

JAN 20 2023

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# 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 ground waters, 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 all cesspools be upgraded to a septic system or  
14 aerobic treatment unit system or connected to a sewerage system  
15 by 2050 and directed the department of health to develop a  
16 system to prioritize the upgrade, conversion, or connection of  
17 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 Hawaii cesspool hazard  
21 assessment and prioritization tool was developed for the working



1 group and applied to determine which cesspools should be  
2 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.



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1           Therefore, the purpose of this Act is to implement the  
2 recommendation of the working group to accelerate the dates for  
3 required upgrades, conversions, or connections of priority level  
4 1 cesspools and priority level 2 cesspools by requiring:

- 5           (1) Priority level 1 cesspools to be upgraded, converted,  
6                 or connected by 2030; and
- 7           (2) Priority level 2 cesspools to be upgraded, converted,  
8                 or connected by 2035.

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

12           "§342D-        Cesspools; mandatory upgrade, conversion, or  
13 connection; priority level 1; priority level 2. (a)  
14 Notwithstanding section 342D-72, every cesspool in the State  
15 categorized as priority level 1 according to the University of  
16 Hawaii's 2021 Hawaii cesspool hazard assessment and  
17 prioritization tool shall be:

- 18           (1) Upgraded or converted to a director-approved  
19                 wastewater system; or
- 20           (2) Connected to a sewerage system,  
21 before January 1, 2030.



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1        (b) Notwithstanding section 342D-72, every cesspool in the  
2 State designated as priority level 2 according to the University  
3 of Hawaii's 2021 Hawaii cesspool hazard assessment and  
4 prioritization tool shall be:

5        (1) Upgraded or converted to a director-approved  
6 wastewater system; or

7        (2) Connected to a sewerage system,  
8 before January 1, 2035.

9        (c) The director of health may grant exemptions from the  
10 requirements of subsections (a) and (b) to property owners of  
11 cesspools that apply for an exemption and present documentation  
12 showing a legitimate reason that makes it infeasible to upgrade,  
13 convert, or connect the cesspools. For the purposes of this  
14 subsection, a legitimate reason shall include but not be limited  
15 to:

16        (1) Small lot size;

17        (2) Steep topography;

18        (3) Poor soils; or

19        (4) Accessibility issues.

20        (d) 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 health  
6 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 upon its approval.

13

INTRODUCED BY: Mike Gabbard



# S.B. NO. 426

**Report Title:**

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

**Description:**

Implements the recommendation of the cesspool conversion working group to accelerate the dates for required upgrades, conversions, or connections of priority level 1 cesspools and priority level 2 cesspools by requiring priority level 1 cesspools to be upgraded, converted, or connected before 1/1/2030, and priority level 2 cesspools to be upgraded, converted, or connected before 1/1/2035, rather than before 1/1/2050.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

