

ACT 201

S.B. NO. 2170

A Bill for an Act Relating to Recycled Materials.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The 1993 Energy and Environmental Summit was convened by the legislature on October 8, 1993, to identify issues and build broad-based support for initiatives that will move Hawaii forward in the areas of energy and the environment. This Act is the result of the collaborative efforts of participants of the summit.

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

"PART . GLASS CONTAINER RECOVERY

§342G-A Definitions. As used in this part, unless the context requires otherwise:

"Glass container importer" means any person who is engaged in the manufacture of glass containers within the State or who imports glass containers from outside the State for sale or use within the State. The term includes federal agencies and military distributors, but does not include airlines and shipping companies that merely transport glass containers.

"Glass incentive" means an incentive paid to licensed recyclers for recycling glass containers. Such incentives may be structured to include the costs of collection and processing, and a "buy back" incentive to increase participation by the public and private haulers.

"Glass recovery program" means a program for glass recovery and reuse for purposes including but not limited to:

- (1) Glass container reuse or recycling whereby containers are refilled, processed for shipment out of the State, or crushed into aggregate substitute; and
- (2) Use in roadway materials or concrete as provided in this part.

"Glassphalt" means an asphaltic concrete mixture utilizing crushed glass, under controlled gradation conditions, as a substitute for a percentage of the aggregate in the mix.

§342G-B Advance disposal fee. (a) Every glass container importer shall pay to the department an advance disposal fee. The fee shall be imposed only once on the same glass container and shall not be assessed on drinking glasses, cups, bowls, plates, ash trays, and similar tempered glass containers. For the period September 1, 1994, to September 1, 1996, the fee shall be one and one-half cents per glass container. Thereafter, the fee shall be set by the legislature at a rate the legislature determines will permit funding of county glass recovery programs as required to achieve the following glass recovery program goals:

- (1) Twenty-five per cent by the end of 1996;
- (2) Fifty per cent by the end of 1998; and
- (3) By the end of 2000 and thereafter, the maximum amount practicable considering the economic and environmental benefits to be realized.

(b) In January 1995, the department, with assistance from the county solid waste divisions, shall evaluate the amount of glass recovered during the first fifteen months of the program and recommend to the legislature any modification in the fee structure to meet county glass recovery program funding requirements. Thereafter, prior to the convening of the legislative session in each subsequent even-numbered year, the department of health, in coordination with the counties, shall report to the legislature on the effectiveness of the program and make appropriate recommendations for modification of the fee.

(c) The legislature shall have exclusive authority over all matters subject to this chapter.

(d) No county shall impose or collect any assessment or fee on glass containers for the same or similar purpose that is subject of this chapter.

§342G-C Glass container importers; registration, recordkeeping requirements. (a) By September 1, 1994, all glass container 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, 1994, any person who desires to conduct business in this State as a glass container importer shall register with the department no later than one month prior to the commencement of the business.

(b) All glass container importers registered with the department shall maintain records reflecting the manufacture of their glass containers as well as the importation and exportation of products packaged in glass. The records shall be made available, upon request, for inspection by the department; provided that any proprietary information obtained by the department shall be kept confidential, and shall not be disclosed to any other person except:

- (1) As may be reasonably required in an administrative or judicial proceeding to enforce any provision of this chapter or any rule adopted pursuant to this chapter; or
- (2) Under an order issued by a court or administrative agency hearing officer.

§342G-D Deposit into environmental management special fund; distribution to counties. (a) Revenues generated from the advance disposal fee shall be deposited into a special account in the environmental management fund. Moneys from the special account shall be used to fund county glass recovery programs established in accordance with the requirements under section 342G-F; provided that no moneys shall be made available to a county unless the county has first submitted its formally adopted integrated solid waste management plan to the department for review. In the event of any surplus in the special account, the department shall recommend a reduction in the fee as deemed necessary.

(b) The department shall distribute the moneys contained in the special account to the counties in proportion to the amount of glass imported into each county based on the county's de facto population. The distribution shall be in the form of direct contracts with the department as permitted under chapters 103 and 103D.

(c) No more than ten per cent, in the aggregate, of the revenue collected in any one year may be used by the department for administrative and educational purposes and to promote glass recovery, recycling, and reuse in Hawaii through research and demonstration projects.

§342G-E Container inventory report and payment. (a) Payment of the advance glass disposal fee shall be made quarterly based on inventory reports of the glass container importers. For the first payment, all glass container importers, on or before January 15, 1995, shall submit to the department documentation in sufficient detail that identifies the number of glass containers manufactured or imported to the State and sold or distributed, by manufacturer or distributor, during the calendar quarter ending December 31, 1994.

(b) The amount due from glass container importers less glass containers exported for the calendar quarter ending December 31, 1994, shall be the sum equal to the number of glass containers provided in subsection (a) multiplied by the advance disposal fee of .015 cents. Payment shall be made by check or money order payable to the "Department of Health, State of Hawaii". All subsequent inventory reports and payments shall be made not later than the fifteenth day of the month following the end of the previous calendar quarter.

§342G-F County glass recovery programs; requirements. (a) All county glass recovery programs shall include:

- (1) Some form of glass incentive or "buy back" program providing a means of encouraging participation by the public or private collectors; and
- (2) The paving during each of the first two years of the equivalent of one mile of two lane asphalt roadway as part of a research and demonstration program utilizing glassphalt.

(b) In addition, county programs may include but shall not be limited to:

- (1) Funding of the collection and processing of glass containers either through existing county agencies or through external contracts for services;
- (2) Subsidizing the transportation or processed material to off-island markets;
- (3) The development of collection facilities or the provision of containers for glass recycling, or the incremental portions of multi-material programs;

- (4) Additional research and development programs, including grants to private sector entrepreneurs, especially those activities developing higher value uses for the material; and
- (5) Public education and awareness programs focusing on glass recovery, or the incremental portions of multi-material programs.

§342G-G Contract for administrative services. The department may contract the services of a third party to administer the advance disposal fee program under this part.

§342G-H Penalties. Any person who violates any provision of this part, or any rule adopted thereunder, shall be fined not more than \$10,000 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.

§342G-I Enforcement. The department of health shall enforce this part."

SECTION 3. Act 8, Special Session Laws of Hawaii 1993, is amended by adding a new section to part IV of the chapter established in section 2 of the Act, to read as follows:

"§ - Construction projects, roadway materials; recycled glass content requirements. (a) When purchasing roadway materials or other high-value, end-use applications for public projects, state agencies shall, and county agencies may, purchase materials with minimum recycled glass content meeting specifications adopted by the policy office which, at a minimum, shall provide for:

- (1) A minimum recycled glass content of ten per cent crushed aggregate in treated or untreated basecourse in paving materials that shall not reduce the quality standards for highway and road construction; and
- (2) The use of one hundred per cent aggregate in nonstructural capital improvement applications.

(b) All highway and road construction and improvement projects funded by the State or a county or roadways that are to be accepted by the State or a county as public roads shall utilize a minimum of ten per cent crushed glass aggregate, with one hundred per cent passing a one-fourth inch sieve, in all basecourse (treated or untreated) and subbase when the glass is available to the quarry or contractor at a price no greater than that of the equivalent aggregate.

(c) All state and county construction projects calling for nonstructural backfill shall utilize one hundred per cent crushed glass when available at a cost equal to or lower than the equivalent aggregate.

(d) As used in this section:

"Basecourse" means the layer or layers of specified material or selected material of a designed thickness to support a surface course.

"Environmental management special fund" means the fund established by section 342G-63.

"Nonstructural backfill" means use as fill in areas not subject to structural loading, including but not limited to utility line bedding, drainage backfill behind retaining walls, drainage line backfill in leachfields or french drains, and similar uses."

SECTION 4. Section 264-8.5, Hawaii Revised Statutes, is repealed.

SECTION 5. In codifying the new part added to chapter 342G, Hawaii Revised Statutes, by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 6. Statutory material to be repealed is bracketed.¹ New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; except that sections 3 and 4 shall take effect on July 1, 1994.

(Approved June 21, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.