
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" 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 "Department" means the department of the health.

10 "Director" means the director of health.

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

14 "Reusable bag" means a bag with handles that is
15 specifically designed and manufactured for multiple reuse and
16 is:

- 17 (1) Made of cloth or other machine washable fabric; or
18 (2) Made of other durable material suitable for reuse,
19 including plastic that is at least 2.25 millimeters
20 thick.

1 "Single-use plastic checkout bag" means a carryout bag that
2 is provided by a store to a customer at the point of sale,
3 which:

4 (1) Does not satisfy the definition for "reusable bag",
5 regardless of how many times it can be used; and

6 (2) Is not made of biodegradable plastic.

7 **§342H-B Prohibition on non-biodegradable single-use**

8 **checkout bags.** (a) Beginning January 1, 2012, businesses with
9 annual gross sales of over \$300,000 are prohibited from
10 distributing single-use plastic checkout bags to their customers
11 at the point of sale.

12 (b) Any person who violates this section shall be subject
13 to:

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

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

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

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

21 **§324H-C Exemptions.** This section shall not apply to any
22 bag provided by stores and restaurants for:

- 1 (1) Raw meat, poultry, or seafood;
- 2 (2) Frozen foods;
- 3 (3) Fresh produce and food sold in bulk;
- 4 (4) Baked goods sold without packaging; and
- 5 (5) Prepared foods.

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

8 **§342H-E Administrative penalties.** In addition to any
9 other civil or judicial remedy provided by this part or by rules
10 adopted under this part, the director is authorized to impose by
11 order the following administrative penalties:

- 12 (1) For a first violation, a fine of not more than \$200;
- 13 (2) For a second violation within one year, a fine of not
14 more than \$400; and
- 15 (3) For a third or subsequent violation within one year, a
16 fine of not more than \$600.

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

1 shall have power to grant relief in accordance with the Hawaii
2 rules of civil procedure."

3 SECTION 3. Exemptions. The State may exempt an entity
4 from this Act for an interim period no longer than one year upon
5 sufficient showing by a person, as defined in section 342H-A,
6 Hawaii Revised Statutes, that implementation of the provisions
7 of this Act would cause undue hardship. The person shall submit
8 a request for an exemption in writing to the director of health.
9 The term "undue hardship" may include, but is not limited to,
10 the following:

- 11 (1) Situations where there are no acceptable alternatives
12 to single-use plastic checkout bags, as defined in
13 section 342H-A, Hawaii Revised Statutes, for reasons
14 that are unique to the entity; and
- 15 (2) Situations where compliance with the requirements of
16 this Act would deprive a person of a legally-protected
17 right.

18 SECTION 4. 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 5. In codifying the new sections added by
22 section 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 6. This Act shall take effect upon approval.

4

Report Title:

Environmental Protection; Plastic Bags, Prohibited

Description:

Requires retailers in the State to distribute only reusable or biodegradable checkout bags. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.