
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, 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;



1 (2) Facilitate and support the recycling of plastic bags
2 by both businesses and consumers; and

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

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

9 "PART . AT-STORE PLASTIC CARRYOUT BAG RECYCLING PROGRAM

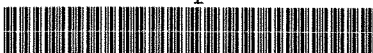
10 §342H-A Definitions. As used in this part, unless the
11 context otherwise requires:

12 "Operator" means a person in control of or having
13 responsibility for the daily operation of a store, and includes
14 the owner of the store.

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

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

20 "Reusable bag" means either:



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

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

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

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

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

14 **§342H-B At-store plastic carryout bag recycling program;**
15 **establishment; requirements.** (a) The operator of a store shall
16 establish an at-store plastic carryout bag recycling program
17 pursuant to this part that provides an opportunity for a
18 customer of the store to return clean plastic carryout bags to
19 the store.

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



1 demonstrating a physical or financial hardship based on specific
2 criteria 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



1 carryout bags under the program for a minimum of three
2 years, and shall make the records available to the
3 director upon request to demonstrate compliance with
4 this chapter; and

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

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

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

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

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



1 (b) This section shall not prohibit the adoption,
2 implementation, or enforcement of any ordinance, resolution,
3 regulation, or rule governing curbside or drop off recycling
4 programs operated by or pursuant to a contract with a county or
5 other public agency, or fees for these programs.

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

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

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

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

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

18 **§342H-E Injunctive and other relief.** The director may
19 institute a civil action in any court of competent jurisdiction
20 for injunctive and other relief to prevent any violation of this



1 part or of any rule adopted pursuant to this part, to collect
2 administrative penalties, or to obtain other relief.

3 **§342H-F Rules.** The director of health may adopt rules
4 under chapter 91 necessary for the purposes of this part."

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

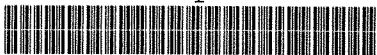
12 SECTION 4. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun, before its effective date.

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

18 SECTION 6. In codifying the new sections added by section
19 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 7. This Act shall take effect on July 1, 2034.



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

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.
(Proposed HD2)

SB 651 Proposed HD2

