A BILL FOR AN ACT

RELATING TO HYDROFLUOROCARBONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that hydrofluorocarbons,
or HFCs, are synthetic gases that pose a significant risk to our
environment and therefore should be phased out and replaced with
available alternatives that are safer and more cost-effective.

Hydrofluorocarbons are greenhouse gases that are hundreds to
thousands of times more potent than carbon dioxide in
contributing to climate change. If left unchecked,
hydrofluorocarbon emissions will increase to seven to nineteen
per cent of global greenhouse gas emissions by 2050.

Hydrofluorocarbons are widely used as cooling agents in air
conditioners and refrigerators and in aerosol propellants,
solvents, and foaming agents. These gases enter the environment
through the manufacture, leakage, and disposal of these
products.

Prior to the use of hydrofluorocarbons, chlorofluorocarbons
or CFCs, were used for these applications. Beginning in 1987,
chlorofluorocarbons were globally phased out by the Montreal
Protocol due to the role of these gases in ozone depletion.

Hawaii banned the sale and release of chlorofluorocarbons through Act 77, Session Laws of Hawaii 1989; Act 316, Session Laws of Hawaii 1990; and Act 264, Session Laws of Hawaii 1992; however, hydrofluorocarbons were not included in these prohibitions.

Now, following nearly three decades of widespread use, there is an increased awareness of the significant impacts that hydrofluorocarbons have on climate change. While hydrofluorocarbons do not deplete ozone like chlorofluorocarbons, they are long-lived and have more than a thousand times more warming potential than carbon dioxide.

Given this understanding, there has been action nationally and internationally to phase out the use of hydrofluorocarbons. California, Vermont, and Washington have passed legislation to replace hydrofluorocarbons with safer alternatives, and the Kigali Amendment to the Montreal Protocol provides a framework to transition from hydrofluorocarbons to substances having low to zero global warming potential.

Given Hawaii's efforts to reduce greenhouse gas emissions and mitigate the effects of climate change, the phase-out of
hydrofluorocarbons aligns with many existing goals and
priorities. This is especially important now because federal
action to address hydrofluorocarbons has stalled. Although the
United States Environmental Protection Agency, recognizing the
impacts of hydrofluorocarbons on climate change, previously
implemented a rule under the Clean Air Act that imposed stricter
requirements on hydrofluorocarbons emission monitoring and
disposal, the agency subsequently proposed a reversal of this
rule, thereby jeopardizing the increased regulation of
hydrofluorocarbons at the federal level.

In the absence of federal action, states must provide
leadership by addressing hydrofluorocarbons now because the
impacts of climate change will not wait for federal law to
regulate these harmful emissions. The legislature finds that
substituting or reducing the use of hydrofluorocarbons with the
highest global warming potential will provide a significant
boost to the State's efforts to reduce its greenhouse gas
emissions to established limits. The legislature also finds
that hydrofluorocarbons will be comparatively easy to reduce and
eliminate without widespread detriment to industry consumers.
While phasing out hydrofluorocarbons is essential to reducing greenhouse gas emissions, disposal of hydrofluorocarbons currently in use is also a necessary consideration. Because the State does not regulate hydrofluorocarbons in the same way that it regulates chlorofluorocarbons, there are currently no standards addressing the disposal of products containing hydrofluorocarbons. However, hydrofluorocarbons are recyclable and it is estimated that if thirty per cent of hydrofluorocarbons currently in use globally were recycled, approximately eighteen billion metric tons of carbon dioxide-equivalent emissions would be prevented over the next twenty-five years.

The purpose of this Act is to:

(1) Preserve federal regulations on the use of hydrofluorocarbons in state law;

(2) Establish a preference for products that do not contain hydrofluorocarbons in the state procurement code; and

(3) Direct the Hawaii state energy office and the environmental management division of the department of health to study how to increase the use of
refrigerants with low global warming potential and
recommend how to establish a state program that
supports the elimination of legacy uses of
hydrofluorocarbons.

SECTION 2. Chapter 342B, Hawaii Revised Statutes, is
amended by adding a new part to be appropriately designated and
to read as follows:

"PART . REGULATION OF HYDROFLUOROCARBONS

§342B-A Definitions. As used in this part, unless the
context otherwise requires:

"Class I substance" and "class II substance" mean those
substances listed in title 42 United States Code section 7671a,
as it read on November 15, 1990, and appendix A or B of subpart A
of title 40 Code of Federal Regulations part 82, as those read

"Hydrofluorocarbon" means a class of greenhouse gases that
are saturated organic compounds containing hydrogen, fluorine,
and carbon.

"Residential consumer refrigeration product" has the same
meaning as in section 430.2 of subpart A of title 10 Code of
Federal Regulations part 430.
"Retrofit" has the same meaning as in section 152 of subpart F of 40 Code of Federal Regulations part 82, as that section existed as of January 3, 2017.

"Substitute" means a chemical, product, or alternative manufacturing process, whether new or retrofit, that is used to perform a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function, including hydrofluorocarbons, as set forth in appendix U or V, subpart G of title 40 Code of Federal Regulations part 82, as those read on January 3, 2017.

§342B-B Regulation of hydrofluorocarbons. (a) A person may not offer any product or equipment for sale, lease, or rent, or install or otherwise cause any equipment or product to enter into commerce in the State if that equipment or product consists of, uses, or will use a substitute for the applications or end uses restricted by appendix U or V, as those read on January 3, 2017, and consistent with the dates established in subsection (d).

(b) Except where existing equipment is retrofit, nothing in this subsection requires a person that acquired a restricted product or equipment prior to an effective date of the
restriction in subsection (d) to cease use of that product or equipment.

(c) Products or equipment manufactured prior to an applicable effective date of the restrictions in subsection (d) may be sold, imported, exported, distributed, installed, and used after the specified effective date.

(d) The restrictions under subsection (a) shall take effect beginning:

(1) January 1, 2021, for:

(A) Propellants;

(B) Rigid polyurethane applications and spray foam, flexible polyurethane, integral skin polyurethane, flexible polyurethane foam, polystyrene extruded sheet, polyolefin, phenolic insulation board and bunstock; and

(C) Supermarket systems, remote condensing units, and stand-alone units;

(2) January 1, 2022, for:

(A) Refrigerated food processing and dispensing equipment;
(B) Compact residential consumer refrigeration products;

(C) Polystyrene extruded boardstock and billet, and rigid polyurethane low-pressure two component-spray foam; and

(D) Vending machines;

(3) January 1, 2023, for residential consumer refrigeration products other than compact and built-in residential consumer refrigeration products;

(4) January 1, 2023, for cold storage warehouses;

(5) January 1, 2024, for built-in residential consumer refrigeration products, centrifugal chillers, and positive displacement chillers; and

(6) On either July 1, 2022, or the effective date of the restrictions identified in appendix U or V, subpart G of title 40 Code of Federal Regulations part 82, as those read on January 3, 2017, whichever comes later, for all other applications and end uses for substitutes not covered by the categories listed in paragraphs (1) through (5).
(e) The department may adopt rules that include any of the following:

(1) The modification of the date of a prohibition established pursuant to subsection (d) if the director determines that the modified deadline meets both of the following criteria:

(A) Reduces the overall risk to human health or the environment; and

(B) Reflects the earliest date that a substitute is currently or potentially available;

(2) The prohibition on the use of any substitute if the department determines that the prohibition meets both of the following criteria:

(A) Reduces the overall risk to human health or the environment; and

(B) A lower-risk substitute is currently or potentially available;

(3) The creation of a list of approved substitutes, use conditions, or use limits, if any, and the addition or removal of substitutes, use conditions, or use limits to or from the list of approved substitutes if the
director determines those substitutes reduce the overall risk to human health and the environment; and

(4) The creation of a list of exemptions from this section for medical uses of hydrofluorocarbons.

(f) If the United States Environmental Protection Agency approves a previously prohibited hydrofluorocarbon blend with a global warming potential of seven hundred fifty or less for foam blowing of polystyrene extruded boardstock and billet and rigid polyurethane low-pressure two-component spray foam pursuant to the Significant New Alternatives Policy Program under section 7671(k) of the federal Clean Air Act, title 42 United States Code, section 7401 et seq., the director shall expeditiously propose a rule to conform to the requirements established under this section with that federal action.

§342B-C Aircraft maintenance; definition. For the purposes of implementing the restrictions specified in appendix U of subpart G of title 40 Code of Federal Regulations part 82, as it read on January 3, 2017, consistent with this section, the department shall interpret the term "aircraft maintenance" to mean activities to support the production, fabrication, manufacture, rework, inspection, maintenance,
overhaul, or repair of commercial, civil, or military aircraft, aircraft parts, aerospace vehicles, or aerospace components.

§342B-D Authority to regulate supplementary. The authority granted by this part to the department to restrict the use of substitutes shall be supplementary to the department's authority to control air pollution pursuant to this chapter. Nothing in this part shall be construed to limit any authority granted to the department under any other law.

§342B-E Use of commercial refrigeration equipment after effective date of restrictions. Except where existing equipment is retrofit, the restrictions of this part shall not apply to or limit any use of commercial refrigeration equipment that was installed or placed in use prior to the effective date of the restrictions established in this part."

SECTION 3. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to part X to be appropriately designated and to read as follows:

"§103D- Preference for products that do not contain hydrofluorocarbons. (a) The policy board shall adopt rules that provide a preference for products that:

(1) Are not restricted under section 342B-B;
(2) Do not contain hydrofluorocarbons or contain hydrofluorocarbons with a comparatively low global warming potential;

(3) Are not designed to function only in conjunction with hydrofluorocarbons characterized by a comparatively high global warming potential; and

(4) Were not manufactured using hydrofluorocarbons or were manufactured using hydrofluorocarbons with a low global warming potential.

(b) A governmental body shall not knowingly purchase a product that is not accorded a preference in the purchasing and procurement rules established by the policy board pursuant to subsection (a) unless there is no cost-effective and technologically feasible option that is accorded a preference.

(c) Nothing in this section shall require a governmental body to breach an existing contract or dispose of stock that has been ordered or is in the possession of the governmental body as of the effective date of this section.

(d) As used in this section, "hydrofluorocarbon" shall have the same meaning as in section 342B-A."
SECTION 4. Chapter 107, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§107- State building codes; hydrofluorocarbons; updates. (a) When adopting, amending, or updating the codes and standards identified in section 107-25, the council shall establish codes and standards that permit the use of substitutes and do not require the use of substitutes that are restricted by section 342B-B.

(b) As used in this section, "substitute" shall have the same meaning as in section 342B-A."

SECTION 5. (a) The Hawaii state energy office, in conjunction with the environmental management division of the department of health, shall conduct a study that:

(1) Addresses how to increase the use of refrigerants with low global warming potential in mobile sources, utility equipment, and consumer appliances;

(2) Addresses how to reduce other uses of hydrofluorocarbons in the State; and

(3) Provides recommendations for funding, structuring, and prioritizing a state program that incentivizes or
provides grants to support the elimination of legacy uses of all hydrofluorocarbons, including hydrofluorocarbons that are not regulated by section 2 of this Act.

(b) The Hawaii state energy office shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than December 1, 2022.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2020-2021 for the Hawaii state energy office, in conjunction with the environmental management division of the department of health, to conduct the study pursuant to section 5 of this Act.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. If any provision of this Act, or the application thereof to any person or circumstance, is held
invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 10. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2050.
Report Title:
Greenhouse Gas Emissions; Hydrofluorocarbons; Hawaii State Energy Office; Environmental Management Division; DOH; Phase Out; Procurement; Study; Appropriation

Description:
Establishes regulations on the use of hydrofluorocarbons in state law. Phases out hydrofluorocarbons in favor of alternatives with lower global warming potential. Establishes a preference for products that do not contain hydrofluorocarbons in the state procurement code. Directs the Hawaii State Energy Office and the Environmental Management Division of the Department of Health to study how to increase the use of refrigerants with low global warming potential, reduce the use of hydrofluorocarbons, and recommend how to fund, structure, and prioritize a state program that incentivizes or provides grants to support the elimination of legacy uses of hydrofluorocarbons. Appropriates funds for the study to be performed by the Hawaii State Energy Office. Effective 7/1/2050. (HD2)

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