

STAND. COM. REP. NO.

1119

Honolulu, Hawaii

March 24, 2011

RE: S.B. No. 1363
S.D. 2
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committees on Energy & Environmental Protection and Economic Revitalization & Business, to which was referred S.B. No. 1363, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ENVIRONMENTAL PROTECTION,"

beg leave to report as follows:

The purpose of this bill is to protect Hawaii's environment and address the inherent economic and environmental costs associated with the use of disposable checkout bags. Among other things, this measure:

- (1) Requires businesses in the State to charge and collect a fee for each non-reusable checkout bag provided to a customer and remit a percentage of the fees collected to the Department of Health (DOH) on a monthly basis which shall deposit the fees into the general fund and a special account in the general fund to be used by DOH for administration and enforcement purposes;
- (2) Authorizes businesses to retain a percentage of the fees collected to offset costs;
- (3) Provides penalties for businesses that violate the provisions of the non-reusable checkout bag fee law;

SB1363 HD1 HSCR EEP-ERB HMS 2011-3278



- (4) Allows for county ordinances already in place that regulate plastic or non-reusable checkout bags to remain effective;
- (5) Allows counties to enact ordinances that are more stringent in the regulation of non-reusable checkout bags;
- (6) Allows for the institution of a civil action in any court of competent jurisdiction for injunctive and other relief to correct or abate a violation of the non-reusable checkout bag law or rules adopted in accordance with this law, to collect administrative penalties, or to obtain other relief; and
- (7) Requires DOH to submit a report to the Legislature that contains an assessment of the effectiveness of this measure on reducing the use of non-reusable checkout bags and recommendations, if any, for proposed legislation to further reduce their use.

The Hawaii Food Industry Association, Progressive Democrats of Hawaii, Times Supermarket, The Safeway Companies, Retail Merchants of Hawaii, Sierra Club-Hawaii Chapter, Surfrider Foundation, and numerous concerned individuals testified in support of this bill. DOH and the Conservation Council for Hawaii testified in support of the intent of this measure. The American Chemistry Council testified in opposition to this bill. The Department of Budget and Finance provided comments.

Though disposable checkout bags provide a convenient means of transporting goods for consumers, they are taxing on Hawaii's unique natural environment and ultimately taxing to our economy. Unfortunately, disposable bags can frequently be found littering our roadways and taking up valuable space in overflowing landfills. Disposable plastic checkout bags also contribute greatly to marine debris, often posing a threat to marine life, while forest environments are impacted through the use of trees required to produce disposable paper bags. Reducing the use of disposable checkout bags will address these issues.

However, your Committees note that some concerns were raised with regard to this bill, particularly with the lack of specific fees. Accordingly, your Committees have amended this bill by deleting its contents and replacing it with language contained in H.B. No. 988, H.D. 1. As amended this bill, among other things:



- (1) Requires businesses in the State to charge and collect a 5-cent fee for each single-use checkout bag, including paper bags and packages, provided to a customer and remit the fees collected to DOH on a monthly basis which shall deposit the fees into the State general fund;
- (2) Provides penalties for businesses that violate the provisions of the single-use checkout bag fee law;
- (3) Preempts the ability of a county to regulate the use of disposable checkout bags unless the use of the bags are currently regulated by county ordinance; and
- (4) Provides that, in counties where an ordinance regulating single-use checkout bags is in effect, the single use checkout bag fee shall be applicable only to single-use checkout bags made of paper.

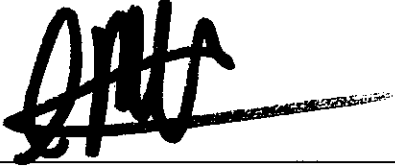
Your Committees have further amended this bill by:

- (1) Allowing a business to retain 20 percent of the fees collected as revenue that shall be subject to income taxes; provided that the fee shall not be subject to the General Excise Tax; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.


As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Economic Revitalization & Business that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1363, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1363, S.D. 2, H.D. 1, and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committees on Energy &
Environmental Protection and
Economic Revitalization &
Business,



ANGUS L.K. MCKELVEY, Chair



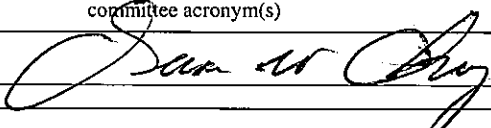
DENNY COFFMAN, Acting Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

HSCR 1119

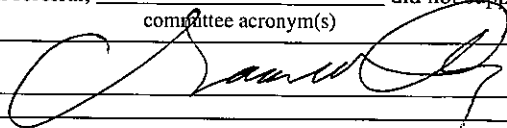
Record of Votes of the Committee on Energy & Environmental Protection

Bill/Resolution No.: SB 1363, SD2	Committee Referral: EEP/ERB, FIN	Date: 3/22/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EEP Members	Ayes	Ayes (WR)	Nays	Excused
1. MORITA, Hermina M. (C)				
2. COFFMAN, Denny (VC)	✓			
3. CABANILLA, Rida T.R.	✓			
4. CARROLL, Mele				✓
5. CHANG, Jerry L.	✓			
6. CHONG, Pono	✓			
7. HAR, Sharon E.				✓
8. HERKES, Robert N.		✓		
9. ITO, Ken				✓
10. NAKASHIMA, Mark M.	✓			
11. RIVIERE, Gil	✓			
12. THIELEN, Cynthia	✓			
TOTAL (12)	7	1	0	3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

State of Hawaii
House of Representatives
The Twenty-sixth Legislature

HSQR 119

Record of Votes of the Committee on Economic Revitalization & Business

Bill/Resolution No.: SB 1363 SD2 779	SSR	Committee Referral: EEP/ERB, FIN	Date: 3/22/11	
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
ERB Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. AWANA, Karen L.	W.A. Awana	✓		
4. BROWER, Tom	✓			
5. EVANS, Cindy				✓
6. HASHEM, Mark J.	✓			
7. NISHIMOTO, Scott Y.	✓			
8. TOKIOKA, James Kunane				✓
9. TSUJI, Clift	✓			
10. MARUMOTO, Barbara C.		✓		
11. PINE, Kymberly Marcos		✓		
TOTAL (11)	6	3	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ committee acronym(s) did not support recommendation.				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				