
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

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

1 SECTION 1. The legislature finds that a majority of the
2 road and highway surfaces in the State are made of asphalt
3 pavement, a mixture that consists primarily of aggregate (small
4 rocks, sand, gravel), asphalt cement or binder (liquid petroleum
5 product), and other substances. According to the United States
6 Department of Transportation, Federal Highways Division, Office
7 of Infrastructure, asphalt is the single most recycled material
8 in the world. Recycling of asphalt pavement has proven to be a
9 cost-effective method of pavement rehabilitation. When properly
10 selected, all the different types of recycling methods are
11 usually cheaper than the conventional rehabilitation methods
12 because of the savings realized as a result of requiring fewer
13 virgin materials. In Hawaii, there are additional cost and
14 carbon savings associated with the reduced need to import raw
15 and virgin materials.

16 The legislature further finds that according to the
17 National Asphalt Paving Association, in 2021, approximately



1 2,600,000 metric tons of carbon dioxide equivalent was spared
2 from the atmosphere through using reclaimed asphalt pavement in
3 new mixtures, 94,600,000 tons of reclaimed asphalt pavement was
4 recycled into new mixes, ninety-five per cent of asphalt mixture
5 was reclaimed from old asphalt pavements and put back to use in
6 new pavements, 630,000 tons of recycled asphalt shingles were
7 put into asphalt mixes, and 26,000,000 barrels of virgin asphalt
8 binder was replaced by recycled binder from reclaimed asphalt
9 pavement and recycled asphalt shingles.

10 The legislature also finds that the State could do more to
11 incorporate a circular asphalt model into its practices through
12 requiring a maximized rate of recycling reclaimed asphalt
13 pavement into new asphalt mixtures and further, by requiring
14 proper storage, stockpiling, and disposal of old asphalt that is
15 not immediately recycled or that is deemed non-recyclable, so as
16 to reduce instances of the indiscriminate incorporation of old
17 asphalt into the environment. Additionally, because petroleum
18 is a base ingredient in asphalt pavement, extra caution should
19 be taken when managing the use of this material to prevent harm
20 to health and the environment.

21 Accordingly, the purpose of this Act is to:



- 1 (1) Require public and private entities, including the
2 State, the counties, and their contractors to recycle
3 at least per cent of old asphalt into new asphalt
4 when executing a paving project greater
5 than square yards;
- 6 (2) Require public and private entities, including the
7 State, the counties, and their contractors to dispose
8 of old asphalt as a landfill cover only after making
9 the determination that recycling is not possible;
- 10 (3) Require the department of transportation to set
11 standard best management practices for paving projects
12 requiring all asphalt processing, stockpiling, and
13 disposal procedures to be explicitly prohibitive of
14 the distribution and incorporation of old asphalt into
15 the environment; and
- 16 (4) Require the department of health, to either:
- 17 (A) Designate a site on each island where unused old
18 asphalt can be safely and securely stored for
19 future use in new pavement, not to be located in
20 areas known to flood; or



1 (B) Develop a centralized state processing and
2 storage facility to serve as a repository for all
3 excess old asphalt unable to be recycled in
4 place.

5 SECTION 2. Chapter 342H, Hawaii Revised Statutes, is
6 amended by adding two new sections to part II to be
7 appropriately designated and to read as follows:

8 "§342H-A Failure to recycle asphalt. (a) Any person,
9 including the State, the counties, and their contractors, who
10 executes a paving project greater than _____ square yards and
11 who removes asphalt as part of that project shall recycle not
12 less than _____ per cent of the planed asphalt pavement; provided
13 that a person may dispose of the planed asphalt pavement through
14 application as landfill cover only after:

- 15 (1) Making a determination that recycling or reusing the
16 planed asphalt pavement is not possible; and
17 (2) Complying with rules adopted by the department of
18 transportation pursuant to section 342H-B(a)(3).

19 (b) Any person who violates subsection (a) shall be
20 subject to an administrative fine as follows:



- 1 (1) For a first violation or a violation beyond five years
- 2 of a previous violation, a fine of not more than
- 3 \$ _____ ;
- 4 (2) For a second violation within five years of a previous
- 5 violation, by a fine of not more than \$ _____ ; and
- 6 (3) For a third or subsequent violation within five years
- 7 of the last violation, by a fine of not more than
- 8 \$ _____ .

9 **§342H-B Asphalt recycling and storage.** (a) The
10 department of transportation, in consultation with the
11 department, shall adopt rules pursuant to chapter 91:

- 12 (1) Establishing best practices for paving projects;
- 13 (2) Requiring that all asphalt processing, stockpiling,
- 14 and disposal procedures prohibit distribution and
- 15 incorporation of planed asphalt pavement into the
- 16 environment; and
- 17 (3) Establishing standards, procedures, and certifications
- 18 for disposal of planed asphalt pavement through
- 19 application as landfill cover for planed asphalt
- 20 pavement that cannot be recycled.

21 (b) The department shall:

- 1 (1) Designate not less than one site on each island with a
2 population of greater than one thousand where planed
3 asphalt pavement can be safely and securely stored for
4 future use in new pavement; provided that the
5 locations shall not be in any area prone to flooding;
6 or
7 (2) Develop a centralized state processing and storage
8 facility to serve as a repository for all excess
9 planed asphalt pavement unable to be recycled in
10 place."

11 SECTION 3. Section 342H-1, Hawaii Revised Statutes, is
12 amended by adding a new definition to be appropriately inserted
13 and to read as follows:

14 "Planed asphalt pavement" means asphalt and included
15 aggregates removed from a road, driveway, or other location on
16 the ground."

17 SECTION 4. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 5. In codifying the new sections added by
21 section 2 of this Act, the revisor of statutes shall substitute



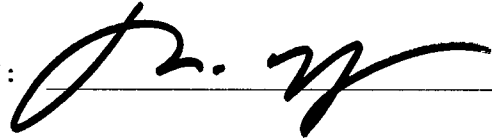
1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 6. New statutory material is underscored.

4 SECTION 7. This Act shall take effect upon its approval;
5 provided that section 2 shall take effect on January 1, 2024.

6

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "J. N.", written over a horizontal line.

JAN 25 2023



H.B. NO. 1406

Report Title:

Asphalt Recycling; DOH; DOT; Environmental Protection

Description:

Requires that asphalt removed from roads and driveways be recycled. Requires the Department of Transportation to adopt rules regarding best practices for paving projects, asphalt processing, and asphalt disposal. Requires the Department of Health to designate asphalt storage sites or develop a centralized asphalt state processing and storage facility.

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

