

## ACT 53

H.B. NO. 1350

A Bill for an Act Relating to the Use of Recycled Oil.

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

SECTION 1. The legislature finds that petroleum is the major source of energy for Hawaii and will likely continue to be Hawaii's major energy source for many years. While Hawaii has and always will continue to seek alternative sources of energy that safeguard our fragile and unique island environment, the legislature realizes that the use of oil products will dominate the State's energy resources in the foreseeable future. Therefore, it remains in the State of Hawaii's best interest, as stated in the public procurement code in section 103D-1005, Hawaii Revised Statutes, "to encourage the use of recycled products, contracts shall be awarded to the lowest responsible and responsive bidders, with preference being given to the products containing recycled material." Section 103D-1005(b), Hawaii Revised Statutes, requires state purchasing agencies and encourages county purchasing agencies to, "apply preference to the purchase of products with recycled content before purchasing products without any recycled content." That subsection also requires, "to the maximum extent economically feasible, the purchase of materials that may be recycled or reused when discarded, and to avoid the purchase of products deemed environmentally harmful."

Sharing the concerns expressed in the previous provisions of the Hawaii Revised Statutes, other states such as Washington, Oregon, and California have already passed legislation that specifically requires state and county purchasing agencies to procure lubricating or industrial oil from the seller whose oil product contains the greater percentage of recycled oil.

The purpose of this Act is to continue previous legislative mandates to promote the use of recycled products by state and county agencies. Requiring that public contracts be awarded only to vendors whose oil product contains the greatest percentage of recycled oil will continue to protect our fragile environment.

SECTION 2. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . PREFERENCE FOR OIL PRODUCTS  
WITH GREATER RECYCLED CONTENT**

**§103D-A Short title.** This part shall be referred to as the “Recycled Oil Act”.

**§103D-B Definitions.** As used in this part:

“Industrial oil” means any compressor, turbine, or bearing oil, hydraulic oil, metal working oil or refrigeration oil.

“Lubricating oil” means any oil intended for use in an internal combustion crankcase, transmission, gearbox or differential or an automobile, bus, truck, vessel, plane, train, heavy equipment, or machinery powered by an internal combustion engine.

“Procuring agency” means any state or county agency or any person contracting with that agency in respect to work performed under a contract for lubricating oil, industrial oil or involves the use of lubricating oil or industrial oil.

“Recycled oil” means used oil that has been prepared for reuse as a petroleum product by refining, reclaiming, reprocessing or other means provided that the preparation or use is operationally safe, environmentally sound and complies with all laws, rules, and regulations.

“Virgin oil” means oil which has been refined from crude oil and which has not been used or contaminated with impurities.

**§103D-C Preference for oil products with greater recycled content.**

Notwithstanding any law to the contrary, any procurement officer that purchases lubricating oil and industrial oil under this chapter shall purchase the oil from the seller who certifies the oil product containing the greatest percentage of recycled oil. The procurement office may purchase an oil product containing a lower percentage of recycled oil provided that the specific oil product containing recycled oil is:

- (1) Not available within a reasonable period of time or in quantities necessary to meet an agency’s needs;
- (2) Not able to meet the performance requirements or standards recommended by the equipment or vehicle manufacturer, including any warranty requirements;
- (3) Available only at a cost greater than the cost of comparable virgin oil products; or
- (4) Likely to breach an existing warranty that requires the purchase of virgin oil products for exclusive use in vehicles or equipment whose warranties expressly prohibit the use of products containing recycled oil.

**§103D-D Affirmative program for procuring oils with recycled content.**

(a) Each chief procurement officer shall establish and maintain an affirmative program for procuring oils containing the maximum content of recycled oil.

(b) An affirmative program shall include:

- (1) Placement of descriptions of the preference of recycled oil products in publications used to solicit bids from suppliers or vendors;
- (2) Descriptions of the recycled oil procurement program at the bidders' conferences;
- (3) Discussion of the preference program in lubricating oil and industrial oil procurement solicitations, invitations for bids, requests for proposals, or other solicitations for offers under this chapter; and
- (4) Efforts to inform trade associations about the preference program."

SECTION 3. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in the new sections designated in this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 26, 1999.)