
A BILL FOR AN ACT

RELATING TO THE ENVIRONMENT.

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

1 SECTION 1. The purpose of this Act is to reduce the
2 adverse impact of single-use checkout bag waste on Hawaii's
3 natural environment by establishing an offset fee for the
4 distribution of single-use checkout bags and directing use of
5 the fee revenues to fund programs to mitigate the damaging
6 effects of single-use checkout bags.

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

10 "PART . SINGLE-USE CHECKOUT BAG FEE

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

13 "Business" means any commercial enterprise or
14 establishment, including sole proprietorships, joint ventures,
15 partnerships, and corporations, or any other legally cognizable
16 entity, whether for profit or not for profit, and includes all
17 employees of the business; provided that food donation



1 organizations shall not be considered a business for purposes of
2 this part.

3 "Mil" means one thousandth of one inch.

4 "Proprietary information" means business information
5 covered by any of the exceptions to public disclosure under
6 chapter 92F.

7 "Reusable bag" means a bag with handles that is
8 specifically designed and manufactured for multiple reuse and is
9 made of:

- 10 (1) Cloth or other machine-washable fabric; or
- 11 (2) Durable material suitable for reuse, including plastic
12 that is at least 2.25 mils thick.

13 "Single-use checkout bag":

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

19 (2) Does not include:

- 20 (A) Bags used by customers inside a business to
21 package loose items, such as fruits, vegetables,



- 1 nuts, grains, or candies, or small hardware
- 2 items;
- 3 (B) Bags used to contain or wrap frozen foods, meat
- 4 or fish, flowers or potted plants, or other items
- 5 to contain dampness;
- 6 (C) Bags used to protect or transport prepared foods
- 7 or bakery goods;
- 8 (D) Bags provided by pharmacists to contain
- 9 prescription medications;
- 10 (E) Newspaper bags for home newspaper delivery;
- 11 (F) Door-hanger bags;
- 12 (G) Laundry, dry cleaning, or garment bags, including
- 13 bags provided by hotels to guests to contain wet
- 14 or dirty clothing;
- 15 (H) Bags sold in packages containing multiple bags
- 16 intended for use as garbage, pet waste, or yard
- 17 waste bags;
- 18 (I) Bags used to contain live animals, such as fish
- 19 or insects sold in pet stores; or
- 20 (J) Bags used to transport chemical pesticides,
- 21 drain-cleaning chemicals, or other caustic
- 22 chemicals sold at the retail level; provided that



1 this exemption shall be limited to one bag per
2 customer.

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

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

6 (a) Beginning January 1, 2014, all businesses in the State
7 shall charge and collect a fee of 10 cents for each single-use
8 checkout bag that is provided to customers.

9 (b) Businesses subject to the requirements of this part
10 shall indicate on each customer transaction receipt the number
11 of single-use checkout bags provided and the amount of the fee
12 charged.

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

15 (d) Of the fees collected pursuant to subsection (a), a
16 business may retain up to ten per cent from January 1, 2014,
17 until December 31, 2014, to reimburse the business for the costs
18 of implementing this section; provided that all fees retained
19 shall be subject to chapters 235 and 237; provided further that
20 any taxes imposed on the fees retained shall not be charged to
21 any consumer.



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 shall be subject to penalties and interest
17 for late or underpaid fees.

18 (d) The department shall deposit all fees collected under
19 this part into a special account in the environmental management
20 special fund established by section 342G-63; provided that of
21 the fees deposited:



1 (1) The first \$1,200,000 per year shall be expended by the
2 department for administrative, education, audit,
3 compliance, and enforcement activities associated with
4 collection of the single-use checkout bag fee; and

5 (2) Any remaining balance shall be distributed as follows:

6 (A) Fifty per cent shall be deposited into the
7 general fund; and

8 (B) Fifty per cent shall be distributed to the
9 counties in proportion to their populations,
10 according to the latest census; provided that the
11 counties shall expend at least twenty-five per
12 cent of their shares for litter prevention,
13 litter control, and litter clean-up programs.

14 **§342H-D Violations.** (a) It shall be a violation of this
15 part for any business that is subject to the requirements of
16 this part to pay or otherwise reimburse a customer for any
17 portion of the fee required to be charged and collected pursuant
18 to section 342H-B.

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



1 **§342H-E Injunctive and other relief.** The director may
2 institute a civil action in any court of competent jurisdiction
3 for injunctive and other relief to correct or abate violation of
4 this part or any rule adopted pursuant to this part, to collect
5 administrative penalties, or to obtain other relief.

6 **§342H-F County ordinances.** (a) Nothing in this part
7 shall be construed to preempt or in any manner affect a county
8 ordinance prohibiting or restricting single-use checkout bags;
9 provided that the fee established under section 342H-B shall be
10 applicable to single-use checkout bags that are not prohibited
11 or restricted by a county ordinance and to single-use checkout
12 bags for which county prohibitions or restrictions have not yet
13 taken effect until the county prohibitions and restrictions take
14 effect.

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

18 **§342H-G Business reporting.** By March 31 of each year, all
19 businesses that are required to charge and collect the single-
20 use checkout bag fee pursuant to section 342H-B shall submit to
21 the department, on forms prescribed by the department, an annual



1 report for the previous calendar year containing the following
2 information:

3 (1) The number of single-use checkout bags provided to
4 customers; and

5 (2) The number of reusable bags provided to customers.

6 **§342H-H Audit authority.** The records of each business
7 subject to this part shall be made available, upon request, for
8 inspection by the department or a duly authorized agent of the
9 department. Any proprietary information obtained by the
10 department or its duly authorized agent shall be kept
11 confidential and shall not be disclosed to any other person,
12 except:

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

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

18 **§342H-I Rules.** The director shall adopt rules, pursuant
19 to chapter 91, as may be necessary for the purposes of this
20 part.

21 **§342H-J Annual report.** The department shall submit to the
22 legislature an annual report, no later than twenty days prior to



1 the convening of each regular session, which shall include the
2 department's efforts to effectuate this part, the number of
3 single-use bags distributed, the statewide reduction rate in the
4 number of single-use bags distributed, and any recommended
5 policy changes needed to better effectuate the purpose of this
6 part."

7 SECTION 3. Section 342G-63, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

9 "(c) The department shall expend moneys contained in the
10 environmental management special fund to:

11 (1) Partially fund the operating costs of the program
12 including its regulatory functions and the development
13 of waste reduction and diversion activities as
14 mandated by chapter 342G;

15 (2) Fund statewide education, demonstration, and market
16 development programs, through direct contract or
17 direct transfer of funds to the counties and the
18 department of business, economic development, and
19 tourism, or under a grant program that may be
20 developed under rules pursuant to chapter 91; [~~and~~]

21 (3) Provide for annual training for municipal solid waste
22 operators in compliance with 40 Code of Federal



1 Regulations Part 258 and chapter 11-58, Hawaii
2 Administrative Rules [] ;
3 (4) Fund administrative, audit, compliance, and
4 enforcement activities associated with the single-use
5 checkout bag fee established by part , chapter
6 342H; and
7 (5) Fund educational outreach regarding the single-use
8 checkout bag fee program established by part ,
9 chapter 342H."

10 SECTION 4. No later than March 31, 2014, each business, as
11 defined in section 2 of this Act, that is required to charge and
12 collect the single-use checkout bag fee pursuant to this part
13 shall submit to the department of health a one-time report
14 listing the number of single-use checkout bags and reusable bags
15 provided to customers by that business for the 2013 calendar
16 year.

17 SECTION 5. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$1,200,000 or so much
19 thereof as may be necessary for fiscal year 2013-2014 for
20 initiating and administering all components of the single-use
21 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 6. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 7. Nothing in this Act shall be interpreted or
10 applied so as to create any requirement, power, or duty in
11 conflict with any federal or state law.

12 SECTION 8. 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 9. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act shall take effect on July 1, 2013.

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INTRODUCED BY: Mole Ehr
Cen

JAN 18 2013



H.B. NO. 356

Report Title:

Environment; Environmental Protection; Single-Use Checkout Bags;
Fee; Appropriation

Description:

Requires certain businesses in the State to collect a 10-cent fee for each single-use checkout bag provided to customers. Allows businesses to retain ten per cent of the fees, subject to income and general excise taxes, for the first year. Directs use of fee revenues, including funding programs to mitigate the effects of single-use checkout bags. Establishes provisions relating to violations, injunctive and other relief, county ordinances, business reporting, and audit authority. Requires annual report to the legislature. Appropriates funds.

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

