish the
3 cesspool conversion working group to develop a long-range,
4 comprehensive plan for conversion of cesspools statewide by 2050
5 and consider and recommend means by which the department can
6 ensure that cesspools are converted to more environmentally-
7 responsible waste treatment systems or connected to sewer
8 systems. The legislature also commissioned a statewide study of
9 sewage contamination in nearshore marine areas to further
10 supplement reports conducted by the department of health on
11 cesspools.

12 The legislature notes that the cesspool conversion working
13 group recently issued its final report to the legislature. In
14 its final report, the working group indicated that over the past
15 four years, it had gathered and considered new scientific and
16 policy data, studies by wastewater experts, activities in other
17 jurisdictions, owners' ability to pay, financing mechanisms, and
18 the latest technologies for treating wastewater. Based on this
19 work, the working group recommended ways to facilitate the
20 upgrading of cesspools in Hawaii. The University of Hawaii's
21 2022 Hawaii cesspool hazard assessment and prioritization tool



1 was developed for the working group and applied to determine
2 which cesspools should be upgraded first.

3 The legislature further finds that in its final report, the
4 working group recommended staggering the upgrades of cesspools
5 and prioritizing them based on their environmental impact.
6 Priority level 1 cesspools are those that cause the most
7 pollution and represent the greatest contamination hazard. The
8 report categorized 13,821 cesspools in the State as priority
9 level 1. Priority level 2 cesspools are those cesspools that
10 cause the next most pollution and represent a significant
11 contamination hazard. The report categorized 12,367 cesspools
12 in the State as priority level 2.

13 The working group recommended, based on updated information
14 about pollution impacts, that priority level 1 cesspools be
15 required to upgrade by 2030 and the next most-polluting priority
16 level 2 cesspools be required to upgrade by 2035. The working
17 group recommended that the remaining cesspools categorized as
18 priority level 3 (55,237, or approximately sixty-nine per cent
19 of the total) not be required to upgrade until 2050, pursuant to
20 existing law.



1 However, the legislature is concerned that the accelerated
2 timelines for required upgrades, conversions, or connections may
3 place substantial financial burdens on residents of the State,
4 especially residents on fixed or limited income.

5 Therefore, the purpose of this Act is to implement the
6 recommendation of the working group, with modification, to
7 accelerate the dates for required upgrades, conversions, or
8 connections of priority level 1 cesspools and priority level 2
9 cesspools by requiring:

- 10 (1) Priority level 1 cesspools, with certain exceptions,
11 to be upgraded, converted, or connected before
12 January 1, 2035; and
- 13 (2) Priority level 2 cesspools to be upgraded, converted,
14 or connected before January 1, 2040.

15 SECTION 2. Chapter 342D, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§342D- Cesspools; mandatory upgrade, conversion, or
19 connection; priority level 1; priority level 2. (a) Every
20 cesspool in the State categorized as priority level 1 according



1 to the University of Hawaii's 2022 Hawaii cesspool hazard
2 assessment and prioritization tool shall be:

3 (1) Upgraded or converted to a director-approved
4 wastewater system; or

5 (2) Connected to a sewerage system,
6 before January 1, 2035; provided that priority level 1 cesspools
7 on recreational residence leases within the Kokee state park and
8 Waimea Canyon state park on the island of Kauai shall be
9 upgraded, converted, or connected before January 1, 2040.

10 (b) Every cesspool in the State designated as priority
11 level 2 according to the University of Hawaii's 2022 Hawaii
12 cesspool hazard assessment and prioritization tool shall be:

13 (1) Upgraded or converted to a director-approved
14 wastewater system; or

15 (2) Connected to a sewerage system,
16 before January 1, 2040.

17 (c) The director may grant an exemption from the
18 requirements of subsections (a) and (b) to the property owner of
19 a cesspool who applies for an exemption and presents
20 documentation showing a legitimate reason that makes it
21 infeasible to upgrade, convert, or connect the cesspool. For



1 the purposes of this subsection, a legitimate reason shall
2 include but not be limited to:

3 (1) Small lot size;
4 (2) Steep topography;
5 (3) Poor soils;
6 (4) Accessibility issues; or
7 (5) A planned development of sewerage upgrades to an area.

8 (d) The department may grant extensions of up to five
9 years at a time from the requirements of subsections (a) and (b)
10 based on demonstration of financial inability to pay for or
11 finance a cesspool upgrade, conversion, or connection; provided
12 that the department of health may adopt rules pursuant to
13 chapter 91 necessary to effectuate the purposes of this
14 subsection.

15 (e) Notwithstanding any law to the contrary, no penalty or
16 other assessment for any violation of this section shall
17 constitute a lien on the real property. Notwithstanding any law
18 to the contrary, no seizure of real property shall be authorized
19 for any violation of this section.

20 (f) As used in this section, "cesspool" has the same
21 meaning as in section 342D-72."



1 SECTION 3. Section 342D-72, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) [~~Before~~] Except as otherwise provided in section
4 342D- , before January 1, 2050, every cesspool in the State,
5 excluding cesspools granted exemptions by the director [~~of~~
6 ~~health~~] pursuant to subsection (b), shall be:

7 (1) Upgraded or converted to a director-approved
8 wastewater system; or

9 (2) Connected to a sewerage system."

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on June 30, 3000.



Report Title:

Cesspools; Mandatory Upgrade, Conversion, or Connection;
Cesspool Conversion Working Group; Prioritization

Description:

Requires priority level 1 cesspools to be upgraded, converted, or connected before 1/1/2035, with certain exceptions, and priority level 2 cesspools to be upgraded, converted, or connected before 1/1/2040, rather than before 1/1/2050. Specifies that no penalty or other assessment for any violation shall constitute a lien on the real property and no seizure of property shall be authorized for any violation. Effective 6/30/3000. (HD2)

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