

JAN 21 2011

A BILL FOR AN ACT

RELATING TO SOLID WASTE MANAGEMENT.

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

1 SECTION 1. Chapter 342G, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . YELLOW PAGES OPT-OUT AND RECYCLING

5 §342G-A Definitions. For purposes of this part:

6 "Display advertising" means business advertising that
7 includes both text and non-textual graphic elements.

8 "Distribute" or "distribution" means the unsolicited
9 delivery of more than four tons annually of yellow pages phone
10 books to the addresses of residents and businesses within the
11 State; provided that distribution shall not include the delivery
12 of phone books or directories by telecommunications providers
13 providing local exchange service in the State or membership
14 organizations to their members or to others who have
15 affirmatively requested delivery.

16 "Distributor" means a person or entity engaged in the
17 business of arranging for the distribution of yellow pages phone
18 books within the State including persons or entities that



1 arrange for the publication and distribution of yellow pages
2 phone books and derive income, at least in part, from the
3 advertising contained in yellow pages phone books; provided that
4 the term does not include individuals whose sole role in
5 distribution is limited to making deliveries to residential or
6 business addresses.

7 "Membership organization" means an organization that is
8 organized and operated primarily or exclusively for the purpose
9 of providing services or benefits to a designated and
10 identifiable group of members.

11 "Yellow pages phone book" means a publication that consists
12 primarily of a listing of business names and telephone numbers
13 and contains display advertising for at least some of the listed
14 businesses regardless of whether or not it is printed on yellow
15 paper.

16 **§342G-B Distributor registration required; fee. (a)**

17 Every distributor of yellow pages phone books operating within
18 the State shall register annually with the office using forms
19 prescribed by the coordinator and shall notify the office of any
20 change in previously submitted information within thirty days of
21 the change. No distributor shall distribute yellow pages phone



1 books within the State without a current and valid registration
2 pursuant to this part.

3 (b) Each annual registration pursuant to this part shall
4 be accompanied by a registration fee of \$100. Fees collected
5 under this subsection shall be deposited into the environmental
6 management special fund created by section 342G-63 and shall be
7 expended by the department for the purpose of administering the
8 requirements of this part.

9 **§342G-C Registration nontransferable.** Registration under
10 this part shall be nontransferable, including between successors
11 in interest.

12 **§342G-D Distributor's annual reports.** (a) Every
13 distributor registered pursuant to this part shall include with
14 the distributor's initial registration and each annual renewal,
15 an accurate annual report describing the quantity in numbers of
16 units as well as in weight of yellow pages phone books
17 distributed annually within the State during the previous
18 calendar year. The director may specify additional information
19 to be included in the report by rule adopted pursuant to chapter
20 91.



1 (b) Failure to submit a complete and accurate annual
2 report as required by this section constitutes a violation of
3 this part and shall invalidate a distributor's registration.

4 (c) Along with the annual report required by this section,
5 each distributor shall remit the recovery fee required by
6 section 342G-G.

7 **§342G-E Opt-out registry.** (a) The coordinator shall
8 establish and maintain an opt-out registry to serve as a
9 clearinghouse for residents and businesses to register and
10 indicate their desire to not receive delivery of some or all
11 yellow pages phone books. The registry shall include a list of
12 the addresses of all residences and the names and addresses of
13 all businesses that have indicated their desire to be included
14 on the registry. Names of individuals shall not be included on
15 the registry and shall not be public information subject to
16 disclosure under chapter 92F. Registry information shall remain
17 on the registry until the resident or business notifies the
18 registry of the desire to be removed.

19 (b) The director shall establish a process by rule adopted
20 pursuant to chapter 91 to allow residents and businesses to
21 indicate their desire to be included on the registry through



1 telephone, electronic communication, U.S. mail, or other means
2 as determined by the director.

3 (c) The coordinator shall make opt-out registry
4 information available to all registered distributors on a
5 routine basis.

6 (d) No more than thirty days prior to distributing yellow
7 pages phone books within the State, each distributor shall
8 obtain a copy of the most recent opt-out registry information
9 from the coordinator. Distributors shall not distribute yellow
10 pages phone books to the addresses listed on the opt-out
11 registry. Distributors shall retain a copy of each opt-out
12 registry information obtained pursuant to this subsection for at
13 least five years and shall make the copies available to the
14 coordinator for purposes of investigation and enforcement of
15 this part.

16 **§342G-F Coordinator's annual report.** The coordinator
17 shall submit an annual report to the director evaluating the
18 operation and impact of the opt-out registry. The report shall
19 identify needed improvements and concerns expressed by residents
20 and businesses and shall make recommendations for amending or
21 enhancing the opt-out registry program.



1 **§342G-G Recovery fee.** (a) An annual recovery fee of 14
2 cents per yellow pages phone book plus \$148 per ton of yellow
3 pages phone books distributed within the State shall be charged
4 to each distributor. The fee shall be deposited into the
5 environmental management special fund established pursuant to
6 section 342G-63 and shall be expended by the department for the
7 purpose of administering the opt-out registry.

8 (b) The recovery fee required by this section shall be
9 calculated based on information contained in the annual report
10 required by section 342G-D and shall be submitted along with the
11 annual report. Payment of the recovery fee shall be recorded on
12 a form prescribed by the director which shall include the
13 signature of a responsible officer or agent of the distributor
14 who shall affirm that the information contained in the report
15 and used to calculate the recovery fee is complete and accurate.

16 **§342G-H Distributor requirements.** (a) Each distributor
17 shall prominently and conspicuously display on a portion of the
18 front cover of each yellow pages phone book distributed within
19 the State information about the opt-out registry and the
20 necessary contact information that residents and businesses may
21 use to be added to the opt-out registry.



1 (b) Each distributor shall prominently and conspicuously
2 display information about the opt-out registry and the necessary
3 contact information that residents and businesses may use to be
4 added to the opt-out registry on the distributor's website.

5 **§342G-I Recyclable content.** The content of all yellow
6 pages phone books and any materials included within yellow pages
7 phone books at the time of delivery shall be recyclable within
8 the county of delivery.

9 **§342G-J Powers and duties of the director.** In addition to
10 any other powers and duties authorized by law, the director
11 shall:

- 12 (1) Adopt, amend, or repeal rules in accordance with
13 chapter 91 for the purpose of carrying out the
14 requirements of this part;
- 15 (2) Enforce this part and any rules adopted pursuant to
16 this part, including by assessing fines or imposing
17 penalties;
- 18 (3) Invalidate the registration of a distributor for a
19 violation of this part or of the rules of the
20 director;



- 1 (4) Investigate any person or entity and hold
2 administrative hearings in accordance with chapter 91
3 for suspected violations of this part;
- 4 (5) Impose penalties authorized by this part or the rules
5 of the director; and
- 6 (6) Delegate all functions, except rulemaking authority,
7 to the coordinator or any other person for the
8 administration of this part.

9 **§342G-K Civil penalty.** Any person who fails to comply
10 with this part shall be subject to a civil penalty of not more
11 than \$125 per violation. The director is authorized to initiate
12 legal action as necessary to enforce this part.

13 **§342G-L Exemption.** The director may, by rule adopted
14 pursuant to chapter 91, specify criteria for exemption of a
15 distributor from the requirements of this part; provided that
16 the criteria for an exemption shall require a distributor to
17 demonstrate to the satisfaction of the director that the
18 distributor has an effective system in place to assure the
19 distribution of yellow pages phone books only to those residents
20 and businesses that affirmatively request delivery."

21 SECTION 2. Section 342G-14, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " ~~(f)~~ §342G-14 ~~(f)~~ Powers and duties of the office of solid
2 waste management. The office shall:

3 (1) Promote the development of coordinated statewide solid
4 waste management;

5 (2) Identify and monitor environmental and public health
6 issues relating to solid waste management;

7 (3) Promote source reduction, recycling, and
8 bioconversion, including home composting, through the
9 provision of a comprehensive, innovative, and
10 effective statewide public education and awareness
11 program concerning the value of source reduction and
12 recycling~~(7)~~ and the way the public can participate in
13 these areas;

14 (4) Comply with the federal Resource Conservation and
15 Recovery Act of 1976 ~~(4)~~, 42 United States Code
16 ~~[section]~~ Section 6901 et seq. ~~(7)~~, and any other
17 federal law heretofore or hereafter enacted affecting
18 solid waste;

19 (5) Seek compliance with sections 226-18, 226-52, and
20 226-103;

21 (6) Assess the feasibility of employing disposal fees,
22 including fees at the point of introduction or sale of



1 any product that would require eventual disposition as
2 solid waste, as possible funding sources for waste
3 management activities;

4 (7) Coordinate with the department of land and natural
5 resources to incorporate solid waste management and
6 processing concerns in the department of land and
7 natural resources' land use planning and development
8 efforts;

9 (8) Coordinate the bioconversion efforts of appropriate
10 agency and county activities, including [~~the provision~~
11 ~~of~~] by providing technical assistance and [~~the~~
12 evaluation of bioconversion programs;

13 (9) Provide waste evaluation services and assistance in
14 developing paper recycling and other materials
15 programs to both the public and private [~~sector,~~
16 sectors where feasible;

17 (10) Promote the use of enterprise zones in each county to
18 support source reduction, recycling, and
19 bioconversion-type businesses;

20 (11) Create and maintain a database to assess the
21 composition of the State's waste stream. If feasible,



- 1 this database shall contain the information necessary
- 2 to generate the office's annual report;
- 3 (12) Identify and apply for appropriate federal funds to
- 4 support the programs and activities authorized by this
- 5 chapter; [~~and~~]
- 6 (13) Cooperate with appropriate federal, state, and county
- 7 agencies in carrying out the office's responsibilities
- 8 under this chapter~~[-]~~; and
- 9 (14) Administer the yellow pages opt-out and recycling
- 10 program created pursuant to part _____."

11 SECTION 3. Section 342G-63, Hawaii Revised Statutes, is
 12 amended by amending subsection (c) to read as follows:

13 "(c) The department shall expend moneys contained in the
 14 environmental management special fund to:

- 15 (1) Partially fund the operating costs of the program
- 16 including its regulatory functions and the development
- 17 of waste reduction and diversion activities as
- 18 mandated by [~~chapter 342G,~~] this chapter;
- 19 (2) Fund statewide education, demonstration, and market
- 20 development programs~~[-]~~ through direct contract or
- 21 direct transfer of funds to the counties and the
- 22 department of business, economic development, and



1 tourism, or under a grant program that may be
2 developed under rules adopted pursuant to chapter 91;
3 [and]

4 (3) Provide for annual training for municipal solid waste
5 operators in compliance with 40 Code of Federal
6 Regulations Part 258 and [~~chapter 11-58,~~] Title 11
7 Hawaii Administrative Rules[-], chapter 58.1; and

8 (4) Administer the yellow pages opt-out and recycling
9 program created pursuant to part _____."

10 SECTION 4. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 5. In codifying the new sections added by section
14 1 of this Act, the revisor of statutes shall substitute
15 appropriate section numbers for the letters used in designating
16 the new sections in this Act.

17 SECTION 6. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19



1 SECTION 7. This Act shall take effect on July 1, 2011.

2

INTRODUCED BY:

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Report Title:

Solid Waste Management; Yellow Pages Phone Books

Description:

Requires distributors of yellow pages phone books to register with the department of health; creates an opt-out registry for residents and businesses to elect to not receive delivery of yellow pages phone books; requires that all yellow pages phone books be recyclable; creates penalties for non-compliance.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

