

JAN 26 2011

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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 non-biodegradable  
2 plastic bags present a hazard to the environment. Non-  
3 biodegradable plastic bags are not only a source of unsightly  
4 litter, they are a significant source of environmental  
5 degradation that crowds landfills with non-biodegradable waste,  
6 pollutes the oceans, endangers marine life, and requires fossil  
7 fuels to 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. Because Hawaii's economy, culture, and the  
13 livelihood of its people depend heavily on preserving its  
14 natural environment, the legislature finds that the State will  
15 benefit by encouraging the use of biodegradable plastic bags.

16 The purpose of this Act is to reduce the State's production  
17 of waste and its negative impact on the environment by requiring  
18 merchants to use biodegradable plastic bags when they provide  
19 plastic bags to their customers.

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



1                   "PART     .    USE OF BIODEGRADABLE PLASTIC BAGS

2           §342H-     Definitions.  As used in this part, unless the  
3 context otherwise requires:

4           "ASTM standard" means the American Society for Testing and  
5 Materials International standard D6400-04 for compostable  
6 plastics, as amended.

7           "Biodegradable plastic bag" means a bag made of plastic  
8 which meets the ASTM standard.

9           "Business" means any commercial enterprise or  
10 establishment, including sole proprietorships, joint ventures,  
11 partnerships, and corporations, or any other legally cognizable  
12 entity, whether for profit or not for profit, and includes all  
13 employees of the business or any independent contractors  
14 associated with the business.

15           "Checkout bag" means a carryout bag that is provided by a  
16 store to a customer.

17           "Director" means the director of health.

18           "Non-biodegradable single-use plastic checkout bag" means a  
19 bag made of non-biodegradable plastic, whether recyclable or  
20 non-recyclable, that is provided by a business to a customer and  
21 is designed for one-time use to transport merchandise.



1 "Person" means an individual, trust, firm, joint stock  
2 company, corporation, cooperative, partnership, limited  
3 liability company, or association.

4 "Reusable bag" means a bag with handles that is  
5 specifically designed and manufactured for multiple reuse and  
6 is:

- 7 (1) Made of cloth or other machine washable fabric; or
- 8 (2) Made of other durable material suitable for re-use,  
9 including plastic that is at least 2.25 millimeters  
10 thick.

11 **§342H- Mandatory use of paper, biodegradable,**  
12 **compostable or reusable checkout bags.** (a) Beginning  
13 January 1, 2012, businesses with annual gross sales of over  
14 \$250,000:

- 15 (1) Are prohibited from providing non-biodegradable  
16 single-use plastic checkout bags to their customers at  
17 the point of sale to their customers; and
  - 18 (2) Shall provide only paper bags, biodegradable plastic  
19 bags, or reusable bags as checkout bags to customers.
- 20 (b) Nothing in this part shall preclude businesses from  
21 making reusable bags available for sale to customers.



1           **§342H- Rules.** The director shall adopt rules under  
2 chapter 91 to effectuate the purpose of this part.

3           **§342H- Administrative penalties.** The director is  
4 authorized to impose by order the following administrative  
5 penalties for violations of this part:

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

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

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

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

17          **§342H- Exemptions.** The State may exempt a business or  
18 person from this part for an interim period no longer than one  
19 year upon sufficient showing by the applicant that  
20 implementation of the provisions of this part would cause undue  
21 hardship. This request shall be submitted in writing to the



1 director of health. For purposes of this section, the term  
2 "undue hardship" includes the following:

- 3 (1) Situations where there are no acceptable alternatives  
4 to non-biodegradable single-use plastic checkout bags  
5 for reasons that are unique to the entity; and  
6 (2) Situations where compliance with the requirements of  
7 this part would deprive a person of a legally  
8 protected right."

9 SECTION 3. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun, before its effective date.

12 SECTION 4. Nothing in this Act shall be interpreted or  
13 applied so as to create any requirement, power, or duty in  
14 conflict with any federal or state law.

15 SECTION 5. This Act shall take effect upon approval.

16

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "John D. ...", is written over a horizontal line. Below the line, the words "By Request" are printed in a bold, sans-serif font.

By Request



**Report Title:**

Environmental Protection; Biodegradable Plastic Bags

**Description:**

Requires businesses in the State to distribute only paper biodegradeable plastic or compostable checkout bags.

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

