

ACT 105

H.B. NO. 1430

A Bill for an Act Relating to Solid Waste Control.

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

SECTION 1. Chapter 342H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§342H- Petty misdemeanor disposal of solid waste.** (a) A person commits the offense of petty misdemeanor disposal of solid waste if the person knowingly discards, disposes of, deposits, discharges, or dumps solid waste, or by contract or otherwise arranges directly or indirectly for the disposal of solid waste in an amount equal to or greater than one cubic yard in volume and less than ten cubic yards in volume, anywhere other than a permitted solid waste management system without the written approval of the director.

(b) Petty misdemeanor disposal of solid waste is punishable by:

- (1) A fine of not more than \$25,000 for each separate offense;
- (2) Not more than thirty days imprisonment for each offense; or
- (3) Revocation or suspension by court order of any contractor's license or any applicable certificate of authorization from the public utilities commission.

Each day of violation shall constitute a separate offense.

(c) Each fine collected for a violation of this section shall be distributed to the authorized agency that enforced the prohibition under which the fine was imposed.

(d) This section shall not apply to solid waste consisting solely of green waste. For the purposes of this section, “green waste” means solid waste that consists solely of leaves, grass clippings, garden and yard wastes, tree trunks, holiday trees, tree trimmings, and prunings, or any combination thereof.”

SECTION 2. Section 342H-30, Hawaii Revised Statutes, is amended to read as follows:

**“§342H-30 Prohibition[-]; civil.** (a) No person, including any public body, shall engage in the operation of an open dump.

(b) No person, including any public body, shall operate a solid waste management 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 equal to or greater than one [~~or less than ten cubic yards~~] cubic yard in volume anywhere other than a permitted solid waste management system without the prior written approval of the director. Each day of violation shall constitute a separate offense. This prohibition shall not be deemed to supersede any other disposal prohibitions established under federal, state, or county law, regulation, rule, or ordinance.

~~[(d) In addition to any other penalty provided by law, a person who knowingly violates or knowingly consents to the violation of this section shall be subject to one or more of the following penalties:~~

- ~~(1) Criminal penalties of not more than \$25,000 for each separate offense;~~
- ~~(2) Not more than thirty days imprisonment for each offense; or~~

- (3) ~~Revocation or suspension by court order of any contractor's license to operate as a contractor or any applicable certificate of authorization from the public utilities commission.~~

~~Each day of a violation shall constitute a separate offense.~~

~~(e) Each fine collected under this section shall be distributed to the authorized agency that enforced the activity prohibited under this section; provided that when a fine is collected, fifty per cent of the fine shall be awarded to the person, if any, who reported the activity prohibited under this section.]''~~

SECTION 3. Section 342H-37, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) A person commits the offense of felony disposal of solid waste if the person:

- (1) Knowingly discards, disposes of, deposits, discharges, or dumps solid waste, or by contract or otherwise arranges directly or indirectly for the disposal of solid waste in an amount equal to or greater than ten cubic yards in volume anywhere other than a permitted solid waste management system without the written approval of the director;
- (2) After having been sentenced under this section or section [342H-30] 342H- on two separate and prior occasions, knowingly discards, disposes of, deposits, discharges, or dumps solid waste, or by contract or otherwise arranges directly or indirectly for the disposal of solid waste in an amount equal to or greater than one cubic yard in volume anywhere other than a permitted solid waste management system without the written approval of the director; or
- (3) Knowingly discards, disposes of, deposits, discharges, or dumps solid waste, or by contract or otherwise arranges directly or indirectly for the disposal of solid waste anywhere other than a permitted solid waste management system without the written approval of the director for which the expense of recovering, removing, restoring, and lawfully disposing of the solid waste exceeds \$1,500.

(b) ~~[The penalties under this section shall supersede the penalties under section 342H-30, but otherwise this]~~ This section shall not supersede any other disposal prohibitions established under federal, state, or county law, ordinance, regulation, or rule.”

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

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved June 7, 2005.)

**Note**

1. Edited pursuant to HRS §23G-16.5.