

A Bill for an Act Relating to Solid Waste Disposal.

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

SECTION 1. Section 342-1, Hawaii Revised Statutes, is amended to read:

"§342-1 Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Complaint" means any written charge filed with or by the department that a person is violating any provision of this chapter or any rule, regulation, or order promulgated pursuant to this chapter.
- (2) "Department" means the department of health.
- (3) "Director" means the director of health.
- (4) "Party" means each person or agency named as party or properly entitled to be a party in any court or agency proceeding.
- (5) "Permit" means written authorization from the director to discharge waste or to construct, modify, or operate any air pollution source, water pollution source, excessive noise source, or solid waste disposal system. A permit authorizes the grantee to cause, emit or discharge waste or pollution in a manner or amount, or to do any, not forbidden by this chapter, or by rules and regulations promulgated under this chapter, but requiring review by the department.
- (6) "Person" means any individual, partnership, firm, association, public or private corporation, the State or any of its political subdivisions, trust estate or any other legal entity.
- (7) "Pollution" means air pollution, water pollution, [or] excessive noise, or solid waste pollution including hazardous waste pollution as herein-after defined.
- (8) "Treatment works" means any plant or other facility used for the purpose of controlling pollution.
- (9) "Variance" means special written authorization from the director to cause, emit, or discharge waste or pollution in a manner or in an amount in excess of applicable standards, or to do an act that deviates from the requirements of rules or regulations promulgated under this chapter.
- (10) "Waste" means sewage, industrial and agricultural matter, excessive noise and all other liquid, gaseous, or solid substance, including radioactive substance, whether treated or not, which may pollute or tend to pollute the atmosphere, lands or waters of this State."

SECTION 2. Section 342-6, Hawaii Revised Statutes, is amended to read:

"§342-6 Permits; procedures for. (a) An application for any permit required under this chapter shall be in a form prescribed by the director.

(b) The department may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary in order for it to determine whether the proposed installation, alteration, or use will be in accord with applicable rules, regulations, and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if

he determines that such will be in the public interest; provided that the permit may be subject to such reasonable conditions as the director may prescribe. The director, on application, shall renew a permit from time to time for a term not exceeding five years if he determines that such is in the public interest. The director may, on application, modify the conditions of a permit in any manner consistent with the public interest. The director shall not deny an application for the issuance, renewal, or modification of a permit without affording the applicant a hearing in accordance with chapter 91.

The director may, on his own motion or the application of any person, modify, suspend, or revoke any permit if, after a hearing in accordance with chapter 91, he determines that:

- (1) There is a violation of any condition of the permit; or
- (2) The permit was obtained by misrepresentation, or failure to disclose fully all relevant facts; or
- (3) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- (4) Such is in the public interest.

The director shall insure that the public receive notice of each application for a permit to control water or hazardous waste pollution. He may hold a public hearing before ruling on an application for a permit to control water or hazardous waste pollution if he determines such public hearing to be in the public interest.

In determining the public interest, the director shall consider the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the action be implemented, the alternatives to the proposed action, the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented, and any other factors which the director may by rule prescribe; provided that any determination of public interest shall promote the optimum balance between economic development and environmental quality.

(d) The failure of the director to act on an application for the issuance of a permit or an application by a permit holder for the modification or renewal thereof within one hundred eighty days of the receipt of such application shall be deemed a grant of such application so long as the applicant acts consistently with the application and all plans, specifications, and other information submitted as a part thereof.

(e) No applicant for a modification or renewal of a permit shall be held in violation of this chapter during the pendency of his application so long as he acts consistently with the permit previously granted, the application and all plans, specifications, and other information submitted as a part thereof."

SECTION 3. Section 342-11, Hawaii Revised Statutes, is amended to read:

"§342-11 Penalties. (a) Violation of the vehicular noise control[regulations] and vehicular smoke emission [regulations promulgated] rules adopted by the department pursuant to this chapter shall constitute a violation as defined in [the Hawaii Penal Code,] section 701-107 and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$2,500 for each

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

(b) Violation of the open burning control [regulations promulgated] rules adopted by the department pursuant to this chapter shall constitute a violation as defined in [the Hawaii Penal Code,] section 701-107 and shall be enforceable by police officers. The fine for this violation shall not exceed \$10,000 for each separate offense. Each day of violation shall constitute a separate offense.

(c) Any person who violates this chapter or any rule [or regulation], other than vehicular noise control, vehicular smoke emission control, and open burning control [regulations,] rules, shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular noise control, vehicular smoke emission, and open burning [regulations,] rules, shall be considered a civil action.

(d) Any person who knowingly (1) transports any hazardous waste to a storage, treatment, or disposal facility and who does not have a permit under section 342-53(b) to treat, store, or dispose of that particular hazardous waste; (2) treats, stores, or disposes of hazardous waste without first having a permit under section 342-53(b); or (3) makes a false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with chapter 342, part V, shall be subject to criminal penalties of not more than \$25,000 for each day of violation or to imprisonment not to exceed one year, or both. If the conviction, is for a violation committed after a first conviction, criminal punishment shall be by a fine of not more than \$50,000 for each day of violation, or by imprisonment for not more than two years, or both.

[(d)] (e) Any person who [willfully] wilfully or negligently violates part III of this chapter or any rule or regulation promulgated by the department pursuant to part III of this chapter shall be punished by a fine of not less than \$2,500 nor more than \$25,000, per day of violation or by imprisonment for not more than one year, or both.

[(e)] (f) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building or place which he is authorized to enter and inspect shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action."

SECTION 4. Section 342-51, Hawaii Revised Statutes, is amended to read:

"[[§342-51]] **Definitions.** As used in this part, unless the context otherwise requires:

- (1) "Solid waste" means garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial [and], commercial, mining, and agricultural operations, and sludge from waste treatment plants, water supply treatment plants, residues from air pollution control facilities, and¹ from community activities, but does not include solid or dissolved material in domestic sewage or other substances in water sources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irriga-

tion return flows, or other common water pollutants. This definition is also intended to include liquid waste materials such as waste oil, pesticide, paints, solvents, and hazardous waste.

- (2) "Approved solid waste disposal system" means a system for the storage, treatment, transfer, and disposal of solid waste approved by the director.
- (3) "Sanitary landfill" means a land site on which engineering principles are utilized to bury deposits of solid waste without creating a nuisance or hazard to public health or safety.
- (4) "Incineration" means the [destruction] treatment of solid waste by burning in a furnace designed for the purpose wherein solid waste is essentially reduced to ash, carbon dioxide, and water vapor.
- (5) "Open dump" means an unregulated disposal site that is operating without required [compaction and cover.] pollution control measures.
- (6) "Hazardous waste" [includes, but is not limited to such items as plastics, explosives, acids, caustics, chemicals, poisons, drugs, asbestos fibers, pathogenic wastes from hospitals, sanatoriums, nursing homes, clinics, and veterinary hospitals, waste from slaughterhouses, poultry processing plants and the like.] means hazardous waste as defined in the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. 6901, et. seq.), as amended.
- (7) "Financial responsibility" means a trust fund, surety bond, or letter of credit to assure proper closure, post closure, and compensation for injuries to people or property, imposed by the director from owners or operators of hazardous waste treatment, storage, and disposal facilities.
- (8) "Treatment" when used with reference to hazardous waste means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.
- (9) "Manifest" means the form used for identifying the quantity, composition, and origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.
- (10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste onto any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including ground waters."

SECTION 5. Section 342-52, Hawaii Revised Statutes, is amended to read:
"[§342-52] Powers and duties, specific. In addition to any other power or duty prescribed by law and in this part, the director shall prevent, control, and abate solid waste pollution in the State. In the discharge of this duty the director

may:

- (1) Establish by rule [or regulation] the criteria for siting design, construction, financial responsibility, manifest, and operation of solid waste treatment, storage, transport, and disposal systems;
- (2) Appoint a master or masters to conduct investigations and hearings;
- (3) Consult with and advise any person engaged or intending to be engaged in the disposal of solid waste;
- (4) Conduct and supervise research programs for the purpose of determining the sources of solid waste, effects, and hazards of pollution associated with disposal systems;
- (5) Conduct and supervise state educational and training programs on solid waste disposal systems, including the preparation and distribution of information relating to solid waste pollution;
- (6) Require complete and detailed plans or reports on existing solid waste disposal systems and of any proposed addition to, modification of, or alteration of any such systems which contain the information requested by the director in the form prescribed by him, which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner; and
- (7) With the approval of the governor, cooperate with, and receive money from the federal government or any political subdivision of the State, or from private sources for the study and control of solid waste pollution."

SECTION 6. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.²

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

(Approved June 14, 1982.)

Notes

1. Should be underscored.

2. Edited pursuant to HRS §23G-16.5.