

February 9, 2010 @ 8:30 am in CR 312

To: House Committee on Economic Revitalization, Business, & Military Affairs
Rep. Angus L.K. McKelvey, Chair
Rep. Isaac Choi, Vice Chair

By: Richard C. Botti, President
Lauren Zirbel, Government Relations

Re: HB 2125 HD1 RELATING TO ENVIRONMENTAL PROTECTION

Chairs & Committee Members:

We oppose this bill as a solution to the issue it is intended to address.

While we are in full agreement that we cannot continue to be a disposable society using hundreds of thousands of one way bags to carry our purchases home each year, we do not believe this measure is the ultimate solution to address the situation.

Our industry is already making a difference with the following steps:

- Pay customers up to a nickel for every bag of their own brought in for their purchases;
- Sell or give away reusable bags while encouraging consumers to use them;
- Create and support plastic recycling programs where bags and other plastics are collected and returned to the Mainland for recycling; and
- Utilize biodegradable plastic bags and/or compostable bags.
- As an industry trade association, we stayed away from a proposal to charge customers for bags, as it could lead to anti-trust issues. If government came up with the idea, it would be more acceptable, and all retailers would be required to comply. This idea however has been attempted in other jurisdictions, and resulted in a backlash.

We believe consumers rejected this idea based on the psychology of the issue. I will give you an example:

- One of our major retailers saw a major increase in their program of paying customers a nickel for each bag of their own used. Customers would instruct the clerk to limit the number of items in each bag so as to maximize their nickels. This shows that customers are akamai enough to maximize their return.
- If the customer were charged for every bag, we can reasonably expect the opposite result. Customers would want to fill the bags to the extent they may fall apart. This would be the reverse of the nickel payout, and could lead to major liability issues.

When the House adopted HCR 43 last year, it was a House only adoption, which means the measure can be considered meaningless. We did however use this as an opportunity to bring the issue to the HFIA leadership, asking for a Working Group to be established to come up with a report on what industry believe would work, without interfering with what different retailers were already doing and utilizing as a marketing tool.

THIS IS WHAT THE HFIA Working Group Recommends

While supporting any new tax is undesirable, precedence has been established with the Glass Advance Disposal Fee adopted by the City & County of Honolulu in 1989 when HFIA was challenged by the City & County of Honolulu to address a problem where glass did not burning in HPOWER, but rather melting on the walls, requiring the facility to be shut down to conduct periodical clean-up with major cost involved. HFIA supported a small broad brushed fee to address this specific problem. We felt it was necessary for our industry to be a part of the solution rather than the problem. The ADF was later adopted by the Legislature and made state-wide.

Realizing that any ban or fee will ultimately reduce consumer choices, create shortages, and be paid for by the consumer, we support a law that will:

- Be the least costly to implement;
- Directly address the problem with a final long term solution;
- Allow for competition within the various types of bags while reaching environmental goals; and
- Will be small enough to minimize the impact on product pricing that would be passed on to consumer, if any; and Generate funding that maintains a direct nexus to the issue it is addressing.

HFIA's Proposal

HFIA is proposing that the Legislature impose an ADF (Advance Disposal Fee) on all single use bags used at retail establishments at the rate of one cent per bag regardless type of size, payable to the State, with 90% of the revenues distributed to each county based on a de facto population earmarked to fund education to encourage resource reuse and recycling, as well as Waste to Energy projects that will utilize or divert landfill waste. County funding would be contingent upon legislative preemption of existing or proposed county ordinances relating to the subject matter.

With landfills becoming landfulls, we believe the future will include mining our landfills for sources of energy. The best example of this is plastic has approximately the same British thermal unit (BTU or Btu) as does oil, and higher than coal. Yet we are landfilling plastics of all types when we could be reducing our consumption of imported oil by using all products packaged in plastic as energy. We need to use 5% of the funding for long range planning to ultimately reduce our landfills by mining them as a source of energy, and to study a means of separating plastic prior to entering our landfill to be used as a strategic energy reserve.

Plastic bags are made from natural gas created in America. While they are not made from imported oil, they do still have a high Btu value, and can produce energy, and should be utilized for this purpose.

Require 5% of the total revenues generated from the ADF to educate consumers on the importance of:

- Reducing single use bag consumption;
- Reusing bags for other purposes such as wet waste, trash, lunch bags, etc.; and
- Promoting reusable bag use by consumers; and Recycling of all types of bags, whether they are compostable, biodegradable, regular plastic, or paper.

The HFIA Working Group was made up of the following companies representing their firms:

ABC Stores - Paul Kosasa
Down to Earth - Mark Fergusson & Frank Santana
Foodland - Simon Cutts
HFIA Legal Counsel – Robert F. Miller
Island Plastic Bags – David Hong
KTA Superstores – Derek Kurisu
KYD - Glenn Horichi & Dexter Yamada
Seven-Eleven – Glenn Nagatori
Times Supermarkets – Randy Slentz

KYD - Glenn Horichi & Dexter Yamada
Seven-Eleven – Glenn Nagatori
Times Supermarkets – Randy Slentz
Tropical Brokerage - Dave Oshita
Whole Foods Market – Claire Sullivan

Representative Angus McKelvey, Chair
Representative Isaac Choy, Vice Chair
Committee on Economic Revitalization, Business & Military Affairs

HEARING Tuesday, February 09, 2010
8:30 am
Conference Room 312
State Capitol, Honolulu, Hawaii 96813



RE: **HB2125, HD1, Relating to Environmental Protection**

Chair McKelvey, Vice Chair Choy, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH strongly opposes HB2125, HD1, which requires businesses in the state to collect an offset fee for each plastic or paper disposable checkout bag distributed to customers. The stated purpose of this measure is to protect the environment by reducing the state's production of waste and the negative impact to the environment; it focuses only on disposable checkout bags. **It does not apply to ALL businesses or prohibit ALL disposable bag distribution, including biodegradable bags.**

To that point, HB2125, HD1 is highly discriminatory, **unfairly imposing an additional administrative burden** on a specific sector of retail. Updating computer systems, collecting the off-set fees, preparing / filing required reports will be very costly. While retailers that offer a credit to customers that provide their own bags will be allowed to keep an unknown percentage of the fee, it is taxable as income. The net result will in no way be sufficient to cover these costs. In this troubling economy, retailers should be afforded opportunities to keep their doors open and their employees employed, and not be overly burdened with greater expenses.

Exemptions: The plastic bags that retailers currently offer ARE RECYCLABLE; retailers have provided bins to collect excess bags AND ship them out of the state for recycling. These do not end up in the landfill. The exemptions provided, newspaper bags, dry cleaning bags, and door hanger bags will end up in the landfill and are light enough to blow into the ocean. We question their exclusion. As for bags sold in packages containing multiple bags intended for use as garbage, pet waste or yard waste, their exemption merely substitutes a heavier bag that might not blow away, but will end up in the landfill.

Hawaii's retailers absolutely support initiatives to preserve and protect our environment. The solution to the disposable plastic bag issue is the **wise management** of this resource, i.e., the "**reduce, reuse and recycle**" principle. We unquestionably support the broadest use of reusable tote bags as the ultimate solution, and have been proactive in providing these for our customers. Additionally, we encourage plastic bag recycling by providing convenient bins at store entrances, then recycling the collected bags. However, we do know that consumers' acceptance and use of reusable bags will not be universal, affordable or practical at all times. We must provide cost-effective and useful alternatives. While we make paper bags available for consumers who prefer them, for obvious environmental impact reasons, we do not consider paper a viable option.

Most importantly, from the consumer point of view, HB2125, HD1 is highly regressive, adding greater cost burden at the grocery level for those residents who have the fewest resources.

We urge you to hold HB2125, HD1. Thank you for your consideration and for the opportunity to submit testimony.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202



February 8, 2010

To: The Honorable Angus L.K. McKelvey, Chair
House Economic Revitalization, Business, & Military Affairs Committee

From: Tim Shestek
Senior Director, State Affairs
American Chemistry Council

Re: **HB 2125 HD1 - OPPOSE**

The American Chemistry Council (ACC) must respectfully oppose HB 2125, legislation that would impose a \$0.10 “offset fee” for each plastic or paper retail bag provided to customers by businesses.

Though we support the intent of reducing plastic bag litter and waste, we believe that the most environmentally responsible and economically sustainable solution to addressing this issue is a comprehensive program aimed at recycling these bags so that they may be used as feedstock in the production of other products, such as new bags, pallets, containers, crates, and pipe. Recycling policies and programs have recently been adopted by the State of California, New York, Rhode Island, and Chicago and many voluntary initiatives are underway in other jurisdictions.

Recycling of plastic bags is growing fast in the United States. In 2008 over 832 million pounds of plastic bags and wraps were recycled, representing a 27 percent increase in only a few years. According to EPA data, recycling of polyethylene bags and wraps reached 12 percent in 2007.

When the City of Seattle, WA was considering a similar “bag tax” proposal, a fiscal analysis stated the city’s Department of Executive Administration’s (DEA) costs **“would also include approximately \$250,000 to DEA to administer the fee.”**¹

You may also be interested in knowing that Seattle voters overwhelmingly rejected a \$0.20 consumer bag charge, and the California State Assembly Appropriations Committee last month held two pieces of legislation (AB 68 and AB 87) that would have required certain grocers and retailers to impose a \$0.25 per bag consumer charge.

¹ <http://clerk.ci.seattle.wa.us/~public/fnote/116251.htm>

ACC would welcome the opportunity to partner with the State of Hawaii, the grocery and retail industry, recyclers, and other interested stakeholders to enhance and/or develop a system that effectively and efficiently helps to recycle these products. Our industry is involved in many similar programs in California, Washington State, Illinois, and Philadelphia to name just a few and it is our view that **a per bag fee as proposed in HB 2125 HD 1 is an unnecessary financial burden on consumers.**

Finally, HB 2125 HD 1 does not take into account the fact that more than 90 percent of today's consumers **reuse plastic bags** as liners for household wastebaskets, lunch totes, laundry or garment bags or for pet waste. Should this legislation be enacted, consumers would be required to purchase new plastic bags to replace the bags they normally just reused. This "tradeoff" makes little environmental and economic sense.

Thank you in advance for the opportunity to provide these comments. Should you have any questions or comments, please contact me at 916-448-2581 or via email at tim_shestek@americanchemistry.com. You may also contact ACC's Hawaii based representatives Red Morris or John Radcliffe at 808-531-4551.



Conservation Council for Hawai'i

Testimony Submitted to the House Committee on Economic Revitalization, Business,
and Military Affairs

HB 2125 HD 1 Relating to Environmental Protection

Hearing: Tuesday, February 9, 2010 8:30 am Room 325

In support of HB 2125 HD 1

Aloha. Conservation Council for Hawai'i supports HB 2125 HD 1, which requires businesses in the State to collect an offset fee for each plastic disposable checkout bag distributed to customers.

HB 2125 would encourage more residents and visitors to use reusable bags. This would reduce the number of sea turtles and other marine wildlife that are killed or harmed by ingesting disposable plastic bags. Sea turtles ingest plastic bags, mistaking them for food, and may suffer a gruesome death. The ingested bag may get trapped in the turtle's gut, prevent food from going down, lead to absorption of toxins, and reduce the absorption of nutrients from real food. Trapped food decomposes, leaks gases into the body cavity, and causes the turtle to float. The turtle then slowly starves to death or succumbs to other secondary life-threatening conditions, such as a boat strike.

HB 2125 HD 1 would also reduce the number of disposable bags we use, and the energy needed to manufacture, ship, and discard them. This saves the people and the government money, and contributes to a more sustainable way of living on these islands. Americans go through more than 100 billion plastic bags each year, yet less than 5% are ever recycled. Let's make a positive change and not support this wasteful practice any longer.

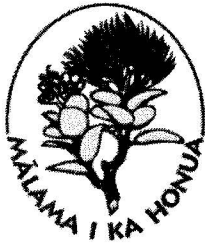
Please pass HB 2125 HD 1. Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler



Hawai'i's Voice for Wildlife – *Ko Leo Hawai'i no na holoholona lohiu*

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President: Maura O'Connor * Treasurer: Kim Ramos * Secretary: Douglas Lamerson
Directors: Madelyn D'Enbeau * Maka'ala Ka'aumoana * Hannah Springer
Executive Director: Marjorie Ziegler



Sierra Club Hawai'i Chapter

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HOUSE COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS, & MILITARY AFFAIRS

February 9, 2010, 8:30 A.M.

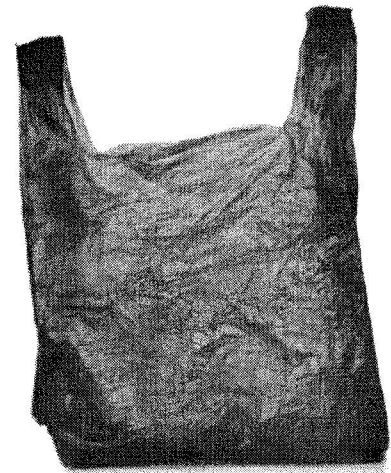
(Testimony is 3 pages long)

TESTIMONY IN STRONG SUPPORT OF HB 2125 WITH A PROPOSED AMENDMENT

Aloha Chair McKelvey and Members of the Committee:

The Hawai'i Chapter of the Sierra Club strongly supports HB 2125, which creates a clever offset fee for the use of single use bags (whether paper or plastic) and incentivizes retail stores to encourage the use of less-harmful bags. An offset fee smartly creates a direct market reflection of the actual economic and environmental costs created by the abuse of single-use bags in Hawai'i.

Single use bags simply are not in Hawai'i's sustainable future and strong efforts should be made to discourage their continued use.



I. Reducing Our Opala Problem.

Hawai'i is faced with a solid waste crisis. A study completed for the City and County of Honolulu by consulting group R.W. Beck, the "2006 Waste Characterization Study" (available online at www.opala.org), reveals some shocking facts about Oahu's solid waste situation. Since the last waste characterization study in 1999, the trash from Oahu households increased by 30.2% from 316,491 tons annually in 1999 to 412,016 tons in 2006 (R.W. Beck, "2006 Waste Characterization Study," April 2007, at 3-11). The population increased by roughly 3% over the same period (878,906 to 906,000) -- **meaning waste generation from households increased 10 times faster than population growth.**

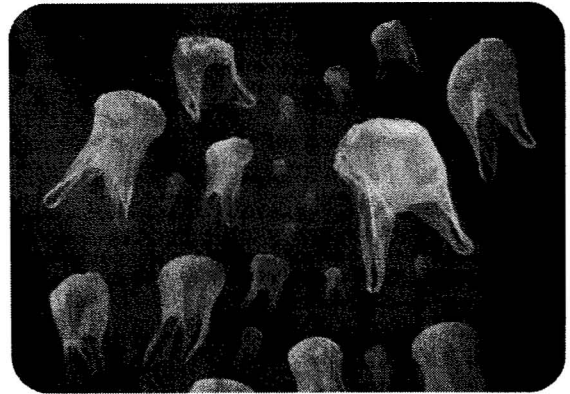
The proliferation of single use bags directly contributes to this problem. They tax our economy and environment when they are littered or placed in our overflowing landfills. For example, a

recent study conducted in Seattle concluded -- even with a high 13% recycling rate (greater than the national average of 3-5%) -- approximately 1,650 tons of plastic bags were put into the landfill annually.¹ The net cost to Seattle and ratepayers of collecting, transferring and disposing of waste was calculated to be approximately \$121 per ton or approximately \$200,000 for plastic grocery bags.

Even if these bags are burned at H-POWER (only on O'ahu), they are essentially converted to greenhouse gasses, further hastening global climate change, and ultimately not addressing the root of the problem. Similarly, with nearly 40% of the State's solid waste-stream able to be diverted from disposal at the landfill, plastic bags pose the single-most significant challenge to composting facilities, contaminating the compost, getting wrapped in the splines of processing equipment, and reducing the value of the compost product.

II. Consumers Already Indirectly Pay for Single Use Bags.

"Free" single use bags are an expense that is typically not directly visible by customers. Retailers spend hundreds of millions of dollars annually to provide single-use bags to customers. For example, supermarkets can spend up to \$1,500 to \$6,000 a month just to provide single-use bags to their customers at the check-out.² Even major retailers such as Target and CVS are realizing this significant cost burden and are offering discount incentives to customers who bring their own bags.³



The cost of purchasing tens of millions of bags in Hawai'i annually is most certainly passed on to local consumers, but it is not a visible cost and, thus, normal market controls do not take place. As with anything "free," we tend to take advantage of the ready supply plastic bags without considering the indirect costs.

It should be noted that two highly successful business in Hawai'i -- Costco and Wholefoods -- do not offer its customers plastic bags. These businesses are flourishing. The switch by

¹ See Alternatives to Disposable Shopping Bags and Food Service Items, available at http://www.ci.seattle.wa.us/util/Services/Recycling/Reduce_Reuse_Exchange/ProposedGreenFee/index.htm

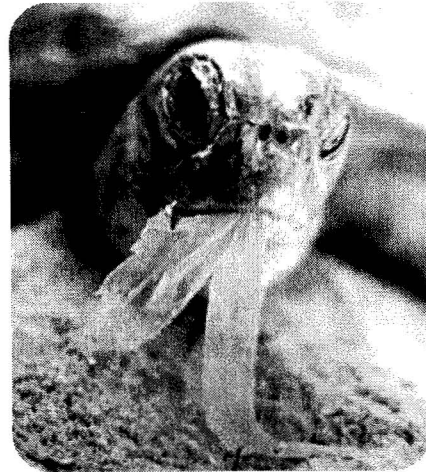
² Downing, J. "Free Grocery Bags Targeted for Extinction in California," *Sacramento Bee*, Aug. 25, 2008. Estimates from bag manufacturers and the Food Marketing Institute. Available at http://www.roplast.com/documents/Free_grocery_bags_targeted_for_extinction_in_California_-_Sacramento_Politics_-_California_Politics_Sacramento_Bee.pdf.

³ Horovitz, B. "Target, CVS Put Plastic Bags in the Bull's-Eye, Pay for Reusables," *USA Today*, Oct. 19, 2009.

Wholefoods alone kept 100 million plastic bags out of the environment between April 22, 2008 and the end of 2008.

III. Single Use Bags Tax Our Environment.

Single use bags contribute to litter and pose a threat to avian and marine life in Hawai'i -- the endangered species capitol of the world. As noted by NOAA,⁴ plastic photo-degrades -- breaking down into smaller and smaller pieces due to exposure to solar UV radiation. However, when in water plastic does not get direct sunlight exposure, therefore breakdown happens much more slowly in the aquatic environment. So far as we know, plastics do not ever fully "go away," but rather break down into smaller and smaller pieces, sometimes referred to as microplastics.



Plastics also have the potential to adsorb contaminants from the marine environment and carry these contaminants through the food chain. Plastic debris attracts and accumulates hydrophobic organic toxins such as PCBs (polychlorinated biphenyls) up to 100,000-1,000,000 times ambient seawater concentrations. These toxins can then bioaccumulate up the food chain, where they directly impact human health.

IV. Proposed Amendment.

We respectfully suggest expanding the ability of the grocery stores to keep a percentage of the offset fee if they (1) process the payments to the State in a timely fashion or (2) give away or provide reusable bags at a discount. These changes would justifiably reward retailers for encouraging a reduction in the use of single use bags and fulfilling the requirements of this measure.

V. Bold Action Is Needed Now.

The measure before this Committee recognizes the critical issues at stake for our environment and encourages consumers to take responsible, proactive action to change their habits. We urge this Committee to consider the various approaches that numerous cities across the United States, as well as several countries around the world have taken in addressing the challenges posed by single use bags.

We hope you will move this measure forward. Thank you for the opportunity to testify.

⁴ See <http://marinedebris.noaa.gov/info/plastic.html>

Aloha Members of the Economic Revitalization, Business and Military Affairs Committee,

I strongly support House Bill 2125 because I believe plastic bags are an extremely unnecessary hazard to the natural beauty of Hawaii's environment, as well as the marine life so strongly and adversely affected by the proliferation of plastic bags floating around in the ocean.

Nobody wants to come to Hawaii and see trash on the streets. I understand that trash is inevitable in any populated area and that people generate waste. However, the bags being targeted by this bill are an unnecessary and completely avoidable source of waste that remains in the environment forever.

The trend of reusable bags being sold demonstrates the public mindset in support of this fee system. Most people now are not compelled to remember to carry their reusable bags into the store every time because they are only receiving a few cents credit to their overall cost. However, by implementing a fee system, people are more likely to use reusable bags to avoid money being taken from their pockets.

The fee system will also create revenue for the State, which should be something that the legislature is striving for in this tough economic time.

Please support HB2125!!!!

Mahalo for your time and consideration,

Stacy Takekawa

William S. Richardson School of Law
First Year Law Student

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 07, 2010 10:33 AM
To: EBMtestimony
Cc: Douglasperrine@yahoo.com
Subject: Testimony for HB2125 on 2/9/2010 8:30:00 AM

Testimony for EBM 2/9/2010 8:30:00 AM HB2125

Conference room: 312
Testifier position: support
Testifier will be present: No
Submitted by: Doug Perrine
Organization: Individual
Address: 76-223 Haa Street Kailua Kona HI
Phone: 808-329-4523
E-mail: Douglasperrine@yahoo.com
Submitted on: 2/7/2010

Comments:
Please pass to save wildlife and extend life of landfills.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 06, 2010 12:46 PM
To: EBMtestimony
Cc: chad@chaddeal.com
Subject: Testimony for HB2125 on 2/9/2010 8:30:00 AM

Testimony for EBM 2/9/2010 8:30:00 AM HB2125

Conference room: 312
Testifier position: support
Testifier will be present: No
Submitted by: Chad Deal
Organization: Individual
Address: 5071 Hanalei Plantation Road (PO Box 223841) Princeville, HI
Phone: 8084820338
E-mail: chad@chaddeal.com
Submitted on: 2/6/2010

Comments:
I am in support of (HB2125) a ban on plastic bags.