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## A BILL FOR AN ACT

RELATING TO SINGLE-USE PLASTICS.

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

1           SECTION 1. The legislature finds that the local and global  
2 impact of the world's increasing waste stream is unsustainable  
3 and detrimental to the future of Hawaii's economy, the  
4 environmental integrity of our islands, and the health of the  
5 people. There has been an exponential rise in single-use food  
6 ware items over the past few decades globally, with particularly  
7 high increases in plastics and bioplastics. Single-use  
8 disposable food ware items, including cups, lids, and single-use  
9 food containers, are major contributors to street and beach  
10 litter, ocean pollution, and marine and other wildlife harm.

11           A significant portion of marine debris, estimated to be  
12 eighty per cent, originates on land, primarily as escaped refuse  
13 and litter, much of it plastic, via urban runoff. It is now  
14 estimated that 8.75 million metric tons of plastic enter our  
15 ocean each year from land-based sources.

16           These land-based plastics degrade into pieces and particles  
17 of all sizes, including microplastics, and are present in the



1 world's oceans at all trophic levels. Among other hazards,  
2 plastic debris attract and concentrate ambient pollutants like  
3 heavy metals and persistent organic pollutants in seawater and  
4 freshwater, which can transfer to fish and other seafood that  
5 are eventually caught and sold for human consumption.

6 The need for significant change in Hawaii was underscored  
7 in 2020, when the United States Environmental Protection Agency  
8 found that several of the State's beaches are impaired by trash,  
9 with the majority of the pollutants composed of single-use  
10 plastics. Although countries, states, and cities around the  
11 world have banned some single-use plastics, the plastic  
12 pollution problem persists with the rise of certain bioplastics.

13 Not all bioplastics are designed to degrade completely or  
14 quickly in the natural environment. While bio-based plastics  
15 like polylactic acid and conventional plastics with enhanced  
16 degradation are commonly touted as sustainable alternatives to  
17 conventional plastics, these products will often only break down  
18 and meet compostable requirements when sent to an industrial  
19 composting facility.

20 Like conventional plastics, bioplastics are produced in  
21 facilities that drive pollution and are likely to end up in



1 landfills and incinerators. Industrial facilities, including  
2 those producing bioplastics, are likely to be developed in  
3 underserved communities, as are most forms of waste  
4 infrastructure. These sites emit dangerous pollutants, reduce  
5 overall quality of life, and pose a heightened risk of  
6 industrial accidents like fires and explosions.

7 The legislature also finds that cleaning up plastic  
8 presents a significant cost to Hawaii taxpayers. The cost of  
9 increasing cleanups by government agencies, businesses, and the  
10 general public is rising to account for expensive management and  
11 mitigation practices. A study of over ninety counties in  
12 California concluded that taxpayers are paying \$428,000,000 per  
13 year to clean up plastic through storm drain management, street  
14 sweeping, and marine cleanups. San Diego county, which has an  
15 equivalent population to Hawaii at 1,300,000 people, spends  
16 \$14,000,000 annually cleaning up plastic.

17 Alternatives to bioplastics already exist for many take-out  
18 items. Zero waste plastic reduction plans are moving forward  
19 all over the world, including within the European Union,  
20 Ethiopia, Costa Rica, and municipalities across the United  
21 States. The legislature finds that given the current trend,



1 Hawaii businesses can be heavily involved in determining the  
2 implementation of this change if they are at the forefront of  
3 this movement.

4 The purpose of this Act is to phase in a prohibition on the  
5 purchase, use, sale, and distribution of plastic and non-  
6 biodegradable bioplastic food ware and beverage containers by  
7 various entities.

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

11 **"§342H- Single-use plastic food ware and beverage**  
12 **service items; prohibited.** (a) No state or county agency shall  
13 purchase, use, sell, or distribute disposable or single-use  
14 plastic food ware, beverage cups, cup lids, or other food  
15 containers after January 1, 2025.

16 (b) No restaurant, hotel, standard bar, venue, food  
17 vendor, cafeteria or any other business where food or beverages  
18 are sold shall use, sell, or distribute disposable or single-use  
19 plastic food ware, beverage cups, lids, or other food  
20 containers, after January 1, 2025.



1        (c) No individual or business shall distribute, sell, or  
2 otherwise provide any form of disposable or single-use plastic  
3 food ware, beverage cups, or lids after July 1, 2026.

4        (d) The prohibited material does not apply to the  
5 following:

6        (1) Reusable, refillable containers;

7        (2) One hundred per cent plant-based nature biodegradable  
8 plastics that break down in the natural environment  
9 into harmless products;

10       (3) One hundred per cent plant-based plastics that can be  
11 composted at an industrial composting facility;  
12 provided that:

13       (A) There is regional access to such a facility;

14       (B) The plastic meets specified ASTM International  
15 standards; and

16       (C) The local facility actively accepts, manages, and  
17 processes the plastic; or

18       (4) Packaging used for any of the following products:

19       (A) Medical products and products defined as devices  
20 or drugs, as specified in the Federal Food, Drug,



- 1                   and Cosmetic Act (21 U.S.C. §321(g), 321(h), and  
2                   353(b)(1));
- 3           (B) Drugs that are used for animal medicines,  
4                   including but not limited to parasiticide  
5                   products for animals;
- 6           (C) Products intended for animals that are regulated  
7                   as animal drugs, biologics, parasiticides,  
8                   medical devices, or diagnostics used to treat, or  
9                   administered to, animals under the Federal Food,  
10                  Drug, and Cosmetic Act (21 U.S.C. §301 et seq.),  
11                  federal Virus-Serum-Toxin Act (21 U.S.C. §151 et  
12                  seq.), or Federal Insecticide, Fungicide, and  
13                  Rodenticide Act (7 U.S.C. §136 et seq.);
- 14           (D) Infant formula, as defined in title 21 United  
15                  States Code section 321(z);
- 16           (E) Medical food, as defined in title 21 United  
17                  States Code section 360ee(b)(3);
- 18           (F) Fortified oral nutritional supplements used for  
19                  persons who require supplemental or sole source  
20                  nutrition to meet nutritional needs due to  
21                  special dietary needs directly related to cancer,



1           chronic kidney disease, diabetes, malnutrition,  
2           or failure to thrive, as defined as by the  
3           International Classification of Diseases, Tenth  
4           Revision, or other medical conditions as  
5           determined by the department;

6           (G) Packaging used to contain products regulated by  
7           the Federal Insecticide, Fungicide, and  
8           Rodenticide Act (7 U.S.C. §136 et seq.);

9           (H) Plastic packaging containers that are used to  
10           contain and ship products that are classified for  
11           transportation as dangerous goods or hazardous  
12           materials under title 49 Code of Federal  
13           Regulations subtitle B, chapter I, subchapter C,  
14           part 178;

15           (I) Packaging used to contain hazardous or flammable  
16           products classified by the 2012 federal  
17           Occupational Safety and Health Administration  
18           Hazard Communication Standard (29 C.F.R.  
19           1910.1200);



- 1           (J) Packaging used for the long-term protection or  
2           storage of a product that has a lifespan of no  
3           less than five years;
- 4           (K) Disposable plastic condiment packets; food-  
5           related bags or wrappers, including but not  
6           limited to musubi wraps, plastic film, poi bags,  
7           chip bags, cracker and cookie wrappers, bread  
8           bags, meal kits, or ice bags; and packaging for  
9           wholesale distribution of prepared food;
- 10          (L) Packaging for prepackaged food, shelf stable  
11          food, sealed pre-filled beverage bottles and  
12          containers, and catered food;
- 13          (M) Packaging for raw meat, raw poultry, raw seafood,  
14          unprepared produce, and uncooked eggs; or
- 15          (N) Packaging in any situation deemed by a county to  
16          be an emergency requiring immediate action for  
17          the preservation of life, health, property,  
18          safety, or essential public services. This  
19          exemption shall be in place until the emergency  
20          has ceased or the governor has determined that





1                   the exemption is no longer applicable to the  
2                   situation.

3           (e) For purposes of this section:

4           "Business" means any commercial enterprise or establishment  
5 operating in the State, including an individual proprietorship,  
6 joint venture, partnership, corporation, limited liability  
7 company, or other legal entity, whether for profit or not for  
8 profit, and includes all employees of the business or any  
9 independent contractors associated with the business.

10           "Customer" means any person purchasing food or beverage  
11 from a food or beverage vendor.

12           "Disposable" means designed to be discarded after a single  
13 or limited number of uses and not designed or manufactured for  
14 long-term reuse.

15           "Food vendor" means any entity or person selling or  
16 providing prepared food for consumption within the State,  
17 including any store, shop, sales outlet, pharmacy, restaurant,  
18 bar, pub, coffee shop, cafeteria, caterer, convenience store,  
19 liquor store, grocery store, supermarket, delicatessen, food  
20 truck, catering vehicle or cart, event venue, roadside stand, or



1 other establishment that sells or provides prepared food for  
2 consumption within the State.

3 "Nature biodegradable plastics" are bioplastics that can  
4 biodegrade into harmless products in reasonable time frames  
5 directly in nature, on land, or in water.

6 "Plastic":

7 (1) Means a synthetic or semisynthetic material wholly or  
8 partially made of petrochemical compounds and  
9 additives chemically synthesized by the polymerization  
10 of organic substances that can be shaped into various  
11 rigid and flexible forms;

12 (2) Includes, without limitation, polyethylene  
13 terephthalate, high density polyethylene, polyvinyl  
14 chloride, low density polyethylene, polypropylene,  
15 polystyrene, polylactic acid, and aliphatic  
16 biopolyesters, such as polyhydroxyalkanoate and  
17 polyhydroxybutyrate, including bioplastics that do not  
18 break down in the natural environment into harmless  
19 products; and

20 (3) Does not include nature biodegradable plastics,  
21 natural rubber, aluminum, glass, paper, bamboo,



1           sugarcane, coconut husk, cassava, naturally occurring  
2           polymers such as proteins or starches or other  
3           biomass, or reusable containers.

4           "Plastic food ware" means hot and cold beverage cups, cup  
5           lids, plates, bowls, bowl lids, "clamshells", trays, or other  
6           hinged or lidded containers that contain plastic.

7           "Prepared food" means food or beverages that are prepared  
8           to be consumed on or off the premises of a restaurant or food  
9           establishment.

10          "Reusable" or "refillable" or "reuse" or "refill", in  
11          regard to packaging or food service ware, means:

12          (1) For packaging or food service ware that is reused or  
13          refilled by a producer:

14          (A) Explicitly designed and marketed to be utilized  
15          multiple times for the same product, or for  
16          another purposeful packaging use in a supply  
17          chain;

18          (B) Designed for durability to function properly in  
19          its original condition for multiple uses;

20          (C) Supported by adequate infrastructure to ensure  
21          the packaging or food service ware can be



1 conveniently and safely reused or refilled for  
2 multiple cycles; and

3 (D) Repeatedly recovered, inspected, and repaired, if  
4 necessary, and reissued into the supply chain for  
5 reuse or refill for multiple cycles; or

6 (2) For packaging or food service ware that is reused or  
7 refilled by a consumer:

8 (A) Explicitly designed and marketed to be utilized  
9 multiple times for the same product;

10 (B) Designed for durability to function properly in  
11 its original condition for multiple uses; and

12 (C) Supported by adequate and convenient availability  
13 of and retail infrastructure for bulk or large  
14 format packaging that may be refilled to ensure  
15 the packaging or food service ware can be  
16 conveniently and safely reused or refilled by the  
17 consumer multiple times.

18 "Shelf stable food" means prepared food that can be safely  
19 stored at room temperature and does not require refrigeration,  
20 freezing, or heating for food safety purposes, prior to purchase  
21 by a customer.



1        "Single-use" means conventionally disposed of after a  
2 single use or not sufficiently durable or washable to be, or not  
3 intended to be, reusable or refillable."

4        SECTION 3. New statutory material is underscored.

5        SECTION 4. This Act shall take effect upon its approval.

6

INTRODUCED BY: *Lion Maete*

**JAN 23 2024**



# H.B. NO. 2536

**Report Title:**

Plastic Food Ware; Plastic Food Containers; Single-use Beverage Cups and Lids; Prohibition; Solid Waste; Bioplastics

**Description:**

Prohibits the use of plastic and non-biodegradable bioplastic food ware and beverage containers by 1/1/2025. Prohibits the sale or distribution of certain bioplastic food and beverage containers after 1/1/2026.

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

