
A BILL FOR AN ACT

RELATING TO HAZARDOUS WASTE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the proper handling
2 and disposal of hazardous waste continues to be a legislative
3 priority and of great concern to the people of Hawaii.
4 Hazardous waste is generated by many sources, including the
5 military, coal-fired plants, nuclear fuel processors, foundries,
6 galvanizers, and mining operations. The waste may take many
7 forms, including lead, arsenic, beryllium, cadmium, mercury,
8 dioxin, PCB, uranium and a plethora of other heavy metals.
9 Under federal law (40 C.F.R. §266.20), hazardous waste may
10 be disposed of directly on land or incorporated into fertilizer
11 as a "waste-derived" product. The land treatment method is
12 subject to full federal regulation and requires monitoring of
13 the hazardous waste to its final disposition. But there is no
14 similar requirement for waste-derived fertilizer. In other
15 words, waste treated fertilizer can conceivably be used on a
16 farm, golf course, a home lawn or garden, or even a school yard
17 or playground, without the user's knowledge.



1 The danger in disposing waste contaminants in fertilizer is
2 that fertilizer is often thought to be a benign gardening
3 additive. Thus, consumers would inevitably fail to handle the
4 contaminated fertilizer in a manner consistent with its
5 potential toxicity. Additionally, fertilizers are generally
6 over-applied, stored within the reach of children, and handled
7 without concern for dermal contact or inhalation. These factors
8 place consumers, especially children and developing fetuses at
9 high levels of unacceptable risks that could have devastating
10 and long-term consequences.

11 Presently, the state department of health is in a position
12 to prevent the contamination caused by waste-derived
13 fertilizers. Since 40 C.F.R. §266.20 (which allows waste
14 contaminated fertilizer) is less stringent than the Resource
15 Conservation and Recovery Act of 1976 and the Hazardous and
16 Solid Waste Amendments of 1984, under federal law, the states
17 are not required to adopt this federal regulation. In other
18 words, the department of health has the discretion to reject 40
19 C.F.R. §266.20 to prohibit the sale and use of waste
20 contaminated fertilizers in Hawaii. But the department of
21 health has chosen to adopt 40 C.F.R. §266.20 and expose the
22 State to the inherent dangers of contaminated fertilizer.



1 The purpose of this Act is to prohibit the department of
2 health from adopting any rule related to the disposition of
3 waste-derived fertilizers (including 40 C.F.R. §266.20) that is
4 less stringent than the Resource Conservation and Recovery Act
5 of 1976 and the Hazardous and Solid Waste Amendments of 1984 to
6 protect Hawaii's people and environment from the hazards of
7 waste contaminated fertilizers.

8 SECTION 2. Section 342J-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§342J-4 Powers; rulemaking; appointment of hearings**
11 **officers.** (a) The director may [~~make, amend, and repeal state~~]
12 adopt rules [which govern the management of] to manage hazardous
13 waste and [which] control and prohibit hazardous waste
14 pollution[-]; provided that, notwithstanding any other law to
15 the contrary, the director shall not adopt any rule related to
16 the disposition of waste-derived fertilizers (including 40
17 C.F.R. §266.20) that is less stringent than the federal Resource
18 Conservation and Recovery Act of 1976 and the Hazardous and
19 Solid Waste Amendments of 1984.

20 (b) All rules shall be adopted pursuant to chapter 91.
21 Any person heard at the public hearing shall be given written



1 notice of the action taken by the department with respect to the
2 rules.

3 ~~(b)~~ (c) In addition to other specific powers provided in
4 this chapter, the director may appoint without regard to chapter
5 76, hearings officers to conduct public participation activities
6 including public hearings and public informational meetings."

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval.

10

INTRODUCED BY:

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JAN 17 2006



Report Title:

Hazardous Waste; Waste-Derived Fertilizer

Description:

Prohibits the Department of Health from adopting any rule related to the disposition of waste-derived fertilizers (including 40 C.F.R. §266.20) that is less stringent than the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984.

