

1 "Distributor" means a person or entity engaged in the
2 business of arranging for the distribution of yellow pages phone
3 books within the State, including persons or entities that
4 arrange for the publication and distribution of yellow pages
5 phone books and derive income, at least in part, from the
6 advertising contained in yellow pages phone books; provided that
7 the term shall not include individuals whose sole role in the
8 distribution is limited to making deliveries to residential or
9 business addresses.

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

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

19 § -2 **Distributor permit required; fee.** (a) Every
20 distributor of yellow pages phone books operating within the
21 State shall obtain a yellow pages phone books distributor permit
22 annually from the department of health using forms prescribed by



1 the director and shall notify the department of any change in
2 previously submitted information within thirty days of the
3 change. No distributor shall distribute yellow pages phone
4 books within the State without a current and valid permit
5 pursuant to this chapter.

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

12 § -3 **Permit nontransferable.** A permit issued pursuant
13 to this chapter shall be nontransferable, including between
14 successors in interest.

15 § -4 **Distributor's annual reports.** (a) Every
16 distributor submitting an application for a yellow pages phone
17 books distributor permit shall include with the application and
18 with each renewal of an existing permit, an accurate annual
19 report describing the quantity in numbers of units as well as in
20 weight of yellow pages phone books distributed within the State
21 during the previous calendar year. The director may specify



1 additional information to be included in the report by rule
2 adopted pursuant to chapter 91.

3 (b) Failure to submit a complete and accurate annual
4 report as required by this section constitutes a violation of
5 this chapter and shall be grounds for the denial of a permit
6 application or shall invalidate a distributor's permit.

7 (c) Along with the annual report required by this section,
8 each distributor shall remit the recovery fee required by
9 section -7.

10 § -5 **Opt-out registry.** (a) The director shall
11 establish and maintain an opt-out registry to serve as a
12 clearinghouse for residents and businesses to register and
13 indicate their desire to not receive delivery of some or all
14 yellow pages phone books. The registry shall include a list of
15 the addresses of all residences and the names and addresses of
16 all businesses that have indicated their desire to not receive
17 delivery of yellow pages phone books. Names of individuals
18 shall not be included on the registry and shall not be public
19 information subject to disclosure under chapter 92F.
20 Information shall remain on the registry until the resident or
21 business notifies the department of the desire to be removed
22 from the registry.



1 (b) The director shall establish a process by rule adopted
2 pursuant to chapter 91 to allow residents and businesses to
3 indicate their desire to be included on the registry through
4 telephone, electronic communication, United States mail, or
5 other means as determined by the director.

6 (c) The director shall make opt-out registry information
7 available to all distributors with valid permits on a routine
8 basis.

9 (d) Not more than thirty days prior to distributing yellow
10 pages phone books within the State, each distributor shall
11 obtain a copy of the most recent opt-out registry information
12 from the department. Distributors shall not distribute yellow
13 pages phone books to the addresses listed on the opt-out
14 registry. Distributors shall retain a copy of each opt-out
15 registry information obtained pursuant to this subsection for at
16 least five years and shall make the copies available to the
17 director for purposes of investigation and enforcement of this
18 chapter.

19 § -6 **Director's annual report.** The director shall
20 submit an annual report to the legislature and governor
21 evaluating the operation and impact of the opt-out registry.
22 The report shall identify needed improvements and concerns



1 expressed by residents and businesses and shall make
2 recommendations for amending or enhancing the opt-out registry
3 program.

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

11 (b) The recovery fee required by this section shall be
12 calculated based on information contained in the annual report
13 required by section -4 and shall be submitted along with the
14 annual report. Payment of the recovery fee shall be recorded on
15 a form prescribed by the director which shall include the
16 signature of a responsible officer or agent of the distributor
17 who shall affirm that the information contained in the report
18 and used to calculate the recovery fee is complete and accurate.

19 § -8 **Distributor requirements.** (a) Each distributor
20 shall prominently and conspicuously display on a portion of the
21 front cover of each yellow pages phone book distributed within
22 the State information about the opt-out registry and the



1 necessary contact information that residents and businesses may
2 use to be included in the opt-out registry.

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

7 § -9 **Recyclable content.** The content of all yellow
8 pages phone books and any materials included within yellow pages
9 phone books at the time of delivery shall be recyclable within
10 the county of delivery.

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

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



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

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

13 § -12 **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 chapter; 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-63, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:



H.B. NO. 2009

Report Title:

Yellow Pages Phone Books Distributors; Permits; Opt-Out Registry

Description:

Requires distributors of yellow pages phone books to obtain permits from the DOH. Creates an opt-out registry for residents and businesses to elect not to receive delivery of yellow pages phone books. Requires that all yellow pages phone books be recyclable. Creates penalties for noncompliance. Authorizes exemptions.

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

