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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-biodegradable single-use plastic checkout bags and non-recyclable paper checkout bags present a hazard to the natural environment. Non-biodegradable single-use plastic checkout bags are not only a source of unsightly litter, they are a significant source of environmental degradation because they crowd landfills with non-biodegradable waste, endanger marine life, and require fossil fuel to manufacture. The legislature finds that businesses that prefer to provide consumers with plastic bags should transition to providing a less toxic biodegradable alternative. Non-recyclable paper bags also crowd landfills and require fossil fuel to manufacture. The legislature finds that businesses that prefer to provide consumers with paper bags should transition to providing a less toxic biodegradable alternative.

The legislature further finds that the State of Hawaii has a compelling interest in protecting its precious natural environment by decreasing the amount of waste that flows into its landfills. Ample precedent supports this Act; several countries, international cities, domestic cities and counties have laws that discourage or ban the use of non-biodegradable plastic checkout bags and non-recyclable paper checkout bags. Because the State's economy, culture, and the livelihood of its people depend heavily on preserving its natural environment, the

legislature finds that the State will benefit from the reduction of waste.

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

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:

"Biodegradable plastic bag" means plastic in which the degradation results from the action of naturally occurring microorganisms such as bacteria, fungi, and algae. The ultimate products of this process should be carbon dioxide, water, and harmless, non-toxic compost (humus) in time frames consistent with the ambient conditions of the disposal method.

"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 at the point of sale.

"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.

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

- (1) Contains no old growth fiber;

- (2) Is one hundred per cent recyclable overall and contains a minimum of forty per cent post-consumer recycled content; and
- (3) Displays the word "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.

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

**§342H-B Prohibition on non-biodegradable single-use checkout bags.**

(a) Beginning January 1, 2012, businesses with annual gross sales of over \$300,000 are prohibited from distributing non-biodegradable single-use plastic checkout bags to their customers at the point of sale.

(b) Any person who violates this section shall be subject to:

- (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.

(c) 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 necessary for the purpose of this part.

**§342H-D Administrative penalties.** In addition to any other civil or judicial remedy provided by this part or by rules adopted under this part, the director is authorized to impose by order the following administrative penalties:

- (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 power to grant relief in accordance with the Hawaii rules of civil procedure."

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

- (1) Raw meat, poultry, or fish;
- (2) Frozen foods; and
- (3) Fresh produce.

SECTION 4. Exemptions. The State may exempt an entity from this Act for an interim period no longer than one year upon sufficient showing by the applicant that implementation of the provisions of this Act would cause undue hardship. This request shall be submitted in writing to the director of health. The term "undue hardship" may include, but is not limited to, the following:

- (1) Situations where there are no acceptable alternatives to non-biodegradable single-use plastic shopping bags for reasons that are unique to the entity; and
- (2) Situations where compliance with the requirements of this Act would deprive a person of a legally protected right.

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 or state law.

SECTION 6. 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 7. This Act shall take effect upon approval.

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

**Report Title:**

Environmental Protection; Plastic Bags, Prohibited

**Description:**

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

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