

JAN 22 2010

S.B. NO. 2559

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
2 non-biodegradable single-use plastic checkout bags and
3 non-recyclable paper checkout bags present a hazard to the
4 natural environment. Non-biodegradable single-use plastic
5 checkout bags are not only a source of unsightly litter, they
6 are a significant source of environmental degradation because
7 they crowd landfills with non-biodegradable waste, endanger
8 marine life, and require fossil fuel to manufacture. The
9 legislature finds that businesses that prefer to provide
10 consumers with plastic bags should transition to providing a
11 less toxic biodegradable alternative. Non-recyclable paper bags
12 also crowd landfills and require fossil fuel to manufacture.
13 The legislature finds that businesses that prefer to provide
14 consumers with paper bags should transition to providing a less
15 toxic biodegradable alternative.

16 The legislature further finds that the State of Hawaii has
17 a compelling interest in protecting its precious natural
18 environment by decreasing the amount of waste that flows into



1 its landfills. Ample precedent supports this Act; several
2 countries, international cities, domestic cities and counties
3 have laws that discourage or ban the use of non-biodegradable
4 plastic checkout bags and non-recyclable paper checkout bags.
5 Because the State's economy, culture, and the livelihood of its
6 people depend heavily on preserving its natural environment, the
7 legislature finds that the State will benefit from the reduction
8 of waste.

9 The purpose of this Act is to reduce the State's production
10 of waste and therefore reduce the State's negative impact on its
11 natural environment. The Act does not affect all businesses, or
12 prohibit all plastic bag distribution.

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

16 "PART . USE OF RECYCLABLE PLASTIC BAGS

17 §342H-A Definitions. As used in this part, unless the
18 context otherwise requires:

19 "Biodegradable plastic bag" means plastic in which the
20 degradation results from the action of naturally occurring
21 microorganisms such as bacteria, fungi, and algae. The ultimate
22 products of this process should be carbon dioxide, water, and



1 harmless, non-toxic compost (humus) in time frames consistent
2 with the ambient conditions of the disposal method.

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

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

11 "Department" means the department of the health.

12 "Director" means the director of health.

13 "Person" means an individual, trust, firm, joint stock
14 company, corporation, cooperative, partnership, limited
15 liability company, or association.

16 "Recyclable paper bag" means a paper bag that meets all of
17 the following requirements:

- 18 (1) Contains no old growth fiber;
19 (2) Is one hundred per cent recyclable overall and
20 contains a minimum of forty per cent post-consumer
21 recycled content; and



1 (3) Displays the word "recyclable" in a highly visible
2 manner on the outside of the bag.

3 "Reusable bag" means a bag with handles that is
4 specifically designed and manufactured for multiple reuse and
5 is:

- 6 (1) Made of cloth or other machine washable fabric; or
7 (2) Made of other durable material suitable for re-use,
8 including plastic that is at least 2.25 millimeters
9 thick.

10 "Single-use plastic checkout bag" means a plastic bag that
11 does not satisfy the definition for a "reusable bag," regardless
12 of how many times it can be used.

13 **§342H-B Prohibition on non-biodegradable single-use**
14 **checkout bags.** (a) Beginning January 1, 2012, businesses with
15 annual gross sales of over \$300,000 are prohibited from
16 distributing non-biodegradable single-use plastic checkout bags
17 to their customers at the point of sale.

18 (b) Any person who violates this section shall be subject
19 to:

- 20 (1) For a first violation, a fine of not more than \$100;
21 (2) For a second violation within one year, a fine of not
22 more than \$200; and



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

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

5 **§342H-C Rules.** The director shall adopt rules under
6 chapter 91 necessary for the purpose of this part.

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 is authorized to impose by
10 order the following administrative penalties:

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

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

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

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, any rule adopted pursuant to this part, to collect
20 administrative penalties, or to obtain other relief. The court
21 shall have power to grant relief in accordance with the Hawaii
22 rules of civil procedure."



1 SECTION 3. This Act does not apply to the plastic bags
2 that are provided by grocery stores for:

- 3 (1) Raw meat, poultry, or fish;
- 4 (2) Frozen foods; and
- 5 (3) Fresh produce.

6 SECTION 4. Exemptions. The State may exempt an entity
7 from this Act for an interim period no longer than one year upon
8 sufficient showing by the applicant that implementation of the
9 provisions of this Act would cause undue hardship. This request
10 shall be submitted in writing to the director of health. The
11 term "undue hardship" may include, but is not limited to, the
12 following:

- 13 (1) Situations where there are no acceptable alternatives
14 to non-biodegradable single-use plastic shopping bags
15 for reasons that are unique to the entity; and
- 16 (2) Situations where compliance with the requirements of
17 this Act would deprive a person of a legally protected
18 right.

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



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

5 SECTION 7. This Act shall take effect upon approval.

6

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 biodegradable checkout bags.

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