

CHAPTER 339
LITTER CONTROL

Part I. General Provisions

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"[PART I. GENERAL PROVISIONS]"

Revision Note

Sections 339-1 to 11 designated as part I.

§339-1 Definitions. As used in this chapter:

"Beverage" means beer or other malt beverages, mineral waters, fruit juices, ades, and other similar noncarbonated drinks, soda water, and flavored carbonated drinks, in liquid form and intended for human consumption.

"Beverage container" means the individual, separate, sealed glass, metal or plastic bottle or can, containing a beverage.

"Department" means the department of health.

"Director" means the director of the department of health.

"Litter" means rubbish, refuse, waste material, garbage, trash, offal, or any debris of whatever kind or description, whether or not it is of value, and includes improperly discarded paper, metal, plastic, glass, or solid waste.

"Litter bag" means a bag, sack, or other container which is large enough to serve as a receptacle for litter.

"Littering" means placing, throwing, or dropping litter on public or private property or in any public or private waters, except:

- (1) In a place which is designated by the department or the county for the disposal of garbage and refuse;
- (2) Into a litter receptacle; or
- (3) Into a litter bag, provided that the bag is disposed of properly into a litter receptacle or in a place designated by the department or the county for disposal of garbage and refuse.

"Litter receptacle" means any container approved by the director and made available for the depositing of wastes.

"Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests.

"Recycle" means to extract from the waste collection items for which a market exists and delivering such items to a point

where they are converted to a material for later manufacture or reprocessing.

"Watercraft" means any boat, ship, vessel, or other floating craft which is berthed in or sails upon the territorial waters of Hawaii.

"Waters of the State" means any stream, river, ocean, canal, harbor, bay, or the like located within the territorial limits of the State. [L Sp 1977 1st, c 2, pt of §2; am L 1979, c 60, §2; am L 1991, c 157, §9]

Note

The source note to this section is supplemented by "L Sp 2008, c 13, §3(e); am L 2009, c 183, §16."

" **[§339-2] Powers of the director.** (a) The director shall have the power to administer and enforce the provisions of this chapter and to propose and to adopt pursuant to chapter 91 rules necessary to carry out the provisions, purposes, and intent of this chapter, and may delegate responsibilities with the exception of rulemaking to the agency the director deems appropriate.

(b) The director may request all state and local governmental agencies having law enforcement powers to provide services and personnel reasonably necessary to assist in the enforcement of this chapter. Any such agency and personnel thereof so assisting the director shall be empowered to enforce this chapter and all such rules.

(c) The director may employ a person without regard to chapter 76 to serve at the director's pleasure as the director finds necessary for the implementation of this chapter.

(d) The provisions of this chapter shall not in any way preempt or diminish the present powers and duties of state and county agencies in regard to the prevention and control of litter. [L Sp 1977 1st, c 2, pt of §2; gen ch 1985; am L 2000, c 253, §150]

" **§339-3 Duties of the director.** (a) The director shall:

- (1) Be responsible for the study of available research in the field of litter control, prevention, removal, disposal, and recycling; the study of methods for the implementation of such research; and development of public educational programs;
- (2) Serve as a coordinator between the State, state agencies, and various organizations seeking to aid in the anti-litter effort;

- (3) Cooperate with local governments to accomplish the coordination of anti-litter efforts; and
- (4) Encourage voluntary local anti-litter campaigns.
- (b) The director may:
 - (1) Apply for funds or other resources available from private or public sources;
 - (2) Conduct educational programs intended to instill the anti-litter ethic;
 - (3) Design a state anti-litter symbol;
 - (4) Post anti-litter signs in public places where required; and
 - (5) Design and make available a litter bag bearing the state anti-litter symbol and a statement of the penalties prescribed herein for littering. [L Sp 1977 1st, c 2, pt of §2; am L 1998, c 277, §2]

" **§339-4 Prohibition.** (a) No person shall discard or otherwise dispose of litter in a public place, or on private property, or in the waters of the State except:

- (1) In a place which is designated by the department or the county for the disposal of garbage and refuse.
- (2) Into a litter receptacle.
- (3) Into a litter bag, provided that the bag is disposed of properly into a litter receptacle or in a place which is designated by the department or the county for the disposal of garbage and refuse.

It shall be an affirmative defense that the defendant had consent of the owner in control of the property.

(b) In the case of litter discarded or deposited from a vehicle on any highway, the driver of the vehicle may be cited for any litter discarded or deposited from such vehicle.

(c) No person in any way shall damage any litter receptacle so as to interfere with its proper function or to detrimentally affect its proper appearance.

(d) No person shall remove from its place, any litter receptacle which the person does not own, or for which the person does not have responsibility.

(e) No person shall transport litter from private households or commercial activities and discard them in litter receptacles located in public places. [L Sp 1977 1st, c 2, pt of §2; am L 1979, c 60, §3; am L 1985, c 97, §2; gen ch 1985]

Cross References

Littering from vehicles, see §291C-132.

" **[\$339-5] Responsibilities of owners and lessees of real property.** It shall be the responsibility of any owner or lessee of real property in state land use urban districts zoned for urban use by the county to maintain sidewalks, alleys, curbs, roadway shoulder areas, fence lines, and hedges immediately adjoining such real property in a litter-free condition except that in no way will the statute be used to release the state and county agencies from continuing their present level of public property maintenance. [L Sp 1977 1st, c 2, pt of \$2]

" **[\$339-6] Litter containers.** Litter receptacles shall be suitably located along the public highways of the State, public places, beaches and bathing areas. The number of such receptacles and the duty to provide receptacles and to dispose of litter from the receptacles shall be established by the rules adopted pursuant to section 339-2(a). [L Sp 1977 1st, c 2, pt of \$2]

" **§339-7 Beverage container requirements.** (a) No person in this State shall manufacture or import for sale in this State or offer for sale at wholesale in this State after July 1, 1979, or sell for retail in this State after October 1, 1979, any beverage in metal containers so designed and constructed that a part of the container is permanently detached in opening the container. However, nothing in this subsection shall prohibit the sale or offer for sale of a container the only detachable part of which is a piece of pressure sensitive tape.

(b) Failure to comply with the provisions of this section shall constitute a violation and shall carry a fine of \$250. Each day of such failure shall constitute a separate violation. [L Sp 1977 1st, c 2, pt of \$2; am L 1978, c 154, \$1; am L 1979, c 70, \$1; am L 1981, c 40, \$1]

Cross References

Plastic container requirements, see §342H-42.

" **§339-8 Penalties.** (a) Except as otherwise provided by this chapter, any person violating any provision of this chapter or any rule adopted under this chapter shall be guilty of a violation, and shall be fined not less than \$100, and not more than \$500 for each offense, and ordered to pick up and remove litter from a public place under the supervision of the director as follows:

- (1) For the first offense, the violator shall spend four hours of either picking up litter or performing community service; and

(2) For any subsequent offense, the violator shall spend eight hours of either picking up litter or performing community service.

(b) If the environmental court judges the violator to be incapable of litter removal and pick up, the environmental court may provide some other community work as it deems appropriate. All persons who are caught littering shall be required to remove the litter that they caused or shall be liable for the costs of removing that litter. [L Sp 1977 1st, c 2, pt of §2; am L 1979, c 60, §4; am L 1985, c 139, §1; am L 1991, c 157, §10; am L 1992, c 116, §2; am L 2006, c 158, §3; am L 2014, c 218, §8.]

" **[§339-9] Enforcement powers.** All law enforcement officers and personnel authorized to carry out the provisions of this chapter may issue citations for violations of this chapter or any of the rules adopted hereunder. [L Sp 1977 1st, c 2, pt of §2]

" **[§339-10] Injunction to restrain violation.** In addition to the remedies provided in this chapter, the director may apply to the circuit environmental court for a temporary or permanent injunction restraining any person from violating any provision of this chapter. [L Sp 1977 1st, c 2, pt of §2; am L 2014, c 218, §8.]

" **[§339-11] Transfer of authority and responsibility.** The governor may, at the governor's discretion, transfer the authority and responsibility for implementing the provisions of this chapter to any appropriate state agency or office. [L Sp 1977 1st, c 2, pt of §2; gen ch 1985]

"[PART II.] NONDEGRADABLE SOLID WASTE

Cross References

Integrated solid waste management, see chapter 342G.
Solid waste pollution, see chapter 342H.

[§339-21] Definitions. As used in this part, unless the context otherwise requires:

"Degradable" means all of the following:

- (1) Capable of achieving degradation by biological processes, photodegradation, chemodegradation, or degradation by other natural degrading processes;
- (2) Degradation at a rate that is equal to, or greater than, the degradation by a process specified in

paragraph (1) of other commercially available plastic devices; and

- (3) Degradation which will not produce or result in a residue or byproduct which, during or after such process of degrading, would be a hazardous or extremely hazardous waste as specified in the Resource Conservation and Recovery Act.

"Director" means the director of health or the director's duly appointed agent. [L 1989, c 312, pt of §2]

" **§339-22 Prohibited acts.** (a) No person shall sell or offer for sale to any consumer within the State beverage containers, motor oil, or other consumer goods connected to each other with plastic connecting devices that are not degradable. This section shall not apply to the following plastic connecting devices:

- (1) Plastic connecting devices that contain an enclosed hole or circle less than 1 and 1/4 inches in diameter; and
- (2) Plastic connecting devices comprised of one or more rings that are broken when the beverage container or other consumer good is removed from the ring or rings.

(b) Notwithstanding section 339-24 to the contrary, any person who violates this section shall be fined \$250 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action. [L 1989, c 312, pt of §2; am L 1992, c 284, §1]

" **[§339-23] Rules.** The director shall establish by rules adopted under chapter 91 the criteria for eliminating the use of nondegradable plastic connecting devices to protect the air, land, and waters of the State against environmental contamination and degradation. [L 1989, c 312, pt of §2]

" **[§339-24] Penalties.** Any person who knowingly violates this part shall be fined not more than \$500 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action. [L 1989, c 312, pt of §2]