

ACT 210

S.B. NO. 3303

A Bill for an Act Relating to Solid Waste Pollution.

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

SECTION 1. The legislature finds that there is a need to protect the natural beauty and integrity of Hawaii's lands by improving and updating state laws relating to solid waste pollution, and strengthening the enforcement program under the solid waste pollution law.

It is the legislature's intent that the department of health be empowered to fine any person who:

- (1) Disposes of solid waste anywhere in the State other than a permitted solid waste disposal system;
- (2) Generates the illegally disposed solid waste; and
- (3) Facilitates the illegal disposal of solid waste.

The purpose of this Act is to provide a more effective means of solid waste disposal enforcement by authorizing the department of health to delegate its enforcement powers to the counties and allowing the counties to share in the revenues generated by the collection of fines and penalties issued under chapter 342H, Hawaii Revised Statutes.

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

"§342H- Department of health; delegation of enforcement powers.

The department, pursuant to rules adopted in accordance with chapter 91, may delegate to agencies of the various counties the powers or authority vested in the department to investigate alleged violations of section 342H-30(c)."

SECTION 3. Section 342H-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

““Inert fill material” means earth, soil, rocks, rock-like material such as cured asphalt, brick, and clean concrete with no exposed steel reinforcing rod longer than twelve inches, containing less than ten per cent vegetative material (such as shrubbery, brush, or trees). Any material containing more than five per cent by volume of solid waste other than vegetative material shall not be considered inert fill material for the purposes of this chapter.”

2. By amending the definition of “solid waste” to read:

““Solid waste” means garbage, refuse, and other discarded materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, and agricultural operations, sludge from waste treatment plants and water supply treatment plants, and residues from air pollution control facilities and community activities, but does not include solid or dissolved materials in domestic sewage or other substances in water sources such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows, or other common water pollutants, or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923)[.], or inert fill material.”

SECTION 4. Section 342H-10.5, Hawaii Revised Statutes, is amended to read as follows:

“[§342H-10.5] Disposition of collected fines and penalties. [Fines] Except as otherwise provided in this section, fines and penalties collected under sections 342H-9 and 342H-10 shall be deposited into the environmental response revolving fund established by section 128D-2. Where a county individually, or the state and a county jointly, initiates and conducts an investigation resulting in the imposition and collection of a fine or penalty, pursuant to section 342H-30(c), the fine or penalty shall be distributed as follows:

- (1) One half to the department of the county whose officers or employees initiated and conducted the investigation; and
- (2) One half to the environmental response revolving fund established in section 128D-2.”

SECTION 5. Section 342H-19, Hawaii Revised Statutes, is amended to read as follows:

“[§342H-19] Effect of laws, ordinances, and rules. (a) All laws, ordinances, and rules inconsistent with this chapter shall be void and of no effect.

(b) [Any] Except as provided in section 342H-30(c), any county may adopt ordinances and rules governing any matter relating to solid waste management [which] that is not governed by a rule of the department adopted pursuant to this chapter; provided that any county ordinance or rule relating to solid waste management shall be void and of no effect as to any matter regulated by a rule of the department upon [the] its adoption [thereof].”

SECTION 6. Section 342H-30, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342H-30]]~~ **Prohibition.** (a) No person, including any public body, shall engage in the operation of an open dump[,] without first securing approval in writing from the director.

(b) No person, including any public body, shall operate a solid waste disposal system without first securing approval in writing from the director.

(c) No person, including any public body, shall discard, dispose of, deposit, discharge, or dump solid waste or by contract or otherwise arrange directly or indirectly for the disposal of solid waste in an amount greater than one cubic yard in volume anywhere other than a permitted solid waste disposal system without the prior written approval of the director. This prohibition shall not be deemed to supersede any other disposal prohibitions established under federal, state, or county law, regulation, rule, or ordinance.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved June 21, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.