

CHAPTER 342I
SPECIAL WASTES RECYCLING

Part I. Lead Acid Batteries

Section

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Note

Chapter title amended by L 1993, c 209, §1.

Cross References

Litter control, see chapter 339.

Environmental courts, jurisdiction over proceedings arising under this chapter, see §604A-2.

Plastic container coding, see §§342H-41, 42.

Recycling market development, see §342G-48.

"[PART I. LEAD ACID BATTERIES]"

Note

Part heading added by revisor.

In this part, "part" substituted for "chapter".

§342I-1 Lead acid batteries; disposal prohibited. (a) No person may:

- (1) Place a used lead acid battery in mixed municipal solid waste; or
- (2) Discard or otherwise dispose of a lead acid battery, except by delivery to:
 - (A) A lead acid battery retailer or wholesaler;
 - (B) A collection or recycling facility permitted under chapter 342H; or
 - (C) A secondary lead smelter permitted by the United States Environmental Protection Agency.

(b) No lead acid battery retailer or wholesaler, or authorized collection or recycling facility, shall accept for disposal any lead acid batteries that have had their electrolyte removed, unless cracks in the battery shell due to aging or accident are in evidence to indicate passive leaking of the electrolyte. [L 1989, c 281, pt of §1; am L 1991, c 201, §2]

" **[§342I-1.5] Disposal of electrolyte; prohibited.** No person shall dispose of electrolyte from any used lead acid battery onto the ground or into sewers, drainage systems, surface or ground waters, or ocean waters. [L 1991, c 201, pt of §1]

" **§342I-2 Lead acid batteries; collection for recycling.** A person selling lead acid batteries at retail or offering lead acid batteries for retail sale in the State shall:

- (1) Accept, at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries from customers, if offered by customers; and
- (2) Post written notice that shall be at least five inches by seven inches in size and shall contain the universal recycling symbol and the following language:
 - (A) "It is illegal to discard a motor vehicle battery or other lead acid battery";
 - (B) "Recycle your used batteries";
 - (C) "State law requires us to accept used motor vehicle batteries or other lead acid batteries for recycling, in exchange for new batteries purchased"; and
 - (D) "The price of a new battery includes disposal of your old battery".
- (3) Any advertising pertaining to the price of lead acid batteries shall include the statement "The price includes disposal of your old battery".
- (4) For businesses utilizing advertising prepared out of the State a sign no smaller than three square feet, placed at the point of sale stating: "The price of the battery includes disposal of your old battery" may be substituted. [L 1989, c 281, pt of §1; am L 1993, c 244, §2]

" **[§342I-2.5] Recycling.** Any person accepting lead acid batteries for disposal shall:

- (1) Transport the lead acid batteries, with the liquid electrolyte intact, to a transfer facility; provided that the facility is in compliance with the accumulation provisions of section 342I-4;
- (2) Transport the lead acid batteries, with the liquid electrolyte intact, to a secondary lead smelter permitted by the United States Environmental Protection Agency; or
- (3) Have the liquid electrolyte neutralized at a facility that is permitted pursuant to chapter 342H; provided that once the liquid electrolyte is neutralized in accordance with the permit issued pursuant to chapter 342H, the batteries may be transported to any secondary lead smelter. [L 1991, c 201, pt of §1]

" **§342I-3 Inspection of lead acid battery facilities.** The department of health shall produce, print, and distribute the notices required by section 342I-2 to all places where lead acid batteries are offered for sale at retail. In performing its

duties under this part, the department may inspect any place, building, or premise governed by this part. Authorized employees of the agency may issue warnings and citations to persons who fail to comply with the requirement of this part. [L 1989, c 281, pt of §1; am L 1991, c 201, §3]

" **§342I-4 Lead acid battery wholesalers.** Any person selling new lead acid batteries at wholesale shall accept, at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries from customers, if offered by customers. Except as otherwise provided at the discretion of the director, a person accepting batteries in transfer from an automotive battery retailer shall be allowed a period not to exceed ninety days to remove batteries from the retail point of collection. [L 1989, c 281, pt of §1; am L 1991, c 201, §4]

" **[§342I-5] Enforcement.** The department of health shall enforce this part. [L 1989, c 281, pt of §1]

" **[§342I-6] Recordkeeping.** All facilities accepting five or more lead acid batteries per day from an individual shall maintain records for three years that provide, at a minimum, the following information:

- (1) The name, phone number, and address of the person from whom the batteries were received;
- (2) The date of receipt of the lead acid batteries; and
- (3) The record of shipment indicating the ultimate destination of the lead acid batteries and the date of shipment. [L 1991, c 201, pt of §1]

" **[§342I-7] Entry and inspection of records.** The director of health may enter and inspect any building or place for the purpose of:

- (1) Investigating an actual or suspected violation of this part;
- (2) Conducting reasonable tests;
- (3) Taking samples; and
- (4) Reviewing and copying records. [L 1991, c 201, pt of §1]

" **§342I-8 Penalties.** (a) Any person who violates this part shall be fined not more than \$10,000 for each separate offense; provided that the failure to post the notice required under section 342I-2, following a warning issued by the director of health, shall be subject to a fine of \$2,000 for each separate offense. Each battery improperly disposed of or accepted shall

constitute a separate offense. The fines imposed pursuant to this subsection shall be cumulative. Remedies shall be by citation, administrative action, or civil action.

(b) Any person who knowingly or wilfully violates this part shall be guilty of a misdemeanor.

(c) The director may institute a civil action in any environmental court of competent jurisdiction for injunctive and other relief to:

- (1) Prevent any violation of this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter, without the necessity of a prior revocation of the permit or variance;
- (2) Impose and collect civil penalties;
- (3) Collect administrative penalties; or
- (4) Obtain other relief.

The environmental court may grant relief in accordance with the Hawaii rules of civil procedure. [L 1991, c 201, pt of §1; am L 2002, c 191, §1; am L 2014, c 218, §8]

" **[§342I-9] Disposition of collected fines and penalties.** Fines and penalties collected under this part shall be deposited into the environmental response revolving fund, established by section 128D-2. [L 1991, c 201, pt of §1]

" [PART II.] USED MOTOR VEHICLE TIRE RECOVERY

§342I-21 Definitions. As used in this part unless the context otherwise requires:

"Authorized tire collection facility" means any facility permitted by the department under chapter 342H as a tire collection facility which may collect and temporarily hold tires before transporting them to an authorized tire recycler.

"Authorized tire recycler" means any processor, shredder, or manufacturer permitted by the department under chapter 342H as a tire recycling facility.

"County" means any county of the State.

"Facility" means all contiguous land, including buffer zones and structures or other appurtenances and improvements on the land, used for the handling of used tires.

"Import" means to buy, bring, or accept delivery of tires, from an address, supplier, or any entity outside of the State, into the State and includes the tires on motor vehicles brought into the State.

"Importer" means any person or entity who imports tires, including the tires on motor vehicles imported into the State.

"Motor vehicle tire" means any tire that is used or designed for use on a motorized vehicle including but not limited to an automobile, bus, motorcycle, truck or heavy equipment.

"Tire retailer" means any person who sells or offers to sell tires to the public.

"Tire wholesaler" means any person who sells or offers to sell tires to tire retailers or other volume buyers of tires. [L 1993, c 209, pt of §2; am L 2000, c 173, §2]

" **[§342I-22] Motor vehicle tires; disposal in landfill or municipal solid waste incinerator prohibited.** (a) No person shall place a whole motor vehicle tire in mixed municipal solid waste, or shall discard or otherwise dispose of a motor vehicle tire except by delivery to any motor vehicle tire retailer, tire wholesaler, or to an authorized tire collection or authorized tire recycler.

(b) No motor vehicle tire retailer shall dispose of a motor vehicle tire except by delivery to the agent of a motor vehicle tire wholesaler or to a motor vehicle tire manufacturer, or to an authorized motor vehicle tire recycler.

(c) Each tire improperly disposed of shall constitute a separate offense.

(d) For each violation of this section a violator shall be subject to the penalties and remedies provided under sections 342H-9 Penalties; 342H-10 Administrative penalties; and 342H-11 Injunctive relief.

(e) Variances to these provisions may be granted by the director based on written requests submitted by a permitted disposal facility. [L 1993, c 209, pt of §2]

" **§342I-23 Motor vehicle tires; collection for recycling.**

(a) Each tire retailer shall:

(1) Accept, at the point of transfer, in a quantity at least equal to the number of new motor vehicle tires purchased by a customer, motor vehicle tires offered by the customer.

(2) Post written notice which shall be at least five inches by seven inches in size and easily visible to customers and shall contain the universal recycling symbol and the following language:

(A) "It is illegal to discard a motor vehicle tire";

(B) "Recycle your used tires";

(C) "State law requires us to accept used motor vehicle tires for recycling or disposal, in exchange for new tires purchased"; and

(D) "The final price of a new tire includes disposal of your old tire. The disposal fee is not subject to reduction or refund."

(b) The department of health shall produce, print, and distribute the notices required by subsection (a)(2) to each retailer; provided that a retailer instead may use any sign or notice that meets the requirements of that subsection.

(c) Any advertising pertaining to the price of motor vehicle tires shall disclose whether a separate disposal fee may be added to the final price of the tire and the actual cost of the disposal fee.

(d) For businesses utilizing advertising prepared out of the State a sign no smaller than three square feet, placed at the point of sale stating: "The price of tires includes disposal of your old tires" may be substituted.

(e) Motor vehicle rental companies shall be permitted to provide a report and payment of the surcharge annually, with the year ending December 31, rather than quarterly. [L 1993, c 209, pt of §2; am L 2002, c 191, §2]

" **[§342I-24] Inspection of motor vehicle tire retailers.** In performing its duties under this part, the department may inspect any place, building, or premise governed by this part. Authorized employees of the agency may issue warnings and citations to persons who fail to comply with the requirements of this part. [L 1993, c 209, pt of §2]

" **§342I-25 Motor vehicle tire wholesalers.** Any person selling new motor vehicle tires at wholesale shall accept at the point of transfer, in a quantity at least equal to the number of new tires purchased by a customer, used motor vehicle tires offered by the customer. A motor vehicle tire wholesaler accepting used tires in transfer from a motor vehicle tire retailer shall be allowed a period not to exceed ninety days to remove used tires from the retail point of collection. Accumulation of those tires at the retail point of collection shall not exceed two hundred fifty tires, unless the retail point of collection is an authorized tire collection facility, and the tires shall be stored in a manner consistent with fire prevention and vector control. [L 1993, c 209, pt of §2; am L 2002, c 191, §3]

" **[§342I-26] Registration and recordkeeping requirements.** (a) All facilities that accept used tires, including but not limited to tire retailers, wholesalers, transporters, collectors, and recyclers, shall maintain, for a minimum of

three years, records that provide, at least, the following information:

- (1) The name, phone number, and address of the person, company, business, source, or entity from whom the used tires were received, if receiving used tires from entities other than the general public, such as tire retailers, wholesalers, transporters, collectors, and recyclers;
- (2) The date of receipt of the used tires;
- (3) The quantity of used tires received; and
- (4) The record of shipment indicating the:
 - (A) Ultimate destination of the used tires;
 - (B) Identification of the transporter;
 - (C) Date of shipment; and
 - (D) Quantity of tires shipped.

Permitted municipal solid waste disposal facilities, including incineration facilities that receive used tires incidental to the disposal of municipal solid waste, shall be exempt from the recordkeeping requirements of this section.

(b) A summary of the information maintained under subsection (a) shall be submitted to the department by July 31 of each year, listing the total quantity of used tires collected and the ultimate disposition of the used tires.

(c) By September 1, 2000, all importers operating within the State shall register with the department, using forms prescribed by the department, and shall notify the department of any change in address. After September 1, 2000, any person who desires to conduct business in this State as an importer shall register with the department no later than one month prior to the commencement of the business.

(d) All importers shall maintain records reflecting the importation of tires. The records shall be made available, upon request, for inspection by the department. [L 2000, c 173, pt of §1]

" **§342I-27 REPEALED.** L 2002, c 191, §8.

" **§342I-28 Tire inventory records and payment.** (a) Payment of the motor vehicle tire surcharge shall be made quarterly based on inventory records of the importers except for those importers subject to subsection (c) or (d). The dates September 30, December 31, March 31, and June 30 represent the end of each quarter period. All importers shall submit to the department documentation in sufficient detail that identifies the number of tires imported into the State during the previous quarter.

(b) The amount due from the importers for the quarter shall be equal to the number of tires provided in subsection (a)

multiplied by the motor vehicle tire surcharge of \$1. Payment shall be made by check or money order payable to the Department of Health, State of Hawaii and shall be deposited into the environmental management special fund as provided in section 342I-29. All subsequent inventory reports and payments shall be made no later than the last day of the month following the end of the previous calendar quarter, except for those importers subject to subsection (c) or (d).

(c) An importer who imports fewer than fifty tires within a one-year period shall be exempt from payment of the surcharge.

(d) An importer who imports fifty or more tires, but fewer than or equal to two hundred tires, or a motor vehicle rental company shall be permitted to provide a report and payment of the surcharge annually, with year ending December 31. [L 2000, c 173, pt of \$1; am L 2002, c 191, \$5]

" **[\$342I-29] Deposit into environmental management special fund.** The surcharge collected pursuant to this part shall be deposited into a special account in the environmental management special fund established by section 342G-63. All interest earned or accrued on moneys deposited in the fund pursuant to this section shall become part of the account. Moneys from this special account may be used by the department to:

- (1) Support permitting, monitoring, and enforcement activities, including personnel costs regarding used tire management, collection, recycling, and disposal facilities;
- (2) Promote improved market development and reuse opportunities for recovered motor vehicle tires;
- (3) Promote tire recovery, recycling, and reuse in the State through education, research, and demonstration projects;
- (4) Implement the surcharge program under this part;
- (5) Support programs to prevent illegal dumping; and
- (6) Clean up improper tire disposal sites including conducting related environmental assessments and remediation. [L 2000, c 173, pt of \$1]

" **[\$342I-30] Recovery of costs.** (a) Any costs incurred and payable from the fund as a result of tire cleanups and associated environmental assessments and remediation shall be recovered by the attorney general, upon the request of the department, from the liable person or persons. The amount of any cost that may be recovered pursuant to this section for a tire cleanup and associated assessment and remedial action paid from the fund shall include the amount paid from the fund and legal interest.

(b) Moneys recovered by the attorney general pursuant to this section shall be deposited to the special account of the environmental management special fund.

(c) Any action for recovery of response costs shall commence within two years after the date of completion of all response actions. [L 2000, c 173, pt of §1]

" **[§342I-31] Contract for administrative services.** The department may contract the services of a third party to administer the motor vehicle tire program under this part. [L 2000, c 173, pt of §1]

" **[§342I-32] Entry and inspection of facilities.** The department or other authorized party may enter and inspect any building or place, according to law at a reasonable time, for the purpose of:

- (1) Investigating an actual or suspected violation of this part;
- (2) Conducting reasonable tests;
- (3) Taking samples; and
- (4) Reviewing and copying records. [L 2000, c 173, pt of §1]

" **[§342I-33] Enforcement.** The department of health shall enforce this part. Authorized employees of the department may issue warnings, citations, or administrative orders, or commence civil action in circuit environmental court against persons who fail to comply with the requirements of this part. [L 2000, c 173, pt of §1; am L 2014, c 218, §8]

" **[§342I-34] Penalties.** (a) For each violation of this part, a violator shall be subject to a penalty of not more than \$10,000 for each separate offense. However, the failure to post the notice required under section 342I-23, following a warning issued by an authorized employee of the department, shall be subject to a fine up to \$1,000 for each separate offense. Each day of each violation shall constitute a separate offense. The fines imposed pursuant to this section shall be cumulative.

(b) Remedies shall be by citations, by civil action, or as provided under sections 342H-10 and 342H-11. [L 2000, c 173, pt of §1]

" **[§342I-35] Disposition of collected fines and penalties.** Fines and penalties collected under this part shall be deposited into the environmental response revolving fund established by section 128D-2. [L 2000, c 173, pt of §1]