SB 830
RELATING TO AIR POLLUTION CONTROL

Senate Committee on Ecology and Environmental Protection
Public Hearing - February 3, 1995
1:00 p.m., Room 305 SOT

By
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SB 830 would amend Section 342B-12, HRS, to require the Director of Health to undertake presently discretionary functions, including, but not limited to establishing vehicular smoke emission control equipment requirements, and establishing and administering an inspection and testing program.

Our statement on this measure does not constitute an institutional position of the University of Hawai‘i.

Although vehicular density is increasing, monitoring data have not revealed significant increases in street-level carbon monoxide (CO) concentrations. Historically, increasing CO concentrations have been counterbalanced by the replacement of older vehicles with new models incorporating more stringent emission controls. Thus, while concerns due to vehicular emissions are valid, no violations of street level air quality standards currently are problematic.

More to the point, the State lacks authority to impose equipment specifications on motor vehicles, as this prerogative is reserved to the Federal government under the provisions of the federal Clean Air Act. The establishment of emission control standards in California results from that State’s enactment of such regulatory provisions prior to the passage of the Clean Air Act. Thus, requirements set forth in Section 342B-12(4) are not feasible powers allocable to the Director.

Many of the powers provided in this section are not problematic, as they are largely implemented already, such as paragraphs (1), (3), (6), (7), (9) and (10). However, we suggest that the mandatory imposition of section (8) presently may be ill-advised due to permit processing delays presently encountered in
the Department. It should be noted that the department has been hampered in their efforts to deal with this backlog by State hiring practices. The air emission regulatory program is mandated by the Federal Clean Air Act to be self-supporting, and a Clean Air Special Fund has been established in Hawai‘i which contains sufficient revenues from permit fees to fund positions needed to meet processing needs. Presently, however, hiring procedures imposed by the State have created barriers to use of these funds to fill the needed positions. Until these problems are resolved, increasing permit processing volume is merely going to increase the current delays.

Finally, if these powers are to be mandatory, we suggest that establishment and administration of any permit program as specified by paragraph (2) conveys overly broad powers to the director, and we recommend an appropriate amendment to the language of this paragraph.