

**ACT 236**

**H.B. NO. 652**

**A Bill for an Act Relating to Used Oil Recycling and Disposal.**

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

**SECTION 1.** The purpose of this Act is to establish minimum requirements governing the transportation, recycling, and disposal of used oil. Such requirements are intended to: (1) prevent pollution of the drinking water supply or waters of the State; (2) prevent air pollution; (3) conserve natural resources; and (4) protect public health and safety.

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

**“PART  
USED OIL TRANSPORT, RECYCLING AND DISPOSAL**

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

“Department” means the department of health.

"Director" means the director of health or the director's duly authorized agent.

"Recycled used oil" means used oil that is reused or prepared for reuse as a petroleum product.

"Specification fuel" means recycled used oil which meets specific standards that are set by the director. These standards, at a minimum, shall comply with those set by the federal Environmental Protection Agency for specification fuel.

"Used oil" means a petroleum-based oil which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

"Used oil transporter" means any person who transports more than five hundred gallons of used oil annually.

**§342- Exemptions.** The following persons and organizations are exempt from this part:

- (1) Second-time transporters, marketers and burners of specification fuel; and
- (2) Electric public utilities and other facilities which use used oil as specification fuel in industrial boilers; provided that the used oil is generated by the facility and that the requirements established under section 342-22 are complied with.

**§342- Prohibited acts.** (a) No new oil, used oil or recycled oil shall be discharged into sewers, drainage systems, surface or ground waters, watercourses, or marine waters.

(b) No used oil transporter shall collect, transport, transfer, temporarily store, or market used oil unless the person possesses a permit to transport issued under this part.

(c) No used oil transporter shall deliver used oil to any person with the knowledge that the oil will be improperly disposed of in violation of this part.

(d) No person shall recycle, market, burn, or accept used oil for final disposal without first obtaining authorization from the department.

(e) No used oil shall be discharged onto the ground for dust suppression without prior written approval from the department and the landowner.

**§342- Used oil transport vehicles; identification required.** The department shall require used oil transporters to identify such vehicles used for the transport of used oil.

**§342- Recordkeeping requirements.** (a) Each used oil transporter shall provide a signed voucher to each person surrendering or accepting the used oil when used oil is picked up or delivered. The voucher, as a minimum, shall show the quantity of used oil, name and address of the person surrendering or accepting the used oil, pick-up location, and the proposed or actual final destination.

(b) Records shall be maintained for three years.

(c) First-time marketers and burners of specification fuel shall maintain analyses of recycled used oil which initially defined the material as specification fuel. A copy of the analyses of the specification fuel shall be delivered with the invoice to the second-time transporter, marketer and burner of the specification fuel.

(d) The department may require recordkeeping and the submittal of records for persons who transport, recycle, burn, or accept used oil for final disposal.

**§342- Fees.** The director may establish reasonable fees for the issuance of permits and variances to cover the cost of issuance thereof. The fees shall be deposited to the credit of the general fund.

**§342- Inspection of premises; examination of records.** The director may enter premises to inspect any facility, storage tank, or vehicle or examine the records required under this chapter.

**§342- Cooperation with other agencies.** The department shall coordinate its activities and functions under this chapter with the department of planning and economic development and other state agencies to avoid duplication in reporting and information gathering.

**§342- Rules.** The director shall adopt rules in accordance with chapter 91 necessary to carry out this part."

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

**"§342-11 Penalties.** (a) Violation of the vehicular noise control and vehicular smoke emission rules adopted by the department pursuant to this chapter shall constitute a violation as defined in 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 rules adopted by the department pursuant to this chapter shall constitute a violation as defined in 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, other than vehicular noise control, vehicular smoke emission control, and open burning control 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 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<sup>1</sup> or dispose of that particular hazardous waste; (2) treats, stores<sup>1</sup> 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.

(e) Any person who wilfully or negligently violates part III of this chapter or any rule [or regulation promulgated] adopted 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.

(f) Any person who wilfully or negligently violates part of this chapter or any rule adopted by the department pursuant to part shall be

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punished by a fine of not more than \$5,000 for each violation or imprisonment for not more than one year, or both. If the conviction is for a violation committed after a first conviction, the violator shall be subject to a fine of not more than \$10,000 for each violation, or by imprisonment for not more than two years, or both.

[(f)] (g) 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, or vehicle which the officer or employee 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. There is appropriated out of the general revenues of the State of Hawaii the sum of \$60,000, or so much thereof as may be necessary for fiscal year 1987-1988, for the establishment of three full-time permanent positions in the department of health and the hiring of personnel to fill such positions to carry out the purposes of this Act. The sum appropriated shall be expended by the department of health.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect ninety days after its approval; provided that Section 4 shall take effect on July 1, 1987.

(Approved June 23, 1987.)

### Note

1. Prior to amendment, "," appeared here.