
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 the excessive use of
2 non-reusable checkout bags presents an unnecessary hazard to the
3 natural environment. Non-reusable checkout bags:

- 4 (1) Require crude oil, a polluting fossil fuel, for their
5 manufacture;
- 6 (2) Pose serious health risks to legally protected sea
7 turtles and marine mammals;
- 8 (3) Contribute to unsightly litter;
- 9 (4) Burden overcrowded landfills;
- 10 (5) Are recycled minimally;
- 11 (6) Contribute to deforestation; and
- 12 (7) Are manufactured with non-renewable energy.

13 An environmentally friendly alternative to the non-reusable
14 checkout bag is the reusable bag which consumers can easily
15 acquire, clean, and store. The legislature finds that Hawaii
16 should strongly discourage the use of non-reusable checkout
17 bags.



1 The legislature finds that the State has a compelling
2 interest in protecting its precious natural environment.
3 Several countries and both international and domestic cities
4 have successfully implemented similar laws that have resulted in
5 a significant reduction in non-reusable checkout bag usage.
6 Because the people of Hawaii depend on the preservation of the
7 natural environment for economic, social, and cultural reasons,
8 the public's health and welfare will benefit immensely from a
9 significant reduction of non-reusable checkout bag waste and
10 litter.

11 The purpose of this Act is to reduce the adverse impact of
12 non-reusable checkout bag waste on Hawaii's precious and unique
13 natural environment by establishing an offset fee for the
14 distribution of non-reusable checkout bags.

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

18 "PART . NON-REUSABLE CHECKOUT BAG OFFSET FEE

19 §342H- Definitions. As used in this part:

20 "Business" means any commercial enterprise or establishment
21 that distributes non-reusable checkout bags in any county or



1 that does not distribute non-reusable checkout bags in an exempt
2 county, including:

3 (1) Sole proprietorships, joint ventures, partnerships,
4 and corporations, or any other legal entity, whether
5 for profit or not for profit; and

6 (2) All employees, principals, owners, partners, or
7 directors of a business doing business with the
8 entities under paragraph (1), including independent
9 contractors.

10 "Exempt county" means any county in the State that has
11 adopted an ordinance banning non-biodegradable plastic carryout
12 checkout bags or similarly constituted bags deemed potentially
13 harmful to the environment.

14 "Non-reusable checkout bag" means a paper or plastic
15 carryout bag that is provided by a business to a customer at the
16 point of sale for the transport of purchased items. A non-
17 reusable checkout bag does not meet the standards for a reusable
18 bag, regardless of the potential frequency of reuse of the same
19 non-reusable checkout bag. The term "non-reusable checkout bag"
20 does not include bags distributed by businesses for the
21 transport of:



- 1 (1) Raw meat, poultry, fish, frozen food, flowers, or
- 2 other items that contain dampness;
- 3 (2) Bulk food products sold without packaging;
- 4 (3) Fresh produce;
- 5 (4) Baked goods sold over-the-counter without packaging;
- 6 (5) Prepared food for take-out or transport from
- 7 restaurants;
- 8 (6) Live animals;
- 9 (7) Newspapers for home delivery; and
- 10 (8) Laundry or dry-cleaning.

11 "Reusable bag" means a bag that is specifically designed
12 and manufactured for multiple reuse that is made of:

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

16 "Undue hardship" means a financial burden that is extremely
17 unique and unavoidable.

18 **§342H- Distribution of checkout bags; offset fee. (a)**
19 Beginning July 1, 2012, any business having a gross annual
20 income of \$500,000 or more shall charge and collect an offset
21 fee of 25 cents for each non-reusable checkout bag provided to a
22 customer; provided that a business shall add the amount of the



1 offset fee to the total price of the customer's purchase;
2 provided further that recipients of food subsidies through the
3 women, infants, and children program or the supplemental
4 nutrition assistance program shall be exempt from paying the
5 offset fee upon showing their women, infants, and children
6 program folder or electronic benefits transfer card along with
7 verifying identification. The offset fee shall be stated
8 separately and prominently on any sales receipt, invoice, or
9 other record of the sale or other transfer of the non-reusable
10 checkout bag.

11 (b) A business may retain twenty-five per cent of the
12 offset fees collected as revenue that shall be subject to income
13 taxes; provided that the offset fee shall not be subject to
14 chapter 237.

15 (c) A business shall keep a record on a quarterly basis of
16 the following:

17 (1) The number of non-reusable checkout bags the business
18 has purchased, been provided with, or otherwise
19 acquired; and

20 (2) The amounts collected from the distribution of
21 non-reusable checkout bags that are provided to or
22 sold to consumers.



1 The record shall be submitted to the department on a quarterly
2 basis or as directed by the department; provided that the
3 department may inspect the record at its discretion for
4 enforcement purposes.

5 (d) No later than the last day of each month, each
6 business shall remit to the department an amount equal to
7 seventy-five per cent of the offset fees collected during the
8 previous month. The department shall provide forms to document
9 the remittance. Of the amount collected by the department under
10 this subsection:

11 (1) Seventy per cent shall be deposited into the general
12 fund; and

13 (2) Thirty per cent shall be deposited into a special
14 account in the state general fund for expenditure by
15 the department for expenses related to the
16 administration and enforcement of this part; provided
17 that any funds in excess of those expenses shall be
18 expended by the department to:

19 (A) Perform community outreach and education relating
20 to the impact of non-reusable checkout bags on
21 the environment; and

22 (B) Fund litter cleanups.



1 **§342H- Penalties.** Any business that violates this part
2 shall be subject to a fine of:

3 (1) \$250 for a first violation;

4 (2) \$500 for a second violation occurring within one year
5 of the first violation; and

6 (3) \$1,000 for any subsequent violation after the second
7 violation.

8 **§342H- Injunctive and other relief.** The director may
9 institute a civil action in any court of competent jurisdiction
10 for injunctive and other relief to correct or abate violation of
11 this part or any rule adopted pursuant to this part, to collect
12 administrative penalties, or to obtain other relief.

13 **§342H- Rules.** The director shall adopt rules under
14 chapter 91 necessary for the purposes of this part.

15 **§342H- Exemptions.** The director may exempt from the
16 requirements of this part businesses that sufficiently
17 demonstrate that the offset fee will cause an undue hardship;
18 provided that no exemption shall exceed one year; provided
19 further that no business shall be entitled to receive more than
20 one exemption.



1 §342H- County ordinances. (a) Nothing in this part
2 shall be construed to supersede or in any manner affect a county
3 plastic or non-reusable checkout bag ordinance.

4 (b) Nothing in this part shall prohibit a county from
5 enacting ordinances that are more stringent in the control or
6 prohibition of non-reusable checkout bags than this part."

7 SECTION 3. No later than twenty days prior to the
8 convening of the regular session of 2013, the department of
9 health shall report to the legislature:

- 10 (1) An assessment of the effectiveness of this Act in
11 reducing the use of non-reusable checkout bags; and
12 (2) Recommendations for proposed legislation to further
13 reduce the use of non-reusable checkout bags.

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

17 SECTION 5. This Act shall take effect on July 1, 2050.

18



Report Title:

Environmental Protection; Plastic Checkout Bags

Description:

Requires businesses to collect a 25 cent offset fee for distribution of every non-reusable checkout bag. Provides exemptions for certain uses and for beneficiaries of the women, infants, and children program and the supplemental nutrition assistance program. Provides for the department of health to collect seventy-five per cent of offset fee to be used for administration and enforcement. Allows businesses to retain twenty-five per cent of the offset fee as taxable income. Exempts the offset fee from general excise tax. Effective 7/1/2050. (SD1)

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