

JAN 20 2012

S.B. NO. 2364

A BILL FOR AN ACT

RELATING TO FUNDING FOR WATERSHED PROTECTION.

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

1 SECTION 1. The legislature finds that the State has a
2 compelling interest in protecting its precious natural
3 environment. Several countries and international and domestic
4 cities have successfully implemented laws that have reduced non-
5 reusable checkout bag usage and used the fees to protect the
6 environment. A significant reduction of non-reusable checkout
7 bag waste and litter in Hawaii would likely benefit the public's
8 health and welfare because the people of Hawaii depend on our
9 natural environment for economic, social, and cultural reasons.

10 The legislature also finds that the production and disposal
11 of non-reusable checkout bags should be mitigated by additional
12 funding to reduce water quality damage, deforestation, and
13 climate change. Improper disposal of bags, particularly plastic
14 bags, pollutes Hawaii's streams and coral reefs and strangles
15 and starves endangered marine animals. Increasing the resilience
16 of marine ecosystems to the threat posed by pollution requires
17 litter removal, strengthening water quality measures, and
18 reducing erosion and sedimentation of reefs.



1 The purpose of this Act is to reduce the adverse impact of
2 non-reusable checkout bag waste on Hawaii's precious and unique
3 natural environment by establishing an offset fee for the
4 distribution of single-use checkout bags to fund programs to
5 improve water quality and resilience to climate change.

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

9 **"PART . SINGLE-USE CHECKOUT BAG FEE**

10 **§342H-A Definitions.** As used in this part, unless the
11 context otherwise requires:

12 "Business" means any commercial enterprise or
13 establishment, including sole proprietorships, joint ventures,
14 partnerships, and corporations, or any other legally cognizable
15 entity, and includes all employees of the business or any
16 independent contractors associated with the business.

17 "Department" means the department of land and natural
18 resources.

19 "Mil" means one thousandth of an inch.

20 "Reusable bag" means a bag with handles that is
21 specifically designed and manufactured for multiple reuse and is
22 made of:



- 1 (1) Cloth or other machine washable fabric; or
2 (2) Other durable material suitable for reuse, including
3 plastic that is at least 2.25 mils thick.

4 "Single-use checkout bag":

- 5 (1) Means a bag made of plastic that is less than 2.25
6 mils thick, or a paper package or sack, whether
7 recyclable or non-recyclable, that is provided by a
8 business to a customer, and is designed for one-time
9 use to contain and transport merchandise; and

10 (2) Does not include:

11 (A) Bags used by customers inside a business to
12 package loose items, such as fruits, vegetables,
13 nuts, grains, or candies, or small hardware
14 items;

15 (B) Bags used to contain or wrap frozen foods, meat
16 or fish, flowers or potted plants, or other items
17 to contain dampness;

18 (C) Bags used to protect or transport prepared foods
19 or bakery goods;

20 (D) Bags provided by pharmacists to contain
21 prescription medications;

22 (E) Newspaper bags;



(F) Door-hanger bags;

(G) Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;

(H) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags; or

(I) Bags used to contain live animals, such as fish or insects sold in pet stores.

"Small business" means a business that has grossed \$250,000 or less in revenues in the previous year.

§342H-B Distribution of single-use checkout bags; fee.

(a) Beginning January 1, 2013, all businesses in the State shall charge and collect a fee of 10 cents for each single-use checkout bag that is provided to customers; provided that a business may provide single-use checkout bags free of charge to any customer participating in federally approved nutrition assistance programs, including the supplemental nutrition assistance program and the special supplemental nutrition program for women, infants, and children.

(b) Businesses subject to the requirements of this part shall indicate on each customer transaction receipt the number



1 of single-use checkout bags provided and the amount of the fee
2 charged.

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

5 (d) A business may retain twenty per cent of the fees
6 collected from January 1, 2013, until December 31, 2013, and ten
7 per cent of the fees collected thereafter, that shall be subject
8 to chapters 235 and 237.

9 **§342H-C Remittance of fees.** (a) No later than the last
10 day of each month, each business subject to the requirements of
11 this part shall remit to the department the fees collected
12 pursuant to section 342H-B during the immediately preceding
13 month; provided that a small business may remit the fees on a
14 quarterly basis on the last day of the month following the end
15 of a quarter.

16 (b) Payments and receipts of fees shall be reported on
17 forms prescribed by the department. Any proprietary information
18 obtained by the department shall be kept confidential and shall
19 not be disclosed to any other person.

20 (c) Businesses shall be subject to penalties and interest
21 for late or underpaid fees.



(d) All fees collected by the department pursuant to this part shall be deposited as follows:

(1) Sixty per cent of the fees collected from January 1, 2013, until December 31, 2013, and seventy per cent of the fees collected thereafter, into the natural area reserve fund to be expended by the department on watershed protection and restoration and for expenses related to the administration and enforcement of this part; and

(2) Twenty per cent of the fees collected into the environmental management special fund established pursuant to section 342G-63, to be expended by the department of health for expenses related to clean water and environment protection.

§342H-D Violations. (a) It shall be a violation of this part for any business that is subject to the requirements of this part to pay or otherwise reimburse a customer for any portion of the fee required to be charged and collected pursuant to section 342H-B.

(b) Violations of this part or any rule adopted pursuant to this part shall be subject to a fine of not less than \$1,000 for each violation.



1 **§342H-E Preemption.** Except for any county ordinance
2 regulating single-use checkout bags in effect prior to the
3 effective date of this part, this part shall preempt the powers
4 of any county to regulate the use of single-use checkout bags;
5 provided that in counties where an ordinance regulating plastic
6 single-use checkout bags is in effect, the fee established under
7 section 342H-B shall be applicable only to single-use checkout
8 bags made of paper.

9 **§342H-F Rules.** The department shall adopt rules, pursuant
10 to chapter 91, as may be necessary for the purposes of this
11 part."

12 SECTION 3. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 4. This Act shall take effect on January 1, 2013.

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INTRODUCED BY: 



S.B. NO. 2364

Report Title:

Single-use Checkout Bags; Fees; Watershed Protection; DLNR

Description:

Requires businesses in the State to collect a 10-cent fee for each single-use checkout bag provided to a customer, with certain exceptions. Subject to income and general excise taxes, allows businesses to keep 20% of the fees collected from 1/1/13 to 12/31/13 and 10% thereafter. Requires fees to be collected on paper bags in counties that currently have ordinances banning plastic bags. Authorizes 20% of the fees collected to be expended by DOH for clean water projects. Authorizes 60% of the fees collected from 1/1/13 to 12/31/13, and 70% thereafter, to be expended by DLNR for watershed protection. Takes effect 1/1/2013.

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