

ACT 173

S.B. NO. 2879

A Bill for an Act Relating to Motor Vehicle Tires.

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

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

“§342I-A Registration and record keeping requirements. (a) All facilities that accept used tires, including but not limited to tire retailers, wholesalers, transporters, collectors, and recyclers, shall maintain, for a minimum of three years, records that provide, at least, the following information:

- (1) The name, phone number, and address of the person, company, business, source, or entity from whom the used tires were received, if receiving used tires from entities other than the general public, such as tire retailers, wholesalers, transporters, collectors, and recyclers;
- (2) The date of receipt of the used tires;
- (3) The quantity of used tires received; and
- (4) The record of shipment indicating the:
 - (A) Ultimate destination of the used tires;
 - (B) Identification of the transporter;
 - (C) Date of shipment; and
 - (D) Quantity of tires shipped.

Permitted municipal solid waste disposal facilities, including incineration facilities that receive used tires incidental to the disposal of municipal solid waste, shall be exempt from the recordkeeping requirements of this section.

(b) A summary of the information maintained under subsection (a) shall be submitted to the department by July 31 of each year, listing the total quantity of used tires collected and the ultimate disposition of the used tires.

(c) By September 1, 2000, all importers operating within the State shall register with the department, using forms prescribed by the department, and shall notify the department of any change in address. After September 1, 2000, any person who desires to conduct business in this State as an importer shall register with the department no later than one month prior to the commencement of the business.

(d) All importers shall maintain records reflecting the importation of tires. The records shall be made available, upon request, for inspection by the department.

§342I-B Motor vehicle tire surcharge. There is established a motor vehicle tire surcharge on tires imported into the State after September 30, 2000, and before January 1, 2006. The motor vehicle tire surcharge shall be \$1 per tire imported into the State and shall include those tires imported on motor vehicles, and their associated spare tires. Motor vehicle rental companies may subtract the number of tires on motor vehicles that are exported from the State when calculating the motor vehicle

tire surcharge. The surcharge shall be paid by the person or entity who imports the tires, including importers of motor vehicles.

§342I-C Tire inventory records and payment. (a) Payment of the motor vehicle tire surcharge shall be made quarterly based on inventory records of the importers except for those importers subject to subsection (c) or (d). The dates September 30, December 31, March 31, and June 30 represent the end of each quarter period. All importers shall submit to the department documentation in sufficient detail that identifies the number of tires imported into the State during the previous quarter.

(b) The amount due from the importers for the quarter shall be equal to the number of tires provided in subsection (a) multiplied by the motor vehicle tire surcharge of \$1. Payment shall be made by check or money order payable to the "Department of Health, State of Hawaii" and shall be deposited into the environmental management special fund as provided in section 342I-D. All subsequent inventory reports and payments shall be made no later than the last day of the month following the end of the previous calendar quarter, except for those importers subject to subsection (c) or (d).

(c) An importer who imports fewer than fifty tires within a one-year period shall be exempt from payment of the surcharge.

(d) An importer who imports fifty or more tires, but fewer than or equal to two hundred tires, shall be permitted to provide a report and payment of the surcharge annually, with year ending December 31, rather than quarterly.

§342I-D Deposit into environmental management special fund. The surcharge collected pursuant to this part shall be deposited into a special account in the environmental management special fund established by section 342G-63. All interest earned or accrued on moneys deposited in the fund pursuant to this section shall become part of the account. Moneys from this special account may be used by the department to:

- (1) Support permitting, monitoring, and enforcement activities, including personnel costs regarding used tire management, collection, recycling, and disposal facilities;
- (2) Promote improved market development and reuse opportunities for recovered motor vehicle tires;
- (3) Promote tire recovery, recycling, and reuse in the State through education, research, and demonstration projects;
- (4) Implement the surcharge program under this part;
- (5) Support programs to prevent illegal dumping; and
- (6) Clean up improper tire disposal sites including conducting related environmental assessments and remediation.

§342I-E Recovery of costs. (a) Any costs incurred and payable from the fund as a result of tire cleanups and associated environmental assessments and remediation shall be recovered by the attorney general, upon the request of the department, from the liable person or persons. The amount of any cost that may be recovered pursuant to this section for a tire cleanup and associated assessment and remedial action paid from the fund shall include the amount paid from the fund and legal interest.

(b) Moneys recovered by the attorney general pursuant to this section shall be deposited to the special account of the environmental management special fund.

(c) Any action for recovery of response costs shall commence within two years after the date of completion of all response actions.

§342I-F Contract for administrative services. The department may contract the services of a third party to administer the motor vehicle tire program under this part.

§342I-G Entry and inspection of facilities. The department or other authorized party may enter and inspect any building or place, according to law at a reasonable time, for the purpose of:

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

§342I-H Enforcement. The department of health shall enforce this part. Authorized employees of the department may issue warnings, citations, or administrative orders, or commence civil action in circuit court against persons who fail to comply with the requirements of this part.

§342I-I Penalties. (a) For each violation of this part, a violator shall be subject to a penalty of not more than \$10,000 for each separate offense. However, the failure to post the notice required under section 342I-23, following a warning issued by an authorized employee of the department, shall be subject to a fine up to \$1,000 for each separate offense. Each day of each violation shall constitute a separate offense. The fines imposed pursuant to this section shall be cumulative.

(b) Remedies shall be by citations, by civil action, or as provided under sections 342H-10 and 342H-11.

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

SECTION 2. Section 342I-21, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

““Facility” means all contiguous land, including buffer zones and structures or other appurtenances and improvements on the land, used for the handling of used tires.

“Import” means to buy, bring, or accept delivery of tires, from an address, supplier, or any entity outside of the State, into the State and includes the tires on motor vehicles brought into the State.

“Importer” means any person or entity who imports tires, including the tires on motor vehicles imported into the State.”

SECTION 3. In codifying the new sections added to part II of chapter 342I, Hawaii Revised Statutes, by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in the designation of the new sections in this Act.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2000.

(Approved June 6, 2000.)

Note

1. Edited pursuant to HRS §23G-16.5.