

ACT 201

H.B. NO. 928

A Bill for an Act Relating to Lead Acid Batteries.

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

SECTION 1. Chapter 342I, Hawaii Revised Statutes, is amended by adding six new sections to be appropriately designated and to read as follows:

ACT 201

“§342I- Disposal of electrolyte; prohibited. No person shall dispose of electrolyte from any used lead acid battery onto the ground or into sewers, drainage systems, surface or ground waters, or ocean waters.

§342I- Recycling. Any person accepting lead acid batteries for disposal shall:

- (1) Transport the lead acid batteries, with the liquid electrolyte intact, to a transfer facility; provided that the facility is in compliance with the accumulation provisions of section 342I-4;
- (2) Transport the lead acid batteries, with the liquid electrolyte intact, to a secondary lead smelter permitted by the United States Environmental Protection Agency; or
- (3) Have the liquid electrolyte neutralized at a facility that is permitted pursuant to chapter 342H; provided that once the liquid electrolyte is neutralized in accordance with the permit issued pursuant to chapter 342H, the batteries may be transported to any secondary lead smelter.

§342I- Recordkeeping. All facilities accepting five or more lead acid batteries per day from an individual shall maintain records for three years that provide, at a minimum, the following information:

- (1) The name, phone number, and address of the person from whom the batteries were received;
- (2) The date of receipt of the lead acid batteries; and
- (3) The record of shipment indicating the ultimate destination of the lead acid batteries and the date of shipment.

§342I- Entry and inspection of records. The director of health may enter and inspect any building or place for the purpose of:

- (1) Investigating an actual or suspected violation of this chapter;
- (2) Conducting reasonable tests;
- (3) Taking samples; and
- (4) Reviewing and copying records.

§342I- Penalties. (a) Civil. Any person who violates this chapter shall be fined not more than \$10,000 for each separate offense; provided that the failure to post the notice required under section 342I-2, following a warning issued by the director of health, shall be subject to a fine of \$2,000 for each separate offense. Each battery improperly disposed of or accepted shall constitute a separate offense. The fines imposed pursuant to this subsection shall be cumulative.

(b) Criminal. Any person who knowingly or wilfully violates this chapter shall be guilty of a misdemeanor.

§342I- Disposition of collected fines and penalties. Fines and penalties collected under this chapter shall be deposited into the environmental response revolving fund, established by section 128D-2.”

SECTION 2. Section 342I-1, Hawaii Revised Statutes, is amended to read as follows:

“[§342I-1] Lead acid batteries; [land] disposal prohibited. (a) No person may [place];

- (1) Place a used lead acid battery in mixed municipal solid waste[, discard,]; or
- (2) Discard or otherwise dispose of a lead acid battery, except by delivery to [an automotive];
 - (A) A lead acid battery retailer or wholesaler[, to an authorized];
 - (B) A collection or recycling facility[,] permitted under chapter 342H; or [to a]
 - (C) A secondary lead smelter permitted by the United States Environmental Protection Agency.

[(b) No automotive battery retailer shall dispose of a used lead acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer for delivery to a secondary lead smelter permitted by the United States Environmental Protection Agency, or to an authorized collection or recycling facility, or to a secondary lead smelter permitted by the United States Environmental Protection Agency.

(c) Each battery improperly disposed of shall constitute a separate violation.

(d) For each violation of this section a violator shall be subject to the penalty provided under subsection (e) of section 342-11.]

(b) No lead acid battery retailer or wholesaler, or authorized collection or recycling facility, shall accept for disposal any lead acid batteries that have had their electrolyte removed, unless cracks in the battery shell due to aging or accident are in evidence to indicate passive leaking of the electrolyte."

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

"[~~§~~342I-3] Inspection of [automotive battery retailers.] lead acid battery facilities. The department of health shall produce, print, and distribute the notices required by section 342I-2 to all places where lead acid batteries are offered for sale at retail. In performing its duties under this [section] chapter, the department may inspect any place, building, or premise governed by [section 343I-2.] this chapter. Authorized employees of the agency may issue warnings and citations to persons who fail to comply with the requirement of [those sections. Failure to post the required notice following warning shall subject the establishment to a fine of \$2,000 per day.] this chapter."

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

"[~~§~~342I-4] Lead acid battery wholesalers. Any person selling new lead acid batteries at wholesale shall accept, at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries from customers, if offered by customers. [A] Except as otherwise provided at the discretion of the director, a person accepting batteries in transfer from an automotive battery retailer shall be allowed a period not to exceed ninety days to remove batteries from the retail point of collection."

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

ACT 201

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval.

(Approved May 28, 1991.)

Note

1. Edited pursuant to HRS §23G-16.5.