
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, the 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 . AT-STORE 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
 11 responsibility for the daily operation of a store, and includes
 12 the owner of the store.

13 "Plastic carryout bag" means a plastic bag that is provided
 14 by a store to a customer at the point of sale and used to carry
 15 items purchased by the customer.

16 "Program" means the at-store plastic carryout bag recycling
 17 program established pursuant to this part.

18 "Reusable bag" means either:

- 19 (1) A bag made of cloth or other machine-washable fabric
 20 that has handles; or



1 (2) A durable plastic bag with handles that is at least
 2 2.25 millimeters thick and is specifically designed
 3 and manufactured for reuse.

4 "Store" means a retail establishment that provides plastic
 5 carryout bags to its customers and:

6 (1) Has over ten thousand square feet of retail space and
 7 a licensed pharmacy; or

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

12 **§342H-B At-store plastic carryout bag recycling program;**

13 **establishment; requirements.** (a) The operator of a store shall
 14 establish an at-store plastic carryout bag recycling program
 15 pursuant to this part that provides an opportunity for a
 16 customer of the store to return clean plastic carryout bags to
 17 the store.

18 (b) A store may apply to the state department of health
 19 and receive a hardship exemption from the program upon
 20 demonstrating a physical or financial hardship based on specific
 21 criteria established by the department by rule.



1 (c) Any retail establishment that provides plastic
2 carryout bags to customers at the point of sale but is not
3 required by this part to establish a program may adopt an at-
4 store plastic carryout recycling program as specified in this
5 chapter.

6 (d) The at-store plastic carryout bag recycling program
7 provided by the operator of a store shall include all of the
8 following:

9 (1) The plastic carryout bag provided by the store shall
10 have printed or displayed on the bag, in a manner
11 visible to a consumer, the words "PLEASE RETURN TO A
12 PARTICIPATING STORE FOR RECYCLING";

13 (2) A plastic carryout bag collection bin shall be placed
14 at each store and shall be visible, easily accessible
15 to the consumer, and clearly marked with the
16 information that the bin is available for the purpose
17 of collecting and recycling plastic carryout bags;

18 (3) The store shall maintain records describing the
19 collection, transport, and recycling of plastic
20 carryout bags under the program for a minimum of three
21 years, and shall make the records available to the



1 director upon request to demonstrate compliance with
2 this chapter; and

3 (4) The operator of the store shall make reusable bags
4 available to customers within the store, which may be
5 purchased and used in lieu of using a plastic carryout
6 bag or paper bag.

7 **§342H-C Conflict with other laws.** (a) Unless expressly
8 authorized by this part, a county or other public agency shall
9 not adopt, implement, or enforce any ordinance, resolution,
10 regulation, or rule that:

11 (1) Requires a store that is in compliance with this part
12 to collect, transport, or recycle plastic carryout
13 bags;

14 (2) Imposes a plastic carryout bag ban or fee upon a store
15 that is in compliance with this part; or

16 (3) Imposes on a store that is in compliance with this
17 part, auditing or reporting requirements on the
18 store's at-store recycling program that are in
19 addition to the requirements of section 342H-B(c)(3).

20 (b) This section shall not prohibit the adoption,
21 implementation, or enforcement of any ordinance, resolution,
22 regulation, or rule governing curbside or drop off recycling



1 programs operated by or pursuant to a contract with a county or
2 other public agency, or fees for these programs.

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

6 **§342H-D Administrative penalties.** In addition to any
7 other civil or judicial remedy provided by this part or by rules
8 adopted under this part, the director of health may impose by
9 order the following administrative penalties:

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

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

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

15 **§342H-E Injunctive and other relief.** The director may
16 institute a civil action in any court of competent jurisdiction
17 for injunctive and other relief to prevent any violation of this
18 part or of any rule adopted pursuant to this part, to collect
19 administrative penalties, or to obtain other relief.

20 **§342H-F Rules.** The director of health may adopt rules
21 under chapter 91 necessary for the purposes of this part."



1 SECTION 3. The department of health, in cooperation with
 2 the Retail Merchants Association, Hawaii Food Industry
 3 Association, counties, and other stakeholders as appropriate,
 4 shall submit a report to the legislature no later than twenty
 5 days prior to the convening of the regular session of 2011, on
 6 the progress and effectiveness of the at-store recycling
 7 program, including recommendations for legislation.

8 SECTION 4. There is appropriated out of the general
 9 revenues of the State of Hawaii the sum of \$ or so much
 10 thereof as may be necessary for fiscal year 2008–2009 for the
 11 administration and enforcement of the at-store plastic carryout
 12 bag recycling program by the department of health.

13 The sum appropriated shall be expended by the department of
 14 health for the purposes of this Act.

15 SECTION 5. This Act does not affect rights and duties that
 16 matured, penalties that were incurred, and proceedings that were
 17 begun, before its effective date.

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

21 SECTION 7. In codifying the new sections added by section
 22 2 of this Act, the revisor of statutes shall substitute

1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 8. This Act shall take effect on July 1, 2034.



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; appropriates funds.

(HB2434 HD2)

