

JAN 21 2011

S.B. NO. 1059

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# 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 single-use plastic  
2 checkout bags present a hazard to the environment. Single-use  
3 plastic checkout bags are not only a source of unsightly litter,  
4 they are a significant source of environmental degradation that  
5 crowds landfills with non-biodegradable waste, pollutes the  
6 oceans, endangers marine life, and requires fossil fuels to  
7 manufacture.

8           Around the world, plastic pollution contributes to clogged  
9 waterways and damaged marine ecosystems and eventually finds its  
10 way into the oceans through storm drains and watersheds.  
11 Polyethylene, or polythene, is the most widely used plastic with  
12 an annual production of approximately eighty million metric  
13 tons. Polyethylene is primarily used for packaging materials  
14 and is the most common material for plastic shopping bags.  
15 Commercial polyethylene is not considered to be biodegradable,  
16 and most commercial polyethylene waste ends up in landfills or  
17 the oceans. Once in the ocean, polyethylene plastic products  
18 float on the surface where, over time, sunlight and wave action



1 cause them to break into smaller particles, but they never  
2 disappear entirely. Plastic bags and other plastic pollution  
3 pose a particular hazard for Hawaii's environment and marine  
4 wildlife. The "Great Pacific Garbage Patch", a giant  
5 concentration of floating marine debris twice the size of Texas,  
6 moves seasonally with the currents in the North Pacific Ocean  
7 and frequently deposits plastic bags and other debris on the  
8 Northwestern Hawaiian Islands and on the main islands of Hawaii.

9 The legislature further finds that the State has a  
10 compelling interest in protecting its precious natural  
11 environment by decreasing the amount of waste that flows into  
12 its landfills. This Act follows the lead of several cities and  
13 counties in the United States and several foreign countries that  
14 have adopted laws that discourage the use of single-use plastic  
15 checkout bags. Because Hawaii's economy, culture, and the  
16 livelihood of its people depend heavily on preserving its  
17 natural environment, the legislature finds that the State will  
18 benefit by encouraging the use of reusable shopping bags.

19 The purpose of this Act is to reduce the State's production  
20 of waste and its negative impact on the environment by  
21 prohibiting the distribution of single-use plastic checkout bags  
22 by certain businesses.



1 SECTION 2. 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 . SINGLE-USE PLASTIC CHECKOUT BAGS

5 §342H- 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 "Reusable bag" means a bag with handles that is  
13 specifically designed and manufactured for multiple reuse and is  
14 made of cloth or other machine washable fabric or made of other  
15 durable material suitable for re-use, including plastic that is  
16 at least 2.25 millimeters thick.

17 "Single-use plastic checkout bag" means a bag made of  
18 non-biodegradable plastic, other than plastic greater than 2.25  
19 millimeters thick, whether recyclable or non-recyclable, that is  
20 provided by a business to a customer, and is designed for  
21 one-time use to transport merchandise.

22 "Single-use plastic checkout bag" does not include:



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

20           **§342H- Prohibition on single-use plastic checkout bags.**

- 21           (a) Beginning on July 1, 2012, businesses with annual gross
- 22                   sales of over \$300,000 are prohibited from distributing single-



1 use plastic checkout bags to their customers at the point of  
2 sale.

3 (b) Any person who violates this section shall be subject  
4 to:

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

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

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

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

12 **§342H- Injunctive and other relief.** The director may  
13 institute a civil action in any court of competent jurisdiction  
14 for injunctive and other relief to prevent any violation of this  
15 part or any rule adopted pursuant to this part, to collect  
16 administrative penalties, or to obtain other relief. The court  
17 shall have power to grant relief in accordance with the Hawaii  
18 rules of civil procedure.

19 **§342H- Rules.** The director shall adopt rules under  
20 chapter 91 as may be necessary for the purpose of this part."

21 SECTION 3. The State may exempt an entity from this Act  
22 for an interim period of no longer than one year upon sufficient



1 showing by a business subject to this Act that implementation of  
2 this Act would cause undue hardship. The business shall submit  
3 a request for an exemption in writing to the director of health.  
4 The term "undue hardship" may include the following:

5 (1) Situations where there are no acceptable alternatives  
6 to single-use plastic checkout bags, as defined in  
7 this Act for reasons that are unique to the business;  
8 and

9 (2) Situations where compliance with the requirements of  
10 this Act would deprive a business of a legally-  
11 protected right.

12 SECTION 4. Nothing in this Act shall be interpreted or  
13 applied so as to preempt any more stringent ordinance adopted by  
14 any county.

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

18 SECTION 6. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.

21



1 SECTION 7. This Act shall take effect on July 1, 2012.

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INTRODUCED BY:

*[Handwritten Signature]*



**Report Title:**

Environmental Protection; Plastic Bags, Prohibited

**Description:**

Prohibits certain businesses in the State from distributing single-use plastic checkout bags as defined in this Act. Effective 7/1/12.

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

