

JAN 22 2010

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# 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 non-recyclable non-  
2 biodegradable single-use plastic checkout bags and non-  
3 recyclable paper checkout bags present a hazard to the natural  
4 environment. Non-biodegradable single-use plastic checkout bags  
5 are not only a source of unsightly litter, they are a  
6 significant source of environmental degradation because they  
7 crowd landfills with non-biodegradable waste, endanger marine  
8 life, and require fossil fuel to manufacture. The legislature  
9 finds that businesses that prefer to provide consumers with  
10 plastic bags should transition to providing a less toxic  
11 biodegradable alternative. Non-recyclable paper bags also crowd  
12 landfills and require fossil fuel to manufacture. The  
13 legislature finds that businesses that prefer to provide  
14 consumers with paper bags should transition to providing a less  
15 toxic biodegradable alternative.

16           The legislature further finds that the State of Hawaii has  
17 a compelling interest in protecting its precious natural  
18 environment by decreasing the amount of waste that flows into



1 its landfills. Ample precedent supports this Act; several  
2 countries, international cities, domestic cities and counties  
3 have laws that discourage or ban the use of non-biodegradable  
4 plastic checkout bags and non-recyclable paper checkout bags.  
5 Because the State's economy, culture, and the livelihood of its  
6 people depend heavily on preserving its natural environment, the  
7 legislature finds that the State will benefit from the reduction  
8 of non-reusable checkout bag usage.

9 The purpose of this Act is to reduce the State's production  
10 of waste and therefore reduce the State's negative impact on its  
11 natural environment. The Act does not affect all businesses, or  
12 prohibit all plastic bag distribution.

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

16 **"PART . USE OF RECYCLABLE PLASTIC BAGS**

17 **§342H-A Definitions.** As used in this part, unless the  
18 context otherwise requires:

19 "Biodegradable plastic bag" means plastic in which the  
20 degradation results from the action of naturally occurring  
21 microorganisms such as bacteria, fungi, and algae. The ultimate  
22 products of this process should be carbon dioxide, water, and



1 harmless, non-toxic compost (humus) in time frames consistent  
2 with the ambient conditions of the disposal method.

3 "Business" means any commercial enterprise or  
4 establishment, including sole proprietorships, joint ventures,  
5 partnerships, and corporations, or any other legally cognizable  
6 entity, whether for profit or not for profit, and includes all  
7 employees of the business or any independent contractors  
8 associated with the business.

9 "Checkout bag" means a carryout bag that is provided by a  
10 store to a customer at the point of sale.

11 "Department" means the department of the health.

12 "Director" means the director of health.

13 "Person" means an individual, trust, firm, joint stock  
14 company, corporation, cooperative, partnership, limited  
15 liability company, or association.

16 "Recyclable paper bag" means a paper bag that meets all of  
17 the following requirements:

- 18 (1) Contains no old growth fiber;  
19 (2) Is one hundred per cent recyclable overall and  
20 contains a minimum of forty per cent post-consumer  
21 recycled content; and



1 (3) Displays the words "recyclable" in a highly visible  
2 manner on the outside of the bag.

3 "Reusable bag" means a bag with handles that is  
4 specifically designed and manufactured for multiple reuse and  
5 is:

- 6 (1) Made of cloth or other machine washable fabric; or
- 7 (2) Made of other durable material suitable for re-use,  
8 including plastic that is at least 2.25 millimeters  
9 thick.

10 "Single-use plastic checkout bag" means a plastic bag that  
11 does not satisfy the definition for a "reusable bag," regardless  
12 of how many times it can be used.

13 **§342H-B Fee on non-reusable checkout bags.** (a) Beginning  
14 January 1, 2012, businesses with annual gross sales of over  
15 \$500,000 are required to implement a fee of 15 cents for every  
16 non-reusable checkout bag distributed.

17 (b) Businesses shall add the amount of the fees imposed by  
18 this section to the total price of the goods or services subject  
19 to the fees, and the fees shall be stated separately on any  
20 sales receipt, invoice, or other record of the sale or other  
21 transfer of the non-reusable checkout bags subject to this  
22 section.



1 (c) A business subject to this section shall keep a record  
2 of the number of non-reusable checkout bags the business has  
3 purchased, been provided with, or otherwise acquired, and a  
4 record of the amount paid on non-reusable checkout bags subject  
5 to this section that are provided to, or sold to, retail  
6 consumers on a quarterly basis.

7 (d) Businesses may keep 5 cents of each fee collected and  
8 shall pay the balance, together with excise taxes, to the  
9 department of taxation for deposit into the general fund.

10 (e) Any person who violates this section shall be subject  
11 to:

12 (1) For a first violation, a fine of \$1,000;

13 (2) For a second violation within one year, a fine of  
14 \$2,500; and

15 (3) For a third or subsequent violation within one year, a  
16 fine of \$10,000.

17 (f) Nothing in this part shall preclude businesses from  
18 making reusable bags available for sale to customers.

19 **§342H-C Rules.** The director shall adopt rules under  
20 chapter 91 necessary for the purpose of this part.

21 **§342H-D Administrative penalties.** In addition to any  
22 other civil or judicial remedy provided by this part or by rules



1 adopted under this part, the director is authorized to impose by  
2 order the following administrative penalties:

- 3 (1) For a first violation, a fine of not more than \$2000;
- 4 (2) For a second violation within one year, a fine of not  
5 more than \$4000; and
- 6 (3) For a third or subsequent violation within one year, a  
7 fine of not more than \$6000.

8 **§342H-E 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 prevent any violation of this  
11 part, any rule adopted pursuant to this part, to collect  
12 administrative penalties, or to obtain other relief. The court  
13 shall have power to grant relief in accordance with the Hawaii  
14 rules of civil procedure."

15 SECTION 3. This Act does not apply to the plastic bags  
16 that are provided by grocery stores for:

- 17 (1) Raw meat, poultry, or fish;
- 18 (2) Frozen foods;
- 19 (3) Bulk foods that are not sold with packaging; and
- 20 (4) Fresh produce.



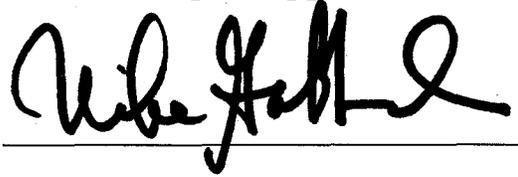
1 SECTION 4. Nothing in this Act shall be interpreted or  
2 applied so as to create any requirement, power, or duty in  
3 conflict with any federal or state law.

4 SECTION 5. In codifying the new sections added by section  
5 2 of this Act, the revisor of statutes shall substitute  
6 appropriate section numbers for the letters used in designating  
7 the new sections in this Act.

8 SECTION 6. This Act shall take effect upon approval.

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INTRODUCED BY:



**Report Title:**

Non-recyclable, Non-reusable Bags; Mandatory Fee

**Description:**

Requiring that businesses charge a fee to consumers who choose to use non-recyclable checkout bags and also that businesses offer biodegradable plastic checkout bags and recyclable paper check out bags.

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

