

ACT 297

H.B. NO. 375

A Bill for an Act Relating to Chemical Contamination of Water Resources.

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

SECTION 1. The legislature finds that clear governmental authority to obtain all available information relating to chemical contamination of water resources and to regulate such contaminants is an essential prerequisite to initiating timely corrective measures. Regardless of whether or not federal guidelines and standards for contaminants in drinking water have been established, clear authority to protect the public from unacceptable exposures to chemical contaminants should be within the jurisdiction of the department of health.

This Act authorizes the director of health to establish interim action levels for contaminants in drinking water for which federal standards have not been established as soon as practicable after the determination of the presence of such contaminants in public water supplies as demonstrated by reliable analytical data. This Act also requires the director of health to establish state standards for chemical contaminants in drinking water within two years of the establishment of interim action levels if adequate scientific information is available to the department.

Finally, this Act requires the director of health and water suppliers to report to the public within fourteen days the presence of any previously unconfirmed chemical contamination in ground water or drinking water.

SECTION 2. Chapter 340E, Hawaii Revised Statutes, is amended as follows:

1. By designating sections 340E-1 to 340E-9 as part I and inserting a title before section 340E-1 to read:

**"PART I. DRINKING WATER REGULATIONS"**

2. By adding a new part to be appropriately designated and to read:

**"PART . STATE INTERIM ACTION LEVELS FOR  
CONTAMINANTS IN WATER"**

**§340E- Definitions.** As used in this part, unless the context requires otherwise:

"EPA risk assessment guidelines" means guidelines developed by the U.S. Environmental Protection Agency for the assessment of health risks from environmental pollutants and includes, but is not limited to, Guidelines for Estimating Exposures, Guidelines for Mutagenicity Risk Assessment, Guidelines for the Health Assessment of Suspect Developmental Toxicants, and Guidelines for the Health Risk Assessment of Chemical Mixtures.

"Federal drinking water guidelines" means a proposed maximum contamination level, health advisory, or other guidance developed by the U.S. Environmental Protection Agency to assist a state agency in responding to a contaminant in drinking water for which no maximum contamination level (MCL) is established.

"Interim action level" means a level established by the director of health for a contaminant in a public drinking water supply for which a maximum contamination level is not established by the EPA.

"Reliable analytical data" means information approved by the director as indicating the presence of a contaminant in a water sample at or above the limit of detection and developed according to generally recognized standards of good field practices and good laboratory practices for sampling and analysis of contaminants in water.

**§340E- Establishment of interim action levels.** (a) The director, upon identifying a contaminant in a public water system that may present an unacceptable health risk to the public, shall establish as soon as practicable, interim action levels for those contaminants for which maximum contamination levels have not been established by the U.S. Environmental Protection Agency. The director may utilize federal drinking water guidelines as interim action levels when appropriate.

(b) The director shall establish an interim action level at a level below which risks have been determined by the director to be acceptable. EPA risk assessment guidelines may be utilized to determine health risks from a chemical contaminant. When establishing an interim action level the director shall also consider water treatment or alternate remedial actions.

(c) The director shall distribute to appropriate government and private institutions for review and comment a draft risk assessment document describing the technical and scientific methods and parameters utilized to determine an interim action level. The director shall consider all comments received relating to the risk assessment and revise an interim action level if necessary. The draft risk assessment and all comments received by the director shall be made available to the public for review.

(d) The director, upon designating an interim action level for a contaminant, shall take such actions necessary to protect the health of the public including, but not limited to:

- (1) Issuing guidance as may be necessary to protect the health of persons (including travelers) who are or may be users of a contaminated water supply system.
- (2) Notifying the public through the media of the establishment of an interim action level.

**§340E- Rules.** The director, by rules adopted under chapter 91, may establish state standards which shall supersede interim action levels. As soon as practicable and within two years of the establishment of an interim action level, and every two years thereafter until a federal or state standard is established to supersede an interim action level, the director of health shall review all available scientific information to determine whether there is sufficient basis to establish a state standard to supersede an interim action level. Prior to adopting rules to establish state standards, the director shall conduct at least one public hearing to provide information to the public on the nature of the chemical contaminant under review and to afford the public an opportunity to present information and concerns to the department relating to the chemical contaminant under review.

**§340E- Notification of contamination of underground sources of drinking water and other sources of public drinking water.** (a) Suppliers of water shall notify the department by written communication of any previously undetected chemical contamination of any underground sources of drinking water or other sources of public drinking water supply within seven days of detecting the presence of a contaminant. The written communication shall contain information known to the supplier on the level of detection, location (including depth of the source), date, well construction, and analytical method used, including information on the precision, accuracy, and limit of detection of the method and any quality assurance and control procedures.

(b) The director shall notify the public through the media, and the affected water supplier by written communication, of the presence of any previously undetected chemical contaminant in underground sources of drinking water or in any public water supply within fourteen days of the development of reliable analytical data by the department of health laboratory or receipt of reliable analytical data indicating to the director that the contaminant has been detected by another laboratory.”

**SECTION 3.** No provision of this part shall in any way modify or preempt the public notification requirements as identified by state or federal regulation pertaining to violation of the Safe Drinking Water regulations.

**SECTION 4.** New statutory material is underscored.<sup>1</sup>

**SECTION 5.** This Act shall take effect upon its approval.

(Approved June 25, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.