
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 342H, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . DISPOSABLE CHECKOUT BAG FEE**

5 **§342H-A Definitions.** As used in this part, unless the
6 context otherwise requires:

7 "Business" means any commercial enterprise or
8 establishment, including sole proprietorships, joint ventures,
9 partnerships, and corporations, or any other legally cognizable
10 entity, and includes all employees of the business or any
11 independent contractors associated with the business.

12 "Disposable checkout bag":

13 (1) Means a bag made of plastic that is less than 2.25
14 mils thick, whether recyclable or non-recyclable, that
15 is provided by a business to a customer, and is
16 designed for one-time use to contain and transport
17 merchandise; and

18 (2) Does not include:



- 1 (A) Bags used by customers inside a business to
2 package loose items, such as fruits, vegetables,
3 nuts, grains, or candies, or small hardware
4 items;
- 5 (B) Bags used to contain or wrap frozen foods, meat
6 or fish, flowers or potted plants, or other items
7 to contain dampness;
- 8 (C) Bags used to protect prepared foods or bakery
9 goods;
- 10 (D) Bags provided by pharmacists to contain
11 prescription medications;
- 12 (E) Newspaper bags;
- 13 (F) Door hanger bags;
- 14 (G) Laundry or dry cleaning bags, including bags
15 provided by hotels to guests to contain wet or
16 dirty clothing;
- 17 (H) Bags sold in packages containing multiple bags
18 intended for use as garbage, pet waste, or yard
19 waste bags; or
- 20 (I) Bags used to contain live animals, such as fish
21 or insects sold in pet stores.



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

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

7 **§342H-B Distribution of disposable checkout bags; fee.**

8 (a) Beginning January 1, 2012, all businesses in the State
9 shall charge and collect a fee of 10 cents for each disposable
10 checkout bag that is provided to customers.

11 (b) Businesses subject to the requirements of this part
12 shall indicate on each customer transaction receipt the number
13 of disposable checkout bags provided and the amount of the fee
14 charged.

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

17 **§342H-C Remittance of fees.** (a) Not later than the
18 fifteenth day of each month, each business subject to the
19 requirements of this part shall remit to the department the fees
20 collected pursuant to section 342H-B during the previous month.

21 (b) A business may develop and implement its own recycling
22 program for disposable checkout bags, if approved by the



1 director of health. Businesses that develop and implement a
2 recycling program for disposable checkout bags shall remit to
3 the department an amount equal to fifty per cent of the fees
4 collected pursuant to section 342H-B during the previous month;
5 provided that each businesses shall post conspicuous notice of
6 its recycling program within the premises of the business. The
7 portion of fees retained by a business shall be subject to state
8 taxes.

9 (c) Payments and receipts of fees shall be reported on
10 forms prescribed by the director.

11 (d) Businesses shall be subject to penalties and interest
12 for late or underpaid fees.

13 (e) All fees collected by the department pursuant to this
14 part shall be deposited into the energy sustainability special
15 fund.

16 **§342H-D Violations.** It shall be a violation of this part
17 for any business that is subject to the requirements of this
18 part to pay or otherwise reimburse a customer for any portion of
19 the fee.

20 Violations of this part or any rule adopted pursuant to
21 this part shall be subject to a fine of not less than \$1,000 for
22 each violation.



1 **§342H-E Preemption.** Except for any county ordinance
 2 regulating disposable checkout bags in effect prior to the
 3 effective date of this part, this part shall preempt the powers
 4 of any county to regulate the use of disposable checkout bags.

5 **§342H-F Rules.** The director shall adopt rules, pursuant
 6 to chapter 91, as may be necessary for the purposes of this
 7 part.

8 **§342H-G Energy sustainability special fund.** There is
 9 created within the state treasury the energy sustainability
 10 special fund into which shall be deposited fees remitted by
 11 businesses pursuant to section 342H-C. Moneys in the energy
 12 sustainability fund shall be used by the department to fund
 13 activities that promote the increased use of sustainable and
 14 renewable energy resources."

15 SECTION 2. In codifying the new sections added by section
 16 1 of this Act, the revisor of statutes shall substitute
 17 appropriate section numbers for the letters used in designating
 18 the new sections in this Act.

19 SECTION 3. This Act shall take effect on July 1, 2011.

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Report Title:

Environmental Protection; Plastic Checkout Bags; Fee

Description:

Requires businesses in the State to collect a 10 cent fee for each plastic disposable checkout bag provided to a customer. Authorizes businesses that develop their own disposable plastic checkout bag recycling program to retain 50 per cent of the fees collected. Establishes the energy sustainability special fund.

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