
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 plastic bags that
2 are not recycled present a hazard to the natural environment.
3 There are, however, plastic bags provided by retailers, dry
4 cleaners, and other businesses that are 100 per cent recyclable.
5 While there exists a mechanism to divert plastic bags from
6 landfills and recycle them into parking-lot bumpers, plastic
7 lumber products, and more plastic bags, such a mechanism is
8 currently underused.

9 The legislature further finds that the state has an
10 interest in protecting its natural environment and decreasing
11 the amount of recyclable plastic bags flowing into its
12 landfills. The State needs to demonstrate a reduction of
13 plastic bags imported into the state, an increased recycling of
14 plastic bags, and a decrease in litter.

15 The purpose of this Act is to:

- 16 (1) Encourage the use of reusable tote bags by consumers;
17 (2) Facilitate and support the recycling of plastic bags
18 by both businesses and consumers; and



1 (3) Partner with business and government to educate and
 2 inform the general public to effect the necessary
 3 behavioral changes to sustain responsible activity.

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

7 "PART . PLASTIC CARRYOUT BAG RECYCLING PROGRAM

8 §342H-A Definitions. As used in this part, unless the
 9 context otherwise requires:

10 "Operator" means a person in control of, or having daily
 11 responsibility for, the daily operation of a store, which may
 12 include the owner of the store.

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

15 "Reusable bag" means either:

- 16 (1) A bag made of cloth or other machine-washable fabric
- 17 that has handles; or
- 18 (2) A durable plastic bag with handles that is at least
- 19 2.25 millimeters thick and is specifically designed
- 20 and manufactured for multiple reuse.



1 "Store" means a retail establishment that provides plastic
2 carryout bags to its customers as a result of the sale of a
3 product and meets either of the following requirements:

4 (1) Has over ten thousand square feet of retail space and
5 has a licensed pharmacy; or

6 (2) Is a full-line, self-service retail store with gross
7 annual sales of \$2,000,000 or more and which sells a
8 line of dry groceries, canned goods, nonfood items,
9 and perishable goods.

10 **§342H-B At-store recycling program; establishment;**

11 **requirements.** (a) The operator of a store shall establish an
12 at-store recycling program pursuant to this chapter that
13 provides an opportunity for a customer of the store to return
14 clean plastic carryout bags to the store.

15 (b) A retail establishment that does not meet the
16 definition of a store and that provides plastic carryout bags to
17 customers at the point of sale may also adopt an at-store
18 recycling program as specified in this chapter.

19 (c) An at-store recycling program provided by the operator
20 of a store shall include all of the following:

21 (1) A plastic carryout bag provided by the store shall
22 have printed or displayed on the bag, in a manner



1 visible to a consumer, the words "PLEASE RETURN TO A
2 PARTICIPATING STORE FOR RECYCLING";

3 (2) A plastic carryout bag collection bin shall be placed
4 at each store and shall be visible, easily accessible
5 to the consumer, and clearly marked that the
6 collection bin is available for the purpose of
7 collecting and recycling plastic carryout bags;

8 (3) The store shall maintain records describing the
9 collection, transport, and recycling of plastic
10 carryout bags collected for a minimum of three years
11 and shall make the records available to the director,
12 upon request, to demonstrate compliance with this
13 chapter; and

14 (4) The operator of the store shall make reusable bags
15 available to customers within the store, which may be
16 purchased and used in lieu of using a plastic carryout
17 bag or paper bag. This paragraph shall not apply to a
18 retail establishment described in section 342H-B(b).

19 **§342H-C Conflict with other laws.** (a) Unless expressly
20 authorized by this part, a county or other public agency shall
21 not adopt, implement, or enforce any ordinance, resolution,
22 regulation, or rule that:



- 1 (1) Requires a store that is in compliance with this
2 chapter to collect, transport, or recycle plastic
3 carryout bags;
- 4 (2) Imposes a plastic carryout bag fee upon a store that
5 is in compliance with this chapter; or
- 6 (3) Requires auditing or reporting requirements that are
7 in addition to what is required by section 342H-
8 B(c)(3), upon a store that is in compliance with this
9 chapter.

10 (b) This section shall not prohibit the adoption,
11 implementation, or enforcement of any local ordinance,
12 resolution, regulation, or rule governing curbside or drop off
13 recycling programs operated by, or pursuant to a contract with,
14 a county or other public agency, including any action relating
15 to fees for these programs.

16 (c) This section shall not affect any contract, franchise,
17 permit, license, or other arrangement regarding the collection
18 or recycling of solid waste or household hazardous waste.

19 **§342H-D Rules.** The director may adopt rules under chapter
20 91 necessary for the purposes of this part.

21 **§342H-E Administrative penalties.** In addition to any
22 other civil or judicial remedy provided by this part or by rules



1 adopted under this part, the director is authorized to impose by
2 order the following administrative penalties:

- 3 (1) For a first violation, a fine of not more than \$100;
- 4 (2) For a second violation within one year, a fine of not
5 more than \$200; and
- 6 (3) For a third or subsequent violation within one year, a
7 fine of not more than \$500.

8 **§342H-F Injunctive and other relief.** The director may
9 institute a civil action in any court of competent jurisdiction
10 for injunctive and other relief to prevent any violation of this
11 part or any rule adopted pursuant to this part, to collect
12 administrative penalties, or to obtain other relief. The court
13 shall have power to grant relief in accordance with the Hawaii
14 rules of civil procedure."

15 SECTION 3. The department of health, in cooperation with
16 but not limited to the Retail Merchants Association, Hawaii Food
17 Industry Association, and the counties, shall submit a report to
18 the legislature no later than twenty days prior to the convening
19 of the regular session of 2010, on the progress and
20 effectiveness of the plastic carryout bag recycling program,
21 including recommendations for legislation.

1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 5. Nothing in this Act shall be interpreted or
5 applied so as to create any requirement, power, or duty in
6 conflict with any federal or state law.

7 SECTION 6. In codifying the new sections added by section
8 2 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new sections in this Act.

11 SECTION 7. This Act shall take effect on July 1, 2009.



Report Title:

Environmental Protection; Plastic Carryout Bag Recycling Program

Description:

Requires certain retailers in the state to implement an at-store plastic carryout bag recycling program. (HB2434 HD1)

