

JAN 23 2009

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 create
2 unsightly litter, add additional burdens to Hawaii landfills,
3 and require the use of millions of barrels of crude oil for
4 their manufacture. Plastics take decades to break down and
5 present a significant, long-lasting hazard to the environment.

6 The legislature acknowledges that the county of Maui has
7 implemented an ordinance to ban plastic shopping bags and
8 encourages the use of reusable or recyclable bags for the
9 transporting of goods and groceries starting in 2011. Other
10 cities that have passed legislation to ban plastic shopping bags
11 include Los Angeles, San Francisco, and Malibu in California,
12 and Westport, Connecticut.

13 The legislature further finds that the State has an
14 interest in protecting its natural environment, eliminating
15 litter, and decreasing the amount of recyclable plastic bags
16 flowing into its landfills. The State must follow the emerging
17 domestic trend of environmental protection and promote the



1 reduction and recycling of plastic bags and a decrease in
2 litter.

3 The purpose of this Act is to protect Hawaii's environment
4 by:

- 5 (1) Encouraging the use of reusable bags by consumers;
- 6 (2) Facilitating and supporting the recycling of plastic
7 bags by both businesses and consumers; and
- 8 (3) Banning at-store usage of plastic carryout bags
9 beginning on January 1, 2011.

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

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

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

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

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

21 "Reusable bag" means a bag made of cloth or other machine-
22 washable fabric that has handles.



1 "Store" means any business that provides plastic carryout
2 bags to its customers at the point of sale and:

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

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

9 §342H-B At-store plastic carryout bag recycling program;
10 establishment; requirements. (a) The operator of a store shall
11 establish an at-store plastic carryout bag recycling program
12 pursuant to this part that provides an opportunity for a
13 customer of the store to return clean plastic carryout bags to
14 the store.

15 (b) The department of health may provide to a store a
16 hardship exemption from the program upon the demonstration of a
17 physical or financial hardship based on specific criteria
18 established by the department of health by rule.

19 (c) Any store that that is not required by this part to
20 establish a program may adopt an at-store plastic carryout bag
21 recycling program as specified in this part.



1 (d) The at-store plastic carryout bag recycling program
2 provided by the operator of a store shall include all of the
3 following:

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

8 (2) A plastic carryout bag collection bin shall be placed
9 at each store and shall be visible, easily accessible
10 to the consumer, and clearly marked with the
11 information that the bin is available for the purpose
12 of collecting and recycling plastic carryout bags;

13 (3) The store shall maintain records describing the
14 collection, transport, and recycling of plastic
15 carryout bags under the program for the length of the
16 program and shall make the records available to the
17 director upon request to demonstrate compliance with
18 this chapter; and

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



1 **§342H-C Conflict with other laws.** (a) Unless expressly
2 authorized by this part, a county or other public agency shall
3 not adopt, implement, or enforce any ordinance, resolution,
4 regulation, or rule that:

5 (1) Requires a store that is in compliance with this part
6 to collect, transport, or recycle plastic carryout
7 bags; and

8 (2) Imposes on a store that is in compliance with this
9 part, auditing or reporting requirements on the
10 store's at-store plastic carryout bag recycling
11 program that are in addition to the requirements of
12 section 342H-B(d)(3).

13 (b) This section shall not prohibit the adoption,
14 implementation, or enforcement of any ordinance, resolution,
15 regulation, or rule governing curbside or drop-off recycling
16 programs operated by or pursuant to a contract with a county or
17 other public agency, or fees for these programs.

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

21 **§342H-D Administrative penalties.** In addition to any
22 civil remedy provided by law or by administrative rules, the



1 director may impose, by order, the following administrative
2 penalties:

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

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

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

8 Fines collected pursuant to this part shall be deposited into
9 the general fund of the State of Hawaii.

10 §342H-E Injunctive and other relief. The director may
11 institute a civil action in any court of competent jurisdiction
12 for injunctive and other relief to prevent a violation of this
13 part or of a rule adopted pursuant to this part, to collect
14 administrative penalties, or to obtain other relief.

15 §342H-F Rules. Pursuant to chapter 91, the department of
16 health may adopt rules necessary for the purposes of this part."

17 SECTION 3. Chapter 342H, Hawaii Revised Statutes, is
18 amended by adding a new part to be appropriately designated and
19 to read as follows:

20 "PART . PLASTIC CARRYOUT BAG REDUCTION

21 §342H-G Definitions. As used in this part, unless the
22 context otherwise requires:



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

7 "Operator" means a person in control of or having
8 responsibility for the daily operation of a store and includes
9 the owner of the store.

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

13 "Reusable bag" means either a bag made of cloth or other
14 machine-washable fabric that has handles.

15 "Store" means a retail establishment that provides plastic
16 carryout bags to its customers at the point of sale.

17 **§342H-H Plastic carryout bag; prohibition.** (a) Beginning
18 on January 1, 2011, all store operators are prohibited from
19 providing plastic carryout bags to consumers at the point of
20 sale for the purpose of transporting groceries or other goods.



1 (b) All store operators shall be required to provide or
2 sell reusable bags to consumers for the purpose of transporting
3 groceries or other goods.

4 §342H-I Administrative penalties. In addition to any
5 civil remedy provided law or by administrative rules, the
6 director may impose, by order, the following administrative
7 penalties:

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

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

11 (3) For a third or subsequent violation within one year, a
12 fine of not more than \$500;

13 provided that each issuance by a store operator or any of the
14 store operator's employees of a plastic carryout bag in
15 violation of section 342H-H shall constitute a separate
16 violation.

17 Fines collected pursuant to this part shall be deposited
18 into the general fund of the State of Hawaii.

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



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

3 §342H-K Rules. Pursuant to chapter 91, the department of
4 health may adopt rules necessary for the purposes of this part."

5 SECTION 4. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun, before its effective date.

8 SECTION 5. Nothing in this Act shall be interpreted or
9 applied so as to create any requirement, power, or duty in
10 conflict with any federal law.

11 SECTION 6. In codifying the new sections added by section
12 2 and 3 of this Act, the revisor of statutes shall substitute
13 appropriate section numbers for the letters used in designating
14 the new sections in this Act.

15 SECTION 7. This Act shall take effect on July 1, 2009,
16 provided that the new part to chapter 324H, Hawaii Revised
17 Statutes, relating to the at-store plastic carryout bag
18 recycling program, as set forth in section 2 of this Act, shall
19 be repealed on January 1, 2011.

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INTRODUCED BY:

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May 1, 2009



Report Title:

Recycling; Plastics; Environment

Description:

Establishes a statewide at-store plastic carryout bag recycling program, requiring certain retailers to collect and recycle plastic bags in their stores. Creates a ban on plastic bags effective January 1, 2011.

