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## A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that non-recyclable non-  
2 compostable plastic bags present a hazard to the natural  
3 environment. Plastic bags have significant impacts on the  
4 environment, including contributing to unsightly litter,  
5 crowding landfills with nonbiodegradable waste, endangering  
6 marine animals, and requiring the use of millions of barrels of  
7 crude oil for their manufacture. The legislature further finds  
8 that the State has an interest in protecting its natural  
9 environment and decreasing the amount of waste flowing into its  
10 landfills.

11           The purpose of this Act is to encourage the use of  
12 environmentally preferable alternatives to nonbiodegradable  
13 plastic bags.

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



1                   **"PART . USE OF RECYCLABLE PLASTIC BAGS**

2           **§342H-A Definitions.** As used in this part, unless the  
3 context otherwise requires:

4           "ASTM standard" means the American Society for Testing and  
5 Materials International standard 06400 for compostable plastic,  
6 as amended.

7           "Business" means any commercial enterprise or  
8 establishment, including sole proprietorships, joint ventures,  
9 partnerships, and corporations, or any other legally cognizable  
10 entity, whether for profit or not for profit, and includes all  
11 employees of the business or any independent contractors  
12 associated with the business.

13           "Checkout bag" means a carryout bag that is provided by a  
14 store to a customer at the point of sale.

15           "Compostable" means that the product or package meets  
16 American Society for Testing and Materials International  
17 standards for compostability.

18           "Compostable plastic bag" means a plastic bag that will  
19 break down into, or otherwise become part of, usable compost  
20 (e.g., soil-conditioning material, mulch) in a safe and timely  
21 manner.

22           "Department" means the department of the health.



1 "Director" means the director of health.

2 "Person" means an individual, trust, firm, joint stock  
3 company, corporation, cooperative, partnership, limited  
4 liability company, or association.

5 "Recyclable" means material that can be sorted, cleansed,  
6 and reconstituted using available recycling collection programs  
7 for the purpose of using the altered form in the manufacture of  
8 a new product. Recycling does not include burning,  
9 incinerating, converting, or otherwise thermally destroying  
10 solid waste.

11 "Recyclable paper bag" means a paper bag that meets all of  
12 the following requirements:

- 13 (1) Contains no old growth fiber;
- 14 (2) Is one hundred per cent recyclable overall and  
15 contains a minimum of forty per cent post-consumer  
16 recycled content; and
- 17 (3) Displays the words "Recyclable" in a highly visible  
18 manner on the outside of the bag.

19 "Reusable bag" means a bag with handles that is  
20 specifically designed and manufactured for multiple reuse and  
21 is:

- 22 (1) Made of cloth or other machine washable fabric; or



1 (2) Made of other durable material suitable for re-use,  
2 including plastic that is at least 2.25 millimeters  
3 thick.

4 **§342H-B Mandatory use of recyclable, compostable, and**  
5 **reusable checkout bags.** (a) Beginning January 1, 2009,

6 businesses with annual gross sales of over \$250,000:

7 (1) Are prohibited from providing nonbiodegradable plastic  
8 checkout bags to their customers at the point of sale;  
9 and

10 (2) Shall provide only the following as checkout bags to  
11 customers: recyclable paper bags, compostable plastic  
12 bags, or reusable bags.

13 (b) Any person who violates this section shall be subject  
14 to:

15 (1) For a first violation, a fine of not more than \$100;

16 (2) For a second violation within one year, a fine of not  
17 more than \$200; and

18 (3) For a third or subsequent violation within one year, a  
19 fine of not more than \$500.

20 (c) Nothing in this part shall preclude businesses from  
21 making reusable bags available for sale to customers.



1           **§342H-C Rules.** The director shall adopt rules under  
2 chapter 91 necessary for the purpose of this part.

3           **§342H-D Administrative penalties.** In addition to any  
4 other civil or judicial remedy provided by this part or by rules  
5 adopted under this part, the director is authorized to impose by  
6 order the following administrative penalties:

7           (1) For a first violation, a fine of not more than \$200;

8           (2) For a second violation within one year, a fine of not  
9 more than \$400; and

10          (3) For a third or subsequent violation within one year, a  
11 fine of not more than \$600.

12          **§342H-E Injunctive and other relief.** The director may  
13 institute a civil action in any court of competent jurisdiction  
14 for injunctive and other relief to prevent any violation of this  
15 part, any rule adopted pursuant to this part, to collect  
16 administrative penalties, or to obtain other relief. The court  
17 shall have power to grant relief in accordance with the Hawaii  
18 rules of civil procedure."

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



1 SECTION 4. Nothing in this Act shall be interpreted or  
 2 applied so as to create any requirement, power, or duty in  
 3 conflict with any federal or state law.

4 SECTION 5. In codifying the new sections added by section  
 5 2 of this Act, the revisor of statutes shall substitute  
 6 appropriate section numbers for the letters used in designating  
 7 the new sections in this Act.

8 SECTION 6. This Act shall take effect upon approval.  
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INTRODUCED BY:

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**Report Title:**

Environmental Protection; Plastic Bags, Prohibited

**Description:**

Requires retailers in the State to distribute only recyclable, reusable, or compostable checkout bags.

