

JAN 25 2006

S.B. NO. 2679

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 since Congress
2 passed the Resource Conservation and Recovery Act in 1976, the
3 cost of disposing hazardous substances has increased more than
4 fivefold. As a result, businesses are always looking for ways
5 to dispose of industrial by-products in more cost-effective
6 ways. One common cost-cutting practice is for businesses to
7 recycle their industrial by-products into agricultural products
8 like fertilizers.

9 An example of this process was reported in an article,
10 "Fear in the Fields: How Hazardous Wastes Become Fertilizer,"
11 in the Seattle Times on July 4, 1997. The article describes a
12 trucker picking up a load of gray, toxic ash from a metal
13 processing plant in California to transport it to Nevada. The
14 ash load is marked as "hazardous waste" as it is transported to
15 Nevada, but as the truck crosses the Nevada State line, the ash
16 is considered "fertilizer ingredients" rather than "hazardous
17 waste." Once in Nevada, the waste is delivered to a factory in
18 Reno, treated to remove part of the heavy metals, blended with



1 other materials, and sold to farmers in, among other places,
2 California.

3 This practice is legal. Fertilizer and animal feed are not
4 regulated by the federal government, and to the degree it is
5 regulated, it is on a state-by-state basis. Most farmers and
6 home gardeners have no idea that they are putting recycled
7 hazardous wastes on their crops when they apply fertilizers, and
8 although there are limits on the amount of additives that can be
9 added to newly manufactured products like paint or concrete,
10 those same additives have no limits when used for fertilizers.
11 For example, there are limits on the amount of lead used in a
12 can of paint; however, there are no limits on how much lead can
13 be used in fertilizer.

14 The purpose of this Act is to identify certain recyclable
15 materials as hazardous wastes and subject them to regulation
16 under the State's hazardous waste laws.

17 SECTION 2. Chapter 342J, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§342J- Recyclable materials; regulation. (a) The
21 following recyclable materials are hazardous waste and shall be

1 regulated under this section even if the recycling involves the
2 use, reuse, or return to the original process:

3 (1) Materials that are identified as hazardous waste under
4 RCRA and used in a manner constituting disposal or
5 used to produce products that are applied to the land,
6 including materials used to produce fertilizers, soil
7 amendments, agricultural minerals, or auxiliary soil
8 and plant substances;

9 (2) Materials that are a non-RCRA hazardous waste and used
10 in a manner constituting disposal or used to produce
11 products that are applied to the land, including
12 fertilizers, soil amendments, agricultural minerals,
13 or an auxiliary soil and plant substances; and

14 (3) Materials that are RCRA or non-RCRA hazardous wastes
15 used to produce food for domestic, livestock,
16 wildlife, or aquatic animals.

17 (b) For purposes of this section:

18 "Non-RCRA hazardous waste" means all hazardous waste that
19 is:

20 (1) Not identified as a RCRA hazardous waste;

21 (2) Regulated in the State; and



1 (3) Identified, pursuant to regulations adopted by the
2 department, as a non-RCRA hazardous waste.

3 "RCRA hazardous waste" means all wastes identified as a
4 hazardous waste in part 261 of subchapter I of chapter 1 of
5 Title 40 of the Code of Federal Regulations and its appropriate
6 appendixes. A hazardous waste regulated in the State is
7 presumed to be RCRA hazardous waste unless it is determined,
8 pursuant to rules adopted by the department, that the hazardous
9 waste is a non-RCRA hazardous waste.

10 "Recyclable material" means a hazardous waste that is
11 capable of being recycled, including any of the following:

12 (1) A residue;

13 (2) A spent material, including a used or spent stripping
14 or plating solution or etchant;

15 (3) A material that is contaminated to such an extent that
16 it can no longer be used for the purpose for which it
17 was originally purchased or manufactured;

18 (4) A by-product identified by the department as
19 "hazardous waste from specific sources" or "hazardous
20 waste from nonspecific sources"; and



1 (5) Any retrograde material that has not been used,
2 distributed, or reclaimed through treatment by the
3 original manufacturer or owner by the following dates:
4 (A) One year after the date when the material became
5 a retrograde material; and
6 (B) If the material has been returned to the original
7 manufacturer, one year after the material is
8 returned to the original manufacturer.
9 (c) The department may adopt rules to exclude materials
10 from regulation under subsection (a) (2)."

11 SECTION 3. New statutory material is underscored.

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

13

INTRODUCED BY: Trizanne Chun Oakland

SB. NO. 2679

Report Title:

Recyclable Materials; Hazardous Waste Use; Regulation

Description:

Regulates the use of hazardous wastes in animal feed, fertilizers, soil amendments, agricultural minerals, and auxiliary soil and plant substances.

