

ACT 143

H.B. NO. 2375

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 to part II two new sections to be appropriately designated and to read as follows:

“§342H- **Felony disposal of solid waste.** (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 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 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 section shall not supersede any other disposal prohibitions established under federal, state, or county law, ordinance, regulation, or rule.

(c) Felony disposal of solid waste is a class C felony for which a maximum fine of \$50,000 for each separate offense may be imposed.

§342H- Felony disposal of solid waste; deferred prosecution agreement. First time offenses for persons cited with felony disposal of solid waste may enter into a deferred prosecution agreement. Persons failing to meet all of the terms of a deferred prosecution agreement shall be subject to prosecution under this section.

For the purposes of this section, a deferred prosecution agreement shall mean an agreement offered by the prosecutor, in the prosecutor's discretion, to the person cited that would defer prosecution during the statute of limitations period, subject to renewed prosecution if the defendant violates the conditions of the agreement. The agreement, if one is offered, shall contain provisions reasonably calculated to deter future violations. No person shall be offered a deferred prosecution agreement under this section more than once. If all terms of the agreement are met, all records of the person's arrest, indictment, or plea shall be cleared. Entering into a deferred prosecution agreement shall not be considered an admission of guilt."

SECTION 2. Section 342H-30, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(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 greater than one or less than ten cubic [~~yard~~] yards in volume anywhere other than a permitted solid waste management system without the prior written approval of the director. This prohibition shall not be deemed to supersede any other disposal prohibitions established under federal, state, or county law, regulation, rule, or ordinance."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 23, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.