

ACT 61

H.B. NO. 381

A Bill for an Act Relating to Variances from Pollution Control Requirements.

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

SECTION 1. Section 342-7, Hawaii Revised Statutes, is amended to read:

“Sec. 342-7 Variances. (a) Every application for a variance shall be made on forms furnished by the department and shall be accompanied by a complete and detailed description of present conditions, how present conditions do not conform to standards, and such other information as the department may by rule or regulation prescribe.

(b) Each application for a variance shall be reviewed in light of the descriptions, statements, plans, histories, and other supporting information submitted with the application, such additional information as may be submitted upon the request of the department, and the effect or probable effect upon the air and water quality standards and noise level standards established pursuant to this chapter.

(c) Whenever an application is approved, the department shall issue a variance authorizing the emission or discharge of pollutant or noise in excess of applicable standards. No variance shall be granted by the department unless the application and the supporting information clearly show that:

- (1) The continuation of the function or operation involved in the discharge of waste by the granting of the variance is in the public interest;
- (2) The emission or discharge occurring or proposed to occur does not substantially endanger human health or safety; and
- (3) Compliance with the rules, regulations or standards from which vari-

ance is sought would produce serious hardship without equal or greater benefits to the public.

(d) Any variance or renewal thereof shall be granted within the requirements of this section and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, control or abatement of the pollution or excessive noise involved, it shall be only until the necessary means for prevention, control, or abatement become practicable and subject to the taking of any substitute or alternate measures that the department may prescribe. No renewal of variance granted under this subsection shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the pollution or excessive noise involved.

(2) The director may issue a variance for a period not exceeding ten years.

(3) Every variance granted under this section shall include conditions requiring the grantee to perform air, discharge, effluent, or noise sampling and report the results of such sampling to the department.

(e) Any variance granted pursuant to this section may be renewed from time to time on terms and conditions and for periods not exceeding ten years which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance; and provided, further, that the renewal, and the variance issued in pursuance thereof, shall provide for emission or discharge not greater than that attained pursuant to the terms of the immediately preceding variance at its expiration. No renewal shall be granted except on application therefor. Any such application shall be made at least one hundred eighty days prior to the expiration of the variance.

(f) No variance granted pursuant to this part shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law.

(g) Notwithstanding any provision in this section, no variance shall be granted or renewed pursuant to this part with respect to any discharge of pollutants or wastes which is in violation of the requirements of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) and the amendments thereto."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 7, 1975.)

*Edited accordingly.