

**Report Title:**

Environmental Protection; Plastic Bags, Prohibited

**Description:**

Requires retailers in the State to distribute only recyclable, reusable, or compostable checkout bags.

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# A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

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

SECTION 1. The legislature finds that non-recyclable non-compostable plastic bags present a hazard to the natural environment. Plastic bags significantly impact the environment, including contributing to unsightly litter, crowding landfills with nonbiodegradable waste, endangering marine animals, and requiring the use of millions of barrels of crude oil for their manufacture. The legislature further finds that the State has an interest in protecting its natural environment and decreasing the amount of waste in landfills.

The purpose of this Act is to encourage the use of environmentally preferable alternatives to nonbiodegradable plastic bags.

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

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

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

"ASTM standard" means the American Society for Testing and Materials International standard 06400 for compostable plastic, as amended.

"Business" means any commercial enterprise or establishment, including sole proprietorships, joint ventures, partnerships, and corporations, or any other legally cognizable entity, whether for profit or not for profit, and includes all employees of the business or any independent contractors

associated with the business.

"Checkout bag" means a carryout bag that is provided by a store to a customer.

"Compostable" means that the product or package meets American Society for Testing and Materials International standards for compostability.

"Compostable plastic bag" means a plastic bag that will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner.

"Department" means the department of the health.

"Director" means the director of health.

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

"Post-consumer recycled material means materials that is an end product that has completed its life cycle as a consumer item such as office paper, cardboard, and aluminum cans.

"Recyclable" means material that can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

"Recyclable paper bag" means a paper bag that:

- (1) Contains no old growth fiber;
- (2) Is one hundred per cent recyclable and contains a minimum of forty per cent post-consumer recycled material; and
- (3) Displays the words "Recyclable" in a highly visible manner on the outside of the bag.

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

- (1) Made of cloth or other machine washable fabric; or

- (2) Made of other durable material suitable for re-use, including plastic that is at least 2.25 millimeters thick.

**§342H-B Mandatory use of recyclable, compostable, and reusable checkout bags.** (a) Beginning January 1, 2010, businesses with annual gross sales of over \$250,000:

- (1) Are prohibited from providing nonbiodegradable plastic checkout bags to their customers; and
- (2) Shall provide only the following as checkout bags to customers: recyclable paper bags, compostable plastic bags, or reusable bags.

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

**§342H-C Rules.** The director shall adopt rules under chapter 91 to effectuate the purpose of this part.

**§342H-D Administrative penalties.** The director is authorized to impose by order the following administrative penalties for violations of this part:

- (1) For a first violation, a fine of not more than \$200;
- (2) For a second violation within one year, a fine of not more than \$400; and
- (3) For a third or subsequent violation within one year, a fine of not more than \$600.

**§342H-E Injunctive and other relief.** The director may institute a civil action in any court of competent jurisdiction for injunctive and other relief to prevent any violation of this part, any rule adopted pursuant to this part, to collect administrative penalties, or to obtain other relief. The court shall have the power to grant relief."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

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

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

SECTION 6. This Act shall take effect upon approval.

INTRODUCED BY: \_\_\_\_\_