
A BILL FOR AN ACT

RELATING TO RECYCLING.

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, this 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 promote a reduction of plastic
13 bags imported into Hawaii, an increased recycling of plastic
14 bags, and a decrease in litter.

15 The purpose of this Act is to protect Hawaii's environment
16 by:



- 1 (1) Encouraging the use of reusable tote bags by
- 2 consumers;
- 3 (2) Facilitating and supporting the recycling of plastic
- 4 bags by both businesses and consumers; and
- 5 (3) Creating partnerships between business and government
- 6 to educate and inform the public to effect the
- 7 necessary behavioral changes to sustain responsible
- 8 activity.

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

12 **"PART . AT-STORE PLASTIC CARRYOUT BAG RECYCLING PROGRAM**

13 **§342H-A Definitions.** As used in this part, unless the
14 context otherwise requires:

15 "Operator" means a person in control of or having
16 responsibility for the daily operation of a store and includes
17 the owner of the store.

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

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



1 "Reusable bag" means either:

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

4 (2) A durable plastic bag with handles that is at least
5 2.25 millimeters thick and is specifically designed
6 and manufactured for reuse.

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

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

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

15 **§342H-B At-store plastic carryout bag recycling program;**
16 **establishment; requirements.** (a) The operator of a store shall
17 establish an at-store plastic carryout bag recycling program
18 pursuant to this part that provides an opportunity for a
19 customer of the store to return clean plastic carryout bags to
20 the store.

21 (b) A store may apply to the department of health and
22 receive a hardship exemption from the program upon demonstrating



1 a physical or financial hardship based on specific criteria
2 established by the department by rule.

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

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

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

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

20 (3) The store shall maintain records describing the
21 collection, transport, and recycling of plastic
22 carryout bags under the program for a minimum of three



1 years and shall make the records available to the
2 director upon request to demonstrate compliance with
3 this chapter; and

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

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

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

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

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

21 (b) This section shall not prohibit the adoption,
22 implementation, or enforcement of any ordinance, resolution,



1 regulation, or rule governing curbside or drop-off recycling
2 programs operated by or pursuant to a contract with a county or
3 other public agency, or fees for these programs.

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

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

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

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

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

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

21 **§342H-F Rules.** The director of health may adopt rules
22 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 proposed legislation.

8 SECTION 4. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun, before its effective date.

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

14 SECTION 6. In codifying the new sections added by section
15 2 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

18 SECTION 7. This Act shall take effect on July 1, 2034, and
19 section 342H-C, Hawaii Revised Statutes, shall be repealed on
20 January 1, 2011.



S.B. NO. 651
S.D. 2
H.D. 2

Report Title:

Recycling

Description:

Establishes a statewide At-store Plastic Carryout Bag Recycling Program, requiring certain retailers to collect plastic bag in their stores and recycle collected plastic bags. (SB651 HD1)

SB651 HD2 HMS 2008-3600

