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HB 2311-86 RELATING TO HAZARDOUS CHEMICAL SUBSTANCES

Statement for
House Committee on
Planning, Energy and Environmental Protection
Public Hearing - February 6, 1986

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HB 2311 would add to the present Environmental Quality Control law, HRS Chapter 342, a new part relating to hazardous chemical substances. This statement on this bill does not reflect an institutional position of the University of Hawaii.

HB 2311 seems clearly intended to remedy deficiencies in the authority of the Department of Health to regulate the sale, handling, use, and disposal of hazardous chemical substances. Except for the definition of such substances proposed in the bill, the bills provisions seem appropriate. We note, incidentally, that there is at present only one company in Hawaii licensed by the EPA to recycle or dispose of hazardous chemical substances, and also that successful implementation of that provision of the bill relating to hazardous chemical substances procured from sources outside the State that are not subject to State regulation is problematic.

"Hazardous chemical substances" are defined in the proposed new part of HRS 342 as substances that are defined by the federal Environmental Protection Agency pursuant to the Toxic Substances Control Act or the Clean Water Act and whose disposal requires State regulation to protect the environment or health. This definition is quite unsatisfactory because:

- 1) Chemical substances are defined in the Toxic Substances Control Act as including chemicals that are not toxic;
- 2) The Clean Water Act deals with many chemicals that are water pollutants but that are not "hazardous" in the usual sense, and whose disposal requires regulation and is subject to regulation under present provisions of HRS 342,
- 3) Some hazardous substances are "poisons", as defined in HRS 330, whose sale is now regulated under the provision of that Act.

We suggest that a satisfactory definition would result if:

- 1) the references to the two federal acts in the definition were changed to: "any chemical substance as defined in the federal Toxic Substances Act whose manufacture, use or disposal has been found under the terms of that Act to present or possibly present an unreasonable risk or injury to health or any hazardous substance or toxic pollutant as defined in the federal Clean Water Act," References: Toxic Substances Control Act, Sections 3(2)(A), 4(1)(A), 4(1)(B) and Clean Water Act, Sections 307 (A)(1), 311(a)(14), 311(b)(2)(A).
- 2) the phrase "other than that for which provision is made in Chapter 330 or in Parts II, III or IV of this chapter.