

**NEIL ABERCROMBIE**  
GOVERNOR

**BRIAN SCHATZ**  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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**FREDERICK D. PABLO**  
DIRECTOR OF TAXATION

**RANDOLF L. M. BALDEMOR**  
DEPUTY DIRECTOR

January 25, 2012

**To:** The Honorable Denny Coffman, Chair,  
and Members of the House Committee on Energy and Environmental Protection

**Date:** Thursday, January 26, 2012  
**Time:** 10:00 A.M.  
**Place:** Conference Room 325, State Capitol

**From:** Frederick D. Pablo, Director  
Department of Taxation

**Re:** H.B. No. 1828, Relating to Single-Use Plastic Checkout Bags

This measure proposes a tax to be placed on single-use plastic bags, with all revenues therefrom to be deposited in a single-use plastic bag special fund.

The Department offers the following comments on the measure: the language contained in the measure may need to be adjusted in order to clarify the purposes of the fee assessed to taxpayers. While this Department defers to the Department of the Attorney General for an analysis of whether the language in the measure would affect the constitutionality of the measure, the Department notes that the sum of money contemplated by this measure to be levied on single-use plastic checkout bags would more correctly be termed a "regulatory fee" rather than a "tax." (For a more detailed analysis on the Hawaii Supreme Court's definitions of "tax" and "fee" see Hawaii Insurer's Council v. Lingle, 117 Haw. 454, 184 P.3d 769 (2008)) The Department suggests replacing each occurrence of the word "tax" or "taxes" in the proposed measure with the word "fee" or "fees."

The Department also notes that, as written, the proposed measure does not contemplate the taxes described by Chapters 235 or 237 of the Hawaii Revised Statutes. Without a specific exemption, the 20 cent fee assessed by this measure on each single-use plastic bag would be subject to the general excise tax, and that any amounts retained by the business as described in Section 342H-C of the proposed legislation would be subject to income tax. If it is the intent of the committee to exempt any of the fee assessed from either the general excise tax or income tax, specific exemptions should be provided for in Chapters 237 or 235, respectively.

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION  
ON  
HOUSE BILL NO. 1828

January 26, 2012

RELATING TO SINGLE-USE PLASTIC CHECKOUT BAGS

House Bill No. 1828 establishes a tax of 20 cents for each single-use plastic checkout bag that is provided to customers. The tax is intended to encourage consumers to choose paper or reusable bags rather than single-use plastic checkout bags.

The Department of Budget and Finance takes no position on the rational validity of charging for plastic bags as a means to drive environmental policy results. However, as a matter of general financial policy, the Department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should:

- 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program;
- 2) provide an appropriate means of financing for the program or activity; and
- 3) demonstrate the capacity to be financially self-sustaining.

In regards to House Bill No. 1828, it is difficult to determine whether the fund will be self-sustaining.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** MISCELLANEOUS, Single-use plastic checkout bag tax

**BILL NUMBER:** HB 1828

**INTRODUCED BY:** Say by request

**BRIEF SUMMARY:** Adds a new part to HRS chapter 342H to establish a single-use checkout bag tax of 20 cents for each plastic bag distributed by a business to a customer. Defines a single-use plastic checkout bag as a bag that is: (1) made of non-biodegradable plastic, other than plastic that is at least 2.25 millimeters thick; (2) provided by a business to a customer; and (3) designed for one-time use to transport merchandise. Exempts from the tax: (1) non-handle transparent bags for vegetables, meats, nuts, grains, candies, or small items that are wrapped prior to sale; (2) bags used to wrap frozen foods or potted plants; (3) bags to hold medications; (4) bags for newspapers, magazines, or pre-wrapped mail; (5) bags for laundry, including bags provided by hotels; (6) bags sold in bulk, including bags for practical purposes of pet waste, yard disposal, and garbage liners; and (7) bags for the use of transporting animals including fish or insects.

If a business operates a plastic bag recycling bin registered with and approved by the department of health on the business premises, the business may retain 25% of the taxes collected for its administrative purposes provided that the business shall transmit 75% of the taxes collected to the department. If the business does not operate a plastic bag recycling bin, the business shall transmit 100% of the taxes collected to the department.

All taxes received from the single-use plastic bag tax shall be deposited into the proposed single-use plastic bag special fund. The failure of a business or customer to comply with this section shall be a violation punishable by a fine of at least \$100.

Establishes a single-use plastic bag special fund into which shall be deposited: (1) all revenues generated from the single-use plastic bag tax; (2) all revenues generated from fines for violations of these provisions; and (3) any appropriations made to the fund. The moneys in the fund shall be used to: (1) promote awareness of pollution and single-use plastic checkout bag recycling; (2) research and install state-sponsored recycling bins across the state; (3) sponsor nonprofit organizations to clean up beaches, streets, mountains, and other public places; (4) export disposed plastic; and (5) invest in technology that converts general plastics, including bottles, to reusable material. Also allows moneys in the single-use plastic bag special fund to be used for the installation, operation, and maintenance of a plastic recycling program.

The department of health may authorize the payment of a redemption fee for a single-use plastic checkout bag that is submitted to the plastic recycling program with all redemption fees paid out of the single-use plastic bag special fund. Directs the department of health to evaluate whether the benefit of the plastic recycling program is greater than any costs incurred.

No tax shall be imposed or collected in any county which bans the use of single-use plastic checkout bags and no tax shall be imposed or collected within any county that regulates, but does not ban, the use of single-use plastic checkout bags.

If after five years from the effective date of this act, the department of health finds that the amount of single-use plastic checkout bags distributed within the state is not reduced from the estimated amount distributed in calendar year 2012, the department shall submit proposed legislation to the legislature that imposes a ban on the use of single-use plastic checkout bags within the state.

Defines "reusable bag" as a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine washable fabric or made of other durable material suitable for reuse, including plastic that is at least 2.25 millimeters thick.

EFFECTIVE DATE: July 1, 2012

STAFF COMMENTS: This measure proposes a single-use checkout bag tax on each single-use plastic checkout bag that is provided to customers. While each single-use checkout bag provided to customers would be subject to a tax of 20 cents per bag, it is questionable whether the tax imposed would encourage customers to use reusable bags as the consumer would just accept and pay the tax as a "convenience" to take his goods out of the store. Under the proposed measure which imposes a tax for each bag provided to the consumer, a business would have to bag a customer's purchases, then complete the transaction after counting the number of single-use checkout bags it provided to the customer. While the retailer is allowed to retain a portion of the tax collected if a recycling bin is located on the business' premises, it is questionable whether or not this would be enough to cover the cost of administration and compliance for the retailer. If there is no recycling bin on the premises, then none of the tax is retained and cost must be borne solely by the business, a cost that, no doubt, will be passed on to all the customers of that retailer, even those who may bring their own reusable bag.

As an alternative to the proposed bag tax, consideration should be given to requiring the use of environmentally friendly plastic bags which are derived from annually renewable resources, such as corn, and do not contain any actual polyethylene and when disposed of are naturally biodegradable. It should be remembered that when a similar concern regarding take out food containers arose a few years ago, biodegradable food containers were implemented without the imposition of any additional tax to the consumer.

It should be noted that in an effort to reduce the use of single-use checkout bags, several businesses have their own programs to encourage consumers to utilize reusable bags and such programs have been successful in reducing the number of plastic or paper bags provided to customers. Other retailers provide no bags or packaging at all and their customers appear to have accommodated that situation.

Like the other measure to impose a fee for such one-time use bags, this proposal amounts to nothing more than a new tax and does nothing to change the habits and practices of consumers. As such, this proposal is nothing more than a new tax that will make the cost of doing business and living in Hawaii even more expensive.

Digested 1/25/12

Representative Denny Coffman, Chair  
Representative Derek Kawakami, Vice Chair  
Committee on Energy & Environmental Protection

State Capitol, Honolulu, HI 96813

HEARING Thursday, January 26, 2012  
10:00 am  
Conference Room 325



**RE: HB1828, Relating to Single-use Plastic Checkout Bags**

Chair Coffman, Vice Chair Kawakami, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

**RMH has serious concerns about HB1828**, which imposes a tax on each single-use plastic checkout bag distributed to a customer by a business, to be paid by the customer; creates the single-use plastic bag special fund; and exempts certain counties from the tax.

May we offer the following comments:

1. The measure should include all single-use bags, paper as well as plastic. Our research indicates that paper is not an environmentally friendly choice as there are serious environmental impacts of air and water pollution and green house gas emissions with this alternative. Paper bags generate 70% more air and 50 times more water pollutants than plastic bags. Please refer to the ULS Report: [http://www.deq.state.mi.us/documents/deq-ess-p2-recycling-PaperPlasticSummary\\_2.pdf](http://www.deq.state.mi.us/documents/deq-ess-p2-recycling-PaperPlasticSummary_2.pdf)
2. The definition for acceptable plastic should be 2.5 mils.
3. The list of plastic bags should be expanded as in HB2260, §342H-A (pages 5 and 6), which includes exemptions for bags for prepared foods, meats / fish / poultry products that can cause cross-contamination of foods, garment bags, and small hardware items, for which plastic is the best and safest option.
3. The 20-cent tax should be reduced to no more than 10 cents to lessen the burden on our residents who have the least available resources. We are hopeful that consumers will accept this fee as an investment in our environment rather than a burden, and embrace the usage of reusable bags.
4. The administrative costs to business to count, process, and collect the tax at the point of sale, then complete the reporting and remitting documents will be on-going and ALL businesses should be allowed to maintain a percentage of the tax. The exception for businesses that establish a plastic bag recycling program is not equitable. Many businesses are constrained by lease provisions or other factors outside the business owner's control and are unable to set up a recycling program.

We believe that HB2260 will accomplish the same goals as HB1828, but in a much more manageable and practicable manner. We ask you consideration of our comments and hold HB1828. Thank you for the opportunity to testify.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII  
1240 Ala Moana Boulevard, Suite 215  
Honolulu, HI 96814  
ph: 808-592-4200 / fax: 808-592-4202



## HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)

1050 Bishop St. Box 235

Honolulu, HI 96813

Fax : 808-791-0702

Telephone : 808-533-1292

**DATE:**

Thursday, January 26, 2012

**TIME:**

10:00 a.m.

**PLACE:**

Conference Room 325

**TO: COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**

Rep. Denny Coffman, Chair

Rep. Derek S.K. Kawakami, Vice Chair

**FROM: Hawaii Food Industry Association - Lauren Zirbel, Executive Director**

**RE: HB 1828 RELATING TO SINGLE-USE PLASTIC CHECKOUT BAGS**

Chairs & Committee Members:

HFIA would like to provide comments on this bill.

HFIA appreciates that this bill encourages consumers to reduce their use of plastic single use bags; however we prefer the language of HB 2260 as it includes paper bags. Paper bags should be included in a fee bill because they are less environmentally friendly than plastic bags. We must focus on reducing paper bags as well as plastic bags or legislation of this nature will not achieve its desired goal of protecting the environment.

Our stores are on track to spend \$30K-\$60K more per store annually on bag costs in counties where plastic is banned. In order to cover these costs retailers need part of the fee to go back to the retailer. Otherwise retailers will still be losing money due to the cost of paper and ultimately be **forced to pass that cost on to the price of food.**

Without a fee on paper, our current plastic bag ban bills will simply result in a shift to paper bags. Paper bags can cost as much as 10 times more than plastic bags. This bill does not allow the fee on bags to be implemented on all islands, which means that not all islands will see a reduction in the use of single use



The Nature Conservancy of Hawai'i  
923 Nu'uano Avenue  
Honolulu, Hawai'i 96817

Tel (808) 537-4508  
Fax (808) 545-2019

[nature.org/hawaii](http://nature.org/hawaii)

Testimony of The Nature Conservancy of Hawai'i  
By Mark Fox, Director of External Affairs  
Commenting on H.B. 1828 Relating to Single-Use Plastic Checkout Bags  
House Committee on Energy and Environmental Protection  
Thursday, January 26, 2012, 10:00AM, Rm. 325

The Nature Conservancy appreciates the intent of H.B. 1828 and the proposed offset fee on single-use plastic checkout bags, but we prefer H.B. 2260. The production, distribution, use and disposal of single-use checkout bags are a significant contributor to litter in Hawai'i, are a threat to marine and bird life, and contribute to greenhouse gas emissions that exacerbate the effects climate change. We support the provisions of H.B. 2260 that would place a fee on both plastic and paper checkout bags, and provide revenue for program management by the State and affected businesses, as well as for watershed protection. We think it would be reasonable to incorporate some of the recycling program provisions from H.B. 1828 into H.B. 2260.

Thank you for this opportunity to share our comments.

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# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.538.6616 [hawaii.chapter@sierraclub.org](mailto:hawaii.chapter@sierraclub.org)

## HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

January 26, 2012, 10:00 A.M.  
*(Testimony is 3 pages long)*

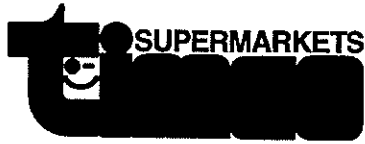
### TESTIMONY COMMENTING ON HB 1828

Aloha Chair Coffman and Committee Members -

The Sierra Club, Hawai'i Chapter, with 9,000 dues-paying members and supporters, supports the intent of HB 1828 but favors the language in HB 2260. We would ask that this bill be deferred in favor of the more comprehensive bill that addresses paper and plastic bags.

Mahalo for the opportunity to submit testimony.





3375 Koapaka Street, D-108 • Honolulu, HI 96819 • (808) 831-0811

January 25, 2012

Representative Denny Coffman, Chair  
Representative Derek Kawakami, Vice Chair  
Members of the House Committee on Energy and Environmental Protection

Re: HB 1828: Relating to Single-Use Plastic Checkout Bags

Dear Chair Coffman, Vice Chair Kawakami, and Members of the House Committee on Energy and Environmental Protection,

While we agree with the intent of the measure, we appreciate the opportunity to submit our testimony in opposition to HB 1828. A fee for both plastic and paper bags given the model that is before us in SB HB 2260, with a few additions should provide a more effective policy that creates a win for the state, consumers and retailers. Thus, HB 1828 is fatally flawed because of the limiting language of the legislation's title, "Relating to Single-Use Plastic Checkout Bags." We urge the committee to instead support the more expansive language offered by HB 2260 which favors consumer choice and applies fees for both paper and plastic single use bags.

As you may know Times Supermarket is based on Oahu and operates 26 stores with locations in Maui, Kauai and Oahu. As an island base company, we understand the constraints of limited space and the preservation of the unique landscape of Hawaii. It is for this reason that we support your efforts in mitigating challenging issues such as single use bags, and the disposal of bags in landfills and hope the committee will support this purpose through HB 2260.

Please feel free to contact me should you have any questions regarding this matter at (209) 957-2555, ext 153 or Bob Stout, President of Time Supermarket at (808) 831-0811. We thank you in advance for your consideration and we look forward to continuing the dialogue.

Respectfully,

Bob Gutierrez  
Director of Government Affairs,  
Times Supermarket and Big Save Supermarket



January 26, 2012

To: House Committee on Energy and Environmental Protection  
The Honorable Denny Coffman, Chair  
The Honorable Derek Kawakami, Vice Chair

From: Susan Houghton, Director of Public Affairs and Government Relations

**Re: Safeway Opposition to HB 1828: Relating to Single-Use Plastic Checkout Bags**

Thank you for the opportunity to submit testimony in opposition to HB 1828, Relating to Single-Use Plastic Checkout Bags. Our company operates 19 stores in Hawaii – of which 13 are on the island of Oahu.

While we support the intent of the measure, we believe HB 2660 is the preferred legislative vehicle because the expansive language provides the opportunity to reduce the use of both paper and plastic bags. Both have significant effects on the environment.

We oppose HB 1828 because the bill title, "Relating to Single-Use Plastic Checkout Bags," will hinder the legislature's ability to amend the language to include paper bags.

Thank you for the opportunity to share our views on this important legislation. Should you have additional questions, please do not hesitate to contact me at (925) 467-2212 or George Glukfeld, our Hawaii district manager at (808) 524-4554.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan M. Houghton", with a long horizontal flourish extending to the right.

Susan M. Houghton  
Director of Public Affairs and Government Relations



Tamura Enterprises, Inc. 440 Kilani Avenue Wahiawa, HI 96786

January 25, 2012

To: Chairs & Committee Members

From: Bruce Yokochi, Director of Sales & Merchandising

**Re: HB 1828 Relating to Single-Use Plastic Checkout Bags**

Tamura Enterprises, Inc., respectfully OPPOSES this bill, as we do not believe that this bill will achieve its desired goals of protecting the environment & encourage our customers to recycle. Without a fee on the paper bags, we feel that this will only SHIFT the usage of plastic bags to paper bags, which are 8-10X more costly than our current plastic bags, which ultimately will affect negatively, the prices on the food items that we sell in our stores.

As we do believe in the concept of being “environmentally friendly”, we prefer the language in, “HB 2260 Relating to Environmental Protection”, as a measure that we can support.

Thank you for the opportunity to provide this testimony.

People  
Serving  
People



# Hawaii Restaurant Association

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**Executive Director** **Roger Morey**

January 25, 2012

The Hawaii Restaurant Association (HRA) provides the following comments in regard to **HB1828** and **HB2260**, bills that would prohibit certain businesses in the State from distributing single-use plastic checkout bags.

It is our position that the bills should be parallel in their exclusions. That is, HB2260 clearly exempts take-out food (§342H-A, (C)), "Bags used to protect or transport prepared foods or bakery goods." This exclusion does not appear in HB 1828. However, the additional language to HB1828 will clarify the intent of the bill and provide greater clarity that would result in less confusion for the enforcing agency, for merchants, and for consumers.

The HRA appreciates the intent of this bill, which is to protect the natural environment. The HRA submits, however, that plastic bags remain by far the best choice when holding containers containing freshly cooked foods, especially hot liquids and grease for those times when food containers may leak or spill. Additionally, customers frequently purchase multiple items (plate lunches with gravies, soups, etc.) that make bags necessary because it would be unsafe to carry multiple containers containing hot liquids.

In restaurants, plastic disposable bags are used not simply a matter of convenience but for consumer safety and other practical reasons including the prevention of leaks and spills of items that are often hot in temperature and sometimes greasy, hence slippery. Unlike supermarkets that sell primarily packaged foods, restaurants sell freshly cooked foods that are most often hot and contain liquids. We noticed an exception in this bill for fresh produce, meats, and frozen items. Similarly, food from restaurants, contain "dampness" either from gravies, sauces, or the heat that results in condensation.

In addition, restaurants that are unable to use plastic bags will experience an increase in customer dissatisfaction who will find gravies, sauces, and other liquids leaking. These negative experiences will discourage potential customers from purchasing take-out food at restaurants. With our difficult economy, consumers have already started to eat out less. This additional burden at this inopportune time would further exacerbate the economic challenges the restaurant industry currently faces. With over 3,500 locations directly employing over 82,000 dedicated people, restaurants form a cornerstone of Hawaii's economy that must be kept viable.

Respectfully submitted,

Roger Morey  
Executive Director

**kawakami1 - Marissa**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, January 25, 2012 7:57 PM  
**To:** EEPtestimony  
**Cc:** mz9995@hotmail.com  
**Subject:** Testimony for HB1828 on 1/26/2012 10:00:00 AM

Testimony for EEP 1/26/2012 10:00:00 AM HB1828

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Micheal Zehner  
Organization: Individual  
E-mail: [mz9995@hotmail.com](mailto:mz9995@hotmail.com)  
Submitted on: 1/25/2012

**Comments:**

We don't need another tax on working folks. Also I reuse the bags for trash and HI-5's.