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# 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:

4 (A) RCRA hazardous waste; or

5 (B) Non-RCRA hazardous waste; and

6 (2) Used in a manner constituting disposal; or

7 (3) Used to produce products that are applied to the land,  
8 including materials used to produce fertilizers, soil  
9 amendments, agricultural minerals, or auxiliary soil  
10 and plant substances; or

11 (4) Used to produce food for domestic, livestock,  
12 wildlife, or aquatic animals.

13 (b) For purposes of this section:

14 "Non-RCRA hazardous waste" means any hazardous waste that  
15 is:

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

17 (2) Regulated in the State; and

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

20 "RCRA hazardous waste" means all wastes identified as a  
21 hazardous waste in the Resource Conservation and Recovery Act,  
22 part 261 of subchapter I of chapter 1 of Title 40 of the Code of



1 Federal Regulations and its appendices. A hazardous waste  
2 regulated in the State shall be presumed to be RCRA hazardous  
3 waste unless the department determines, pursuant to rules, that  
4 the hazardous waste is a non-RCRA hazardous waste.

5 "Recyclable material" means a hazardous waste that is  
6 capable of being recycled, including:

- 7 (1) A residue;
- 8 (2) A spent material, including a used or spent stripping  
9 or plating solution or etchant;
- 10 (3) A material that is contaminated to such an extent that  
11 it can no longer be used for the purpose for which it  
12 was originally purchased or manufactured;
- 13 (4) A by-product identified by the department as  
14 "hazardous waste from specific sources" or "hazardous  
15 waste from nonspecific sources"; and
- 16 (5) Any retrograde material that has not been used,  
17 distributed, or reclaimed through treatment by the  
18 original manufacturer or owner by the following dates:
- 19 (A) One year after the date when the material became  
20 a retrograde material; and



1           (B) If the material has been returned to the original  
2           manufacturer, one year after the material is  
3           returned to the original manufacturer.

4           (c) The department may adopt rules to exclude materials  
5 that are non-RCRA hazardous waste from regulation under  
6 subsection (a) (2)."

7           SECTION 3. New statutory material is underscored.

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

**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. (SD1)

