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## A BILL FOR AN ACT

RELATING TO FUNDING FOR WATERSHED PROTECTION.

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

1           SECTION 1. The legislature finds that the State has a  
2 compelling interest in protecting its precious natural  
3 environment. Several countries and international and domestic  
4 cities have successfully implemented laws that have reduced non-  
5 reusable checkout bag usage and used the fees to protect the  
6 environment. A significant reduction of non-reusable checkout  
7 bag waste and litter in Hawaii would likely benefit the public's  
8 health and welfare because the people of Hawaii depend on our  
9 natural environment for economic, social, and cultural reasons.

10           The legislature also finds that the production and disposal  
11 of non-reusable checkout bags should be mitigated by additional  
12 funding to reduce water quality damage, deforestation, and  
13 climate change. Improper disposal of bags, particularly plastic  
14 bags, pollutes Hawaii's streams and coral reefs and strangles  
15 and starves endangered marine animals. Increasing the resilience  
16 of marine ecosystems to the threat posed by pollution requires  
17 litter removal, strengthening water quality measures, and  
18 reducing erosion and sedimentation of reefs.



1           The purpose of this Act is to reduce the adverse impact of  
2 non-reusable checkout bag waste on Hawaii's precious and unique  
3 natural environment by establishing an offset fee for the  
4 distribution of single-use checkout bags to fund programs to  
5 improve water quality and resilience to climate change.

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

9                           **"PART . SINGLE-USE CHECKOUT BAG FEE**

10           **§342H-A Definitions.** As used in this part, unless the  
11 context otherwise requires:

12           "Business" means any commercial enterprise or  
13 establishment, including sole proprietorships, joint ventures,  
14 partnerships, and corporations, or any other legally cognizable  
15 entity, and includes all employees of the business or any  
16 independent contractors associated with the business.

17           "Department" means the department of land and natural  
18 resources.

19           "Mil" means one thousandth of an inch.

20           "Reusable bag" means a bag with handles that is  
21 specifically designed and manufactured for multiple reuse and is  
22 made of:



- 1 (1) Cloth or other machine washable fabric; or
- 2 (2) Other durable material suitable for reuse, including
- 3 plastic that is at least 2.25 mils thick.

4 "Single-use checkout bag":

- 5 (1) Means a bag made of plastic that is less than 2.25
- 6 mils thick, or a paper package or sack, whether
- 7 recyclable or non-recyclable, that is provided by a
- 8 business to a customer, and is designed for one-time
- 9 use to contain and transport merchandise; and

10 (2) Does not include:

- 11 (A) Bags used by customers inside a business to
- 12 package loose items, such as fruits, vegetables,
- 13 nuts, grains, or candies, or small hardware
- 14 items;
- 15 (B) Bags used to contain or wrap frozen foods, meat
- 16 or fish, flowers or potted plants, or other items
- 17 to contain dampness;
- 18 (C) Bags used to protect or transport prepared foods
- 19 or bakery goods;
- 20 (D) Bags provided by pharmacists to contain
- 21 prescription medications;
- 22 (E) Newspaper bags;



- 1 (F) Door-hanger bags;
- 2 (G) Laundry, dry cleaning, or garment bags, including
- 3 bags provided by hotels to guests to contain wet
- 4 or dirty clothing;
- 5 (H) Bags sold in packages containing multiple bags
- 6 intended for use as garbage, pet waste, or yard
- 7 waste bags; or
- 8 (I) Bags used to contain live animals, such as fish
- 9 or insects sold in pet stores.

10 "Small business" means a business that has grossed \$250,000  
11 or less in revenues in the previous year.

12 **§342H-B Distribution of single-use checkout bags; fee.**

13 (a) Beginning January 1, 2013, all businesses in the State  
14 shall charge and collect a fee of 10 cents for each single-use  
15 checkout bag that is provided to customers; provided that a  
16 business may provide single-use checkout bags free of charge to  
17 any customer participating in federally approved nutrition  
18 assistance programs, including the supplemental nutrition  
19 assistance program and the special supplemental nutrition  
20 program for women, infants, and children.

21 (b) Businesses subject to the requirements of this part  
22 shall indicate on each customer transaction receipt the number



1 of single-use checkout bags provided and the amount of the fee  
2 charged.

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

5 (d) A business may retain twenty per cent of the fees  
6 collected from January 1, 2013, until December 31, 2013, and ten  
7 per cent of the fees collected thereafter, that shall be subject  
8 to chapters 235 and 237.

9 **§342H-C Remittance of fees.** (a) No later than the last  
10 day of each month, each business subject to the requirements of  
11 this part shall remit to the department the fees collected  
12 pursuant to section 342H-B during the immediately preceding  
13 month; provided that a small business may remit the fees on a  
14 quarterly basis on the last day of the month following the end  
15 of a quarter.

16 (b) Payments and receipts of fees shall be reported on  
17 forms prescribed by the department. Any proprietary information  
18 obtained by the department shall be kept confidential and shall  
19 not be disclosed to any other person.

20 (c) Businesses shall be subject to penalties and interest  
21 for late or underpaid fees.



1 (d) All fees collected by the department pursuant to this  
2 part shall be deposited as follows:

3 (1) Sixty per cent of the fees collected from January 1,  
4 2013, until December 31, 2013, and seventy per cent of  
5 the fees collected thereafter, into the natural area  
6 reserve fund to be expended by the department on  
7 watershed protection and restoration and for expenses  
8 related to the administration and enforcement of this  
9 part; and

10 (2) Twenty per cent of the fees collected into the  
11 environmental management special fund established  
12 pursuant to section 342G-63, to be expended by the  
13 department of health for expenses related to clean  
14 water and environment protection.

15 §342H-D Violations. (a) It shall be a violation of this  
16 part for any business that is subject to the requirements of  
17 this part to pay or otherwise reimburse a customer for any  
18 portion of the fee required to be charged and collected pursuant  
19 to section 342H-B.

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



1 §342H-E Preemption. Except for any county ordinance,  
 2 regulating single-use 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 single-use checkout bags;  
 5 provided that in counties where an ordinance regulating plastic  
 6 single-use checkout bags is in effect, the fee established under  
 7 section 342H-B shall be applicable only to single-use checkout  
 8 bags made of paper.

9 §342H-F Rules. The department shall adopt rules, pursuant  
 10 to chapter 91, as may be necessary for the purposes of this  
 11 part."

12 SECTION 3. In codifying the new sections added by section  
 13 2 of this Act, the revisor of statutes shall substitute  
 14 appropriate section numbers for the letters used in designating  
 15 the new sections in this Act.

16 SECTION 4. This Act shall take effect on January 1, 2013.  
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# H.B. NO. 2365

**Report Title:**

Single-use Checkout Bags; Fees; Watershed Protection; DLNR

**Description:**

Requires businesses in the State to collect a 10-cent fee for each single-use checkout bag provided to a customer, with certain exceptions. Subject to income and general excise taxes, allows businesses to keep 20% of the fees collected from 1/1/13 to 12/31/13 and 10% thereafter. Requires fees to be collected on paper bags in counties that currently have ordinances banning plastic bags. Authorizes 20% of the fees collected to be expended by DOH for clean water projects. Authorizes 60% of the fees collected from 1/1/13 to 12/31/13, and 70% thereafter, to be expended by DLNR for watershed protection. Takes effect 1/1/2013.

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