

Report Title:

Recycling; Plastics; Environment

Description:

Establishes a statewide at-store plastic carryout bag recycling program, requiring certain retailers to collect and recycle plastic bags in their stores. Creates a ban on plastic bags effective January 1, 2011.

A BILL FOR AN ACT

RELATING TO RECYCLING.

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

SECTION 1. The legislature finds that plastic bags create unsightly litter, add additional burdens to Hawaii landfills, and require the use of millions of barrels of crude oil for their manufacture. Plastics take decades to break down and present a significant, long-lasting hazard to the environment.

The legislature acknowledges that the county of Maui has implemented an ordinance to ban plastic shopping bags and encourages the use of reusable or recyclable bags for the transporting of goods and groceries starting in 2011. Other cities that have passed legislation to ban plastic shopping bags include Los Angeles, San Francisco, and Malibu in California, and Westport, Connecticut.

The legislature further finds that the State has an interest in protecting its natural environment, eliminating litter, and decreasing the amount of recyclable plastic bags flowing into its landfills. The State must follow the emerging domestic trend of environmental protection and promote the reduction and recycling of plastic bags and a decrease in litter.

The purpose of this Act is to protect Hawaii's environment by:

- (1) Encouraging the use of reusable bags by consumers;
- (2) Facilitating and supporting the recycling of plastic bags by both businesses and consumers; and

(3) Banning at-store usage of plastic carryout bags beginning on January 1, 2011.

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

"PART . AT-STORE PLASTIC CARRYOUT BAG RECYCLING PROGRAM

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

"Operator" means a person in control of or having responsibility for the daily operation of a store and includes the owner of the store.

"Program" means the at-store plastic carryout bag recycling program established pursuant to this part.

"Reusable bag" means a bag made of cloth or other machine-washable fabric that has handles.

"Store" means any business that provides plastic carryout bags to its customers at the point of sale and:

- (1) Has over ten thousand square feet of retail space and a licensed pharmacy; or
- (2) Is a full-line, self-service retail store with gross annual sales of \$2,000,000 or more that sells a line of dry groceries, canned goods, nonfood items, and perishable goods.

§342H-B At-store plastic carryout bag recycling program; establishment; requirements. (a) The operator of a store shall establish an at-store plastic carryout bag recycling program pursuant to this part that provides an opportunity for a customer of the store to return clean plastic carryout bags to the store.

(b) The department of health may provide to a store a hardship exemption from the program upon the demonstration of a physical or financial hardship based on specific criteria established by the department of health by rule.

(c) Any store that that is not required by this part to establish a

program may adopt an at-store plastic carryout bag recycling program as specified in this part.

(d) The at-store plastic carryout bag recycling program provided by the operator of a store shall include all of the following:

- (1) The plastic carryout bag provided by the store shall have printed or displayed on the bag, in a manner visible to a consumer, the words "PLEASE RETURN TO A PARTICIPATING STORE FOR RECYCLING";
- (2) A plastic carryout bag collection bin shall be placed at each store and shall be visible, easily accessible to the consumer, and clearly marked with the information that the bin is available for the purpose of collecting and recycling plastic carryout bags;
- (3) The store shall maintain records describing the collection, transport, and recycling of plastic carryout bags under the program for the length of the program and shall make the records available to the director upon request to demonstrate compliance with this chapter; and
- (4) The operator of the store shall make reusable bags available to customers within the store, which may be purchased and used by customers in lieu of using a plastic carryout bag or paper bag.

§342H-C Conflict with other laws. (a) Unless expressly authorized by this part, a county or other public agency shall not adopt, implement, or enforce any ordinance, resolution, regulation, or rule that:

- (1) Requires a store that is in compliance with this part to collect, transport, or recycle plastic carryout bags; and
- (2) Imposes on a store that is in compliance with this part, auditing or reporting requirements on the store's at-store plastic carryout bag recycling program that are in addition to the requirements of section 342H-B(d)(3).

(b) This section shall not prohibit the adoption, implementation, or

enforcement of any ordinance, resolution, regulation, or rule governing curbside or drop-off recycling programs operated by or pursuant to a contract with a county or other public agency, or fees for these programs.

(c) This section shall not affect any contract, franchise, permit, license, or other arrangement regarding the collection or recycling of solid waste or household hazardous waste.

§342H-D Administrative penalties. In addition to any civil remedy provided by law or by administrative rules, the director may impose, by order, the following administrative penalties:

- (1) For a first violation, a fine of not more than \$100;
- (2) For a second violation within one year, a fine of not more than \$200; and
- (3) For a third or subsequent violation within one year, a fine of not more than \$500.

Fines collected pursuant to this part shall be deposited into the general fund of the State of Hawaii.

§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 a violation of this part or of a rule adopted pursuant to this part, to collect administrative penalties, or to obtain other relief.

§342H-F Rules. Pursuant to chapter 91, the department of health may adopt rules necessary for the purposes of this part."

SECTION 3. Chapter 342H, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . PLASTIC CARRYOUT BAG REDUCTION

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

"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.

"Operator" means a person in control of or having responsibility for the daily operation of a store and includes the owner of the store.

"Plastic carryout bag" means a plastic bag that is provided by a store to a customer at the point of sale and used to carry items purchased by the customer.

"Reusable bag" means either a bag made of cloth or other machine-washable fabric that has handles.

"Store" means a retail establishment that provides plastic carryout bags to its customers at the point of sale.

§342H-H Plastic carryout bag; prohibition. (a) Beginning on January 1, 2011, all store operators are prohibited from providing plastic carryout bags to consumers at the point of sale for the purpose of transporting groceries or other goods.

(b) All store operators shall be required to provide or sell reusable bags to consumers for the purpose of transporting groceries or other goods.

§342H-I Administrative penalties. In addition to any civil remedy provided law or by administrative rules, the director may impose, by order, the following administrative penalties:

- (1) For a first violation, a fine of not more than \$100;
- (2) For a second violation within one year, a fine of not more than \$200; and
- (3) For a third or subsequent violation within one year, a fine of not more than \$500;

provided that each issuance by a store operator or any of the store operator's employees of a plastic carryout bag in violation of section 342H-H shall constitute a separate violation.

Fines collected pursuant to this part shall be deposited into the

general fund of the State of Hawaii.

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

§342H-K Rules. Pursuant to chapter 91, the department of health may adopt rules necessary for the purposes of this part."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Nothing in this Act shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal law.

SECTION 6. In codifying the new sections added by section 2 and 3 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 7. This Act shall take effect on July 1, 2009, provided that the new part to chapter 324H, Hawaii Revised Statutes, relating to the at-store plastic carryout bag recycling program, as set forth in section 2 of this Act, shall be repealed on January 1, 2011.

INTRODUCED BY: _____