
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 single-use checkout bags presents an unnecessary hazard to the
3 natural environment. Single-use 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 greenhouse gas
12 emissions; and

13 (7) Are manufactured using large quantities of water and
14 non-renewable energy.

15 An environmentally friendly alternative to the single-use
16 checkout bag is the reusable bag which consumers can easily
17 acquire, clean, and store.



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 single-use checkout bag usage and
6 have used collected fees for environmental protection programs.
7 Because the people of Hawaii depend on the preservation of the
8 natural environment for economic, social, and cultural reasons,
9 the public's health and welfare will benefit immensely from a
10 significant reduction of single-use checkout bag waste and
11 litter.

12 The legislature further finds that the improper disposal of
13 bags, particularly plastic bags, pollutes Hawaii's streams and
14 coral reefs and strangles and starves endangered marine animals.
15 Increasing the resilience of these ecosystems to threats
16 requires litter removal, strengthening water quality measures
17 such as reducing discharge of pollutants in developed areas and
18 controlling erosion caused by deforestation and invasive
19 species, and reducing erosion and sedimentation of reefs.
20 Protecting Hawaii's streams and marine areas from these high-
21 priority threats will help offset the damage caused by
22 ubiquitous single-use checkout bags.



1 The legislature also finds that production of both paper
2 and plastic single-use checkout bags requires the consumption
3 and combustion of large quantities of fossil fuels, trees, and
4 water. Plastic bags require large amounts of crude oil to
5 produce, and the production of paper bags can use twenty times
6 more fresh water and four times more energy than plastic bags.
7 In the United States alone, over fourteen million trees are used
8 to create paper bags, causing significant greenhouse gas
9 emissions and removing forests that absorb large quantities of
10 carbon dioxide. Disposing paper and plastic bags by burning
11 further increases greenhouse gas emissions.

12 The legislature further finds that protecting Hawaii's
13 forests from damage from invasive species helps to mitigate the
14 climate change caused by the production and disposal of single-
15 use checkout bags. The intergovernmental panel on climate
16 change considers reducing or preventing deforestation as the
17 climate mitigation option with the largest and most immediate
18 carbon stock impact in the short term.

19 Forest protection also increases Hawaii's resilience to the
20 likely effects of climate change caused by burning fossil fuels
21 worldwide. Major consequences of climate change for Hawaii's
22 water supplies are predicted, including drought from higher



1 temperatures, reduced rainfall, and rising sea levels salting
2 coastal freshwater aquifers. Climate change may also result in
3 severe storm events, causing flooding and erosion. Through Act
4 152, Session Laws of Hawaii 2000, the legislature recognized
5 that fresh water is not an infinite resource and its high
6 quality, quantity, and sustainability depend upon forested
7 watersheds. Hawaii's forests significantly increase water
8 capture and break the impact of heavy rains, reducing flooding
9 and erosion and siltation of reefs and fisheries. Protecting
10 watersheds is crucial for Hawaii's resiliency to climate change
11 by ensuring water availability and buffering severe storm
12 events.

13 The purpose of this Act is to reduce the adverse impact of
14 single-use checkout bag waste on Hawaii's precious and unique
15 natural environment by establishing an offset fee for the
16 distribution of single-use checkout bags and funding programs to
17 mitigate against damaging effects of single-use checkout bags by
18 improving water quality and resilience to climate change.

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



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

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

4 "Business" means any commercial enterprise or
5 establishment, including sole proprietorships, joint ventures,
6 partnerships, and corporations, or any other legally cognizable
7 entity, whether for profit or not for profit, and includes all
8 employees of the business or any independent contractors
9 associated with the business; provided that food donation
10 organizations shall not be considered a "business" for purposes
11 of this part.

12 "Mil" means one thousandth of one inch.

13 "Reusable bag" means a bag with handles that is
14 specifically designed and manufactured for multiple reuse and is
15 made of:

- 16 (1) Cloth or other machine-washable fabric; or
- 17 (2) Durable material suitable for reuse, including plastic
18 that is at least two and a quarter mils thick.

19 "Single-use checkout bag":

- 20 (1) Means a bag made of plastic that is less than two and
21 a quarter mils thick, or a paper package or sack,
22 whether recyclable or non-recyclable, that is provided



- 1 by a business to a customer, and is designed for one-
2 time use to contain and transport merchandise; and
3 (2) Does not include:
4 (A) Bags used by customers inside a business to
5 package loose items, such as fruits, vegetables,
6 nuts, grains, candies, or small hardware items;
7 (B) Bags used to contain or wrap frozen foods, meat
8 or fish, flowers or potted plants, or other items
9 to contain dampness;
10 (C) Bags used to protect or transport prepared foods
11 or bakery goods;
12 (D) Bags provided by pharmacists to contain
13 prescription medications;
14 (E) Newspaper bags for home newspaper delivery;
15 (F) Door-hanger bags;
16 (G) Laundry, dry cleaning, or garment bags, including
17 bags provided by hotels to guests to contain wet
18 or dirty clothing;
19 (H) Bags sold in packages containing multiple bags
20 intended for use as garbage, pet waste, or yard
21 waste bags; or



1 (I) Bags used to contain live animals, such as fish
2 or insects sold in pet stores.

3 "Small business" means a business that has grossed \$500,000
4 or less in revenues in the previous year.

5 **§342H-B Distribution of single-use checkout bags; fee.**

6 (a) Beginning January 1, 2013, all businesses in the State
7 shall charge and collect a fee of 5 cents for each single-use
8 checkout bag that is provided to customers; provided that:

9 (1) A business may provide single-use checkout bags free
10 of charge to any customer participating in federally
11 approved nutrition assistance programs, including the
12 supplemental nutrition assistance program and the
13 special supplemental nutrition program for women,
14 infants, and children; and

15 (2) If after July 1, 2016, the department determines that
16 the statewide distribution of single-use checkout bags
17 has not decreased by at least seventy-five per cent
18 from the effective date of Act , Session Laws of
19 Hawaii 2012, then the fee for each single-use checkout
20 bag shall automatically increase to 10 cents on
21 January 1, 2017.



1 (b) Businesses subject to the requirements of this part
2 shall indicate on each customer transaction receipt the number
3 of single-use checkout bags provided and the amount of the fee
4 charged.

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

7 (d) Of the fees collected pursuant to subsection (a), a
8 business may retain:

9 (1) Up to forty per cent from January 1, 2013, through
10 December 31, 2013, in counties that have not placed
11 bans on single-use plastic bags before December 31,
12 2011;

13 (2) Up to ten per cent from January 1, 2014, in counties
14 that have not placed bans on single-use plastic bags
15 before December 31, 2011, and thereafter; and

16 (3) Up to forty per cent from January 1, 2013, in counties
17 that have placed bans on single-use plastic bags
18 before December 31, 2011, and thereafter;

19 provided that all fees retained shall be taxed in accordance
20 with chapters 235 and 237.



1 (e) Businesses subject to the requirements of this part
2 shall conduct educational outreach to their customers regarding
3 the single-use checkout bag fee program.

4 **§342H-C Remittance of fees.** (a) No later than the last
5 day of each month, each business subject to the requirements of
6 this part shall remit to the department the fees collected
7 pursuant to section 342H-B(a), less the amount retained pursuant
8 to section 342H-B(d), during the immediately preceding month;
9 provided that a small business may remit the fees on a quarterly
10 basis on the last day of the month following the end of a
11 quarter.

12 (b) Payments and receipts of fees shall be reported on
13 forms prescribed by the director. Any proprietary information
14 obtained by the department shall be kept confidential and shall
15 not be disclosed to any other person.

16 (c) Businesses may be subject to penalties and interest
17 for late or underpaid fees.

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

20 (1) The first \$3,500,000 of the fees collected shall be
21 deposited in the general fund; and



1 (2) Any fees collected thereafter shall be deposited into
2 the natural area reserve fund established by section
3 195-9 to be expended by the department of land and
4 natural resources for watershed protection,
5 restoration, and reacquisition.

6 **§342H-D Violations.** (a) It shall be a violation of this
7 part for any business that is subject to the requirements of
8 this part to pay or otherwise reimburse a customer for any
9 portion of the fee required to be charged and collected pursuant
10 to section 342H-B.

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

14 **§342H-E Injunctive and other relief.** The director may
15 institute a civil action in any court of competent jurisdiction
16 for injunctive and other relief to correct or abate violation of
17 this part or any rule adopted pursuant to this part, to collect
18 administrative penalties, or to obtain other relief.

19 **§342H-F County ordinances.** (a) Nothing in this part
20 shall be construed to preempt or in any manner affect a county
21 ordinance prohibiting or restricting single-use checkout bags;
22 provided that the fee established under section 342H-B shall be



1 applicable to single-use checkout bags that are not prohibited
2 or restricted by a county ordinance.

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

6 **§342H-G Business reporting.** By March 31 of each year, all
7 businesses that are required to charge and collect the single-
8 use checkout bag fee pursuant to section 342H-B shall submit to
9 the department, on forms prescribed by the department, an annual
10 report for the previous calendar year containing the number of
11 single-use checkout bags provided to customers; provided that
12 small businesses shall be exempt from the requirements of this
13 section.

14 **§342H-H Audit authority.** The records of each business
15 subject to this part shall be made available, upon request, for
16 inspection by the department or a duly authorized agent of the
17 department. Any proprietary information obtained by the
18 department or its agents shall be kept confidential and shall
19 not be disclosed to any other person, except:

20 (1) As may be reasonably required in an administrative or
21 judicial proceeding to enforce any provision of this
22 part or any rule adopted pursuant to this part; or



1 (2) Under an order issued by a court or administrative
2 agency hearings officer.

3 **§342H-I Rules.** The director shall adopt rules, pursuant
4 to chapter 91, as may be necessary for the purposes of this
5 part.

6 **§342H-J Annual report.** The department shall submit to the
7 legislature an annual report, no later than twenty days prior to
8 the convening of each regular session, which shall include an
9 account of the department's efforts to effectuate this part, the
10 number of single-use bags distributed, the statewide reduction
11 rate in the number of single-use bags distributed, and any
12 recommended policy changes needed to better effectuate the
13 purpose of this part.

14 **§342H-K Administration of part.** The department shall
15 include in its annual budget request funding to administer the
16 single-use checkout bag fee established by this part."

17 SECTION 3. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$' or so much
19 thereof as may be necessary for fiscal year 2012-2013 for the
20 purpose of initiating and administering all components of the
21 single-use checkout bag fee program.



1 The sum appropriated shall be expended by the department of
2 health for the purposes of this Act.

3 SECTION 4. No later than March 31, 2013, each business, as
4 defined in section 2 of this Act, that is required to charge and
5 collect the single-use checkout bag fee pursuant to this Act
6 shall submit to the department of health a one-time report
7 listing the number of single-use checkout bags and reusable bags
8 provided to customers by that business for the portion of the
9 2012 calendar year for which this Act is in effect.

10 SECTION 5. If any provision of this Act, or the
11 application thereof to any person or circumstance is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act, which can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 6. Nothing in this Act shall be interpreted or
17 applied so as to create any requirement, power, or duty in
18 conflict with any federal or state law.

19 SECTION 7. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute
21 appropriate section numbers for the letters used in designating
22 the new sections in this Act.



1 SECTION 8. The revisor of statutes shall insert the number
2 of this Act in the appropriate place in section 2 of this Act.

3 SECTION 9. This Act shall take effect on July 1, 2112.



Report Title:

Environmental Protection; Single-use Checkout Bags; Fee

Description:

Requires businesses in the State to collect a fee for single-use checkout bags provided to a customer. Allows businesses to keep forty per cent of the fees for the first year of the program and ten per cent of the fees thereafter, subject to income and general excises taxes. Requires fees to be collected on single-use checkout bags not prohibited by county ordinance. Deposits fees collected into the natural area reserves fund and the general fund. Requires reports to the legislature. Effective July 1, 2112. (SB2511 HD2)

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

