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# A BILL FOR AN ACT

RELATING TO WASTE MANAGEMENT.

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

1 PART I

2 SECTION 1. The legislature finds that as the State strives  
3 to fulfill its commitments to reduce waste and effectively  
4 mitigate the impacts of climate change, extended producer  
5 responsibility policies offer an opportunity to create mutually  
6 beneficial partnerships with the businesses that produce  
7 packaging waste.

8 Extended producer responsibility policies are designed to  
9 transfer some portion of the costs of managing the waste  
10 generated by the sale of consumer goods to the entities that  
11 produce those goods. These policies stand in contrast to  
12 existing policies that place this responsibility solely on  
13 taxpayers. The failure of recycling programs and the multiple  
14 crises created by plastic pollution, which fouls air, water, and  
15 biological systems worldwide, are the primary drivers leading to  
16 the call for such innovative solutions.



1       The legislature further finds that Hawaii has a unique role  
2 to play in creating extended producer responsibility solutions  
3 due to the State's relatively small resident population, remote  
4 location bounded by the Pacific ocean, and global image as a  
5 relatively pristine environment. The fact that the islands  
6 attract millions of visitors each year adds to Hawaii's value as  
7 a proving ground for forward-thinking waste reduction  
8 initiatives.

9       The legislature also finds that the corporations that  
10 produce the greatest volume of consumer goods have a  
11 correspondingly unique role to play in solving the problems  
12 caused by the proliferation of packaging waste. Among these  
13 corporations, sixteen of the top twenty are signatories to the  
14 Global Commitment for a New Plastics Economy, an initiative  
15 developed by the Ellen MacArthur Foundation and the United  
16 Nations Environmental Programme as a primary means for  
17 implementing waste-related sustainable development goals. These  
18 existing commitments have signatories who are on track to reduce  
19 the volume of plastic packaging waste that their business models  
20 generate and ensure that whatever remains is either reusable,  
21 recyclable, or compostable.



1 Finally, the legislature finds that although reuse  
2 strategies offer far greater benefits than recycling programs,  
3 these strategies have historically failed to gain the resources  
4 needed to develop and ensure success.

5 The purpose of this Act is to establish an extended  
6 producer responsibility program to engage producers to eliminate  
7 packaging waste in the State.

8 PART II

9 SECTION 2. The Hawaii Revised Statutes is amended by  
10 adding a new chapter to be appropriately designated and to read  
11 as follows:

12 "CHAPTER

13 EXTENDED PRODUCER RESPONSIBILITY PROGRAM

14 § -1 Definitions. As used in this chapter:

15 "Baseline volume" means the volume of packaging waste a  
16 county sends to a power plant that burns municipal solid waste  
17 as a fuel, a landfill, or both, during the calendar year  
18 beginning and ending on a date determined by rule.

19 "Brand" means a symbol, word, or mark that identifies a  
20 fast-moving consumer good.



1 "Covered material or product" means, regardless of  
2 recyclability:

3 (1) Any part of a package or container, including material  
4 that is used for the containment, protection,  
5 handling, delivery, and presentation of a product that  
6 is sold, offered for sale, imported, or distributed in  
7 the State; and

8 (2) Primary, secondary, and tertiary packaging intended  
9 for the consumer market; service packaging designed  
10 and intended to be filled at the point of sale,  
11 including carry-out bags and bulk goods bags; and  
12 beverage containers.

13 "Covered producer" means a producer that either:

14 (1) Produces a packaging volume of more than ten thousand  
15 metric tons internationally; or

16 (2) Has international gross sales of fast-moving consumer  
17 goods of more than \$500,000,000.

18 "Department" means the department of health.

19 "Fast-moving consumer good" means a:

20 (1) Non-durable consumer good that is packaged using a  
21 covered material or product; or



(2) Covered material or product if the covered material or product is being sold as a product instead of being used as packaging.

"Packaging volume" means the packaging volume that a producer places on the market.

"Person" means any individual, business, partnership, limited liability company, corporation, not-for-profit organization, association, government entity, public benefit corporation, or public authority.

"Producer" means any person, except for the State or any of its political subdivisions, that:

(1) Manufactures a fast-moving consumer good under the person's own name or brand; and

(2) Either:

(A) Sells, offers for sale, distributes, or imports a fast-moving consumer good as owner or licensee of a trademark or brand under which a fast-moving consumer good is sold or distributed in the State; or

(B) Sells, offers for sale, or distributes a fast-moving consumer good in the State.



1 "Program year" means a full calendar year beginning and  
2 ending on a date determined by rule; provided that the final  
3 program year shall be determined by rule.

4 "Reuse" means to extend the life of a product, package, or  
5 resource, excluding materials used as a fuel substitute or for  
6 energy production (i.e. incineration), by either using it more  
7 than once with little to no processing (same or new function),  
8 repairing it so it can be used longer, or sharing, renting,  
9 selling, or donating it to another party.

10 § -2. **Sales prohibition.** Beginning and ending on a date  
11 determined by rules adopted by the department, no covered  
12 producer shall sell or offer for sale any fast-moving consumer  
13 good for delivery in this State unless the covered producer has  
14 registered pursuant to section -3 and complied with any other  
15 applicable provisions of this chapter.

16 § -3. **Fast-moving consumer good; covered producer**  
17 **responsibility.** (a) Beginning on July 1, 2027, each covered  
18 producer shall register with the department and pay to the  
19 department a fee as provided in subsection (e).

20 (b) Each covered producer who is registered shall submit  
21 an annual renewal of its registration by January 1 of each



1 subsequent program year, with the payment of a fee as provided  
2 in subsection (e).

3 (c) The registration and each renewal shall include a list  
4 of all of the covered producer's brands of fast-moving consumer  
5 goods and shall be effective on the second day of the succeeding  
6 month after receipt by the department of the registration or  
7 renewal.

8 (d) The registration and each renewal shall include the  
9 covered producer's sales volume for the preceding year and the  
10 estimated packaging volume placed in the market in the State by  
11 the covered producer's sales volume during that year. The  
12 packaging volume generated in the State shall be used to  
13 calculate the fee in subsection (e).

14 (e) The fee to be paid at the time of registration or  
15 renewal shall be \$100 for each metric ton of packaging placed in  
16 the market in the State by the covered producer.

17 **§ -4. Extended producer responsibility special fund.**

18 (a) There is established in the state treasury the extended  
19 producer responsibility special fund into which shall be  
20 deposited:



1 (1) All fees, payments, and penalties collected by the  
2 department pursuant to chapter;

3 (2) Any appropriation by the legislature into the special  
4 fund;

5 (3) Any grant or donation made to the special fund; and

6 (4) Any interest earned on the balance of the special  
7 fund.

8 (b) The extended producer responsibility special fund  
9 shall be administered by the department.

10 (c) Moneys in the special fund shall be expended as  
11 follows:

12 (1) Beginning with a fiscal year determined by rule, the  
13 department shall allocate moneys to each county for  
14 the costs of creating the countywide needs assessment  
15 required pursuant to section -6;

16 (2) Funds in excess of those required to cover the costs  
17 of the countywide needs assessments shall be awarded  
18 by the department to qualified applicants for projects  
19 and programs that eliminate packaging waste through  
20 the development of reuse and refill systems within the  
21 State. The department shall have the authority to





1 subcontract the administration of a grant program to a  
2 qualified nonprofit that will process applications and  
3 make awards; provided that no producer regulated under  
4 the law is connected to the nonprofit in charge of  
5 managing the awards in a way that could impact the  
6 award process;

7 (3) No funds shall be distributed pursuant to this  
8 subsection unless approved by the department. The  
9 department shall approve or deny a proposal for  
10 funding within ninety days of receipt of a proposal.  
11 The department may approve proposals for funding that  
12 meet at least the following criteria:

13 (A) Eliminate packaging waste;

14 (B) Increase the transition of packaging from non-  
15 reusable to reusable or refillable packaging;

16 (C) Increase access to reuse and refill  
17 infrastructure, programs, and projects in the  
18 State;

19 (D) Increase the capacity of reuse and refill  
20 infrastructure, programs, and projects and the  
21 State;



(E) Provide reuse and refill instruction that are, to the extent practicable, consistent statewide, easy to understand, translated into various commonly-used languages, and easily accessible; and

(F) Provide for outreach and education that are coordinated across programs or regions to avoid confusion for residents, and developed in consultation with local government and the public; and

(4) The department may expend an amount not to exceed \$ in each fiscal year to administer the extended producer responsibility program established by this chapter.

**§ -5 Needs assessment.** (a) Each county shall develop a countywide needs assessment, which shall:

(1) Detail the resources needed to reduce the volume of packaging waste the county sends to landfills by fifty per cent from the respective county's baseline volume by a date determined by rule; provided that a county



with a population greater than five hundred thousand  
shall:

(A) Detail in its needs assessment the resources  
needed to reduce by fifty per cent of its  
baseline volume the volume of packaging waste the  
county sends to a landfill or to a power plant  
that burns municipal solid waste as a fuel; and

(B) Categorize its resource needs by method of  
packaging waste disposal; and

(2) Detail the resources needed to reduce the volume of  
packaging waste the county sends to a landfill by  
eighty per cent from the respective county's baseline  
volume by a date determined by rule; provided that a  
county with a population greater than five hundred  
thousand shall:

(A) Detail in its needs assessment the resources  
needed to reduce by eighty per cent of its  
baseline volume the amount of packaging waste the  
county sends to a landfill or to a power plant  
that burns municipal solid waste as a fuel; and



1 (B) Categorize its resource needs by method of  
2 packaging waste disposal.

3 (b) Each county shall submit its countywide needs  
4 assessment to the department no later than a date determined by  
5 rule. The department shall compile the assessments and  
6 consolidate them along with any recommendations made by the  
7 counties and shall work with the counties and registered covered  
8 producers to establish guidelines on the use of moneys in the  
9 extended producer responsibility special fund; provided that  
10 priority shall be given to packaging reuse programs.

11 (c) The department shall submit an annual report to the  
12 legislature no later than twenty days prior to the convening of  
13 each regular session beginning after the establishment of the  
14 extended producer responsibility program that contains a summary  
15 of:

16 (1) County needs assessments;

17 (2) Moneys deposited into the extended producer  
18 responsibility special fund;

19 (3) The use of any moneys from the extended producer  
20 responsibility special fund; and



(4) Any other findings and recommendations, including any proposed legislation.

**§ -6 Financial and proprietary information; report.**

Notwithstanding any law to the contrary, financial or proprietary information, including trade secrets, commercial information, and business plans, submitted to the department under this chapter shall be confidential and exempt from public disclosure to the extent permitted by chapter 92F.

**§ -7 Rules.** No later than July 1, 2027, the department shall adopt rules pursuant to chapter 91 necessary to implement this chapter.

**§ -8 Enforcement.** (a) The department may conduct or require audits and conduct inspections to determine compliance under this chapter. Except as provided in subsection (c), the department and the attorney general may enforce this chapter and take necessary action against any covered producer for failure to comply with this chapter or rules adopted pursuant to this chapter.

(b) The attorney general may file suit in the name of the State to enjoin an activity related to the sale of fast-moving consumer goods in violation of this chapter.



1 (c) The department shall issue a warning notice to a  
2 person for the person's first violation of this chapter. The  
3 person shall comply with this chapter within sixty days of the  
4 date the warning notice was issued or be subject to the  
5 penalties provided by law or rule, including but not limited to  
6 penalties set forth in subsections (d) and (e).

7 (d) Any person who violates any requirement of this  
8 chapter may be assessed a penalty of up to \$1,000 for the first  
9 violation and up to \$2,000 for the second and each subsequent  
10 violation, in addition to any additional penalties required or  
11 imposed pursuant to this chapter; provided that each day of  
12 continued violation shall constitute a separate violation.

13 (e) The department shall determine additional penalties  
14 based on adverse impact to the environment, unfair competitive  
15 advantage, and other considerations that the department deems  
16 appropriate.

17 § -9 **Administrative penalties; fees.** In addition to any  
18 other administrative or judicial remedy provided by this chapter  
19 or rules adopted under this chapter for a violation thereof, the  
20 department may impose by order administrative penalties; set,  
21 charge, and collect administrative fines; recover administrative



1 fees and costs, including attorney's fees and costs; and bring  
2 legal action to recover administrative fines and fees and costs,  
3 including attorney's fees and costs.

4           §    -10   **Applicability.** This chapter shall not apply to  
5 any material that is used in the packaging of a product that is  
6 regulated as a drug, medical device, or dietary supplement by  
7 the United States Food and Drug Administration under the Federal  
8 Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., sec. 3.2(e)  
9 of 21 United States Code of Federal Regulations or the Dietary  
10 Supplement Health and Education Act."

11 PART III

12           SECTION 3. There is appropriated out of the general fund  
13 revenues of the State of Hawaii the sum of \$                   or so  
14 much thereof as may be necessary for fiscal year 2025-2026 to be  
15 deposited into the extended producer responsibility special fund  
16 established by this Act.

17           SECTION 4. There is appropriated out of the extended  
18 producer responsibility special fund the sum of \$                    or  
19 so much thereof as may be necessary for fiscal year 2026-2027  
20 for the counties to prepare countywide need assessments;  
21 provided that the moneys shall be expended as follows:



1 County of Hawaii \$  
2 County of Kauai \$  
3 County of Maui \$  
4 City and county of Honolulu \$

5 The sum appropriated shall be expended by the respective  
6 county for the purposes of this Act.

7 The sum appropriated shall constitute the State's share of  
8 the cost of the mandated program under article VIII, section 5,  
9 of the state constitution.

10 SECTION 5. There is appropriated out of the extended  
11 producer responsibility special fund the sum of \$ or  
12 so much thereof as may be necessary for fiscal year 2025-2026  
13 for the administration of the extended producer responsibility  
14 program.

15 The sum appropriated shall be expended by the department of  
16 health for the purposes of this Act.

17 SECTION 6. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$ or so  
19 much thereof as may be necessary for fiscal year 2025-2026 and  
20 the same sum or so much thereof as may be necessary for fiscal  
21 year 2026-2027 for one full-time equivalent (1.0 FTE) position





1 for the extended producer responsibility program to develop  
2 rules, oversee and manage goals and objectives related to waste  
3 management, analyze and assess waste reduction targets, and  
4 develop reports.

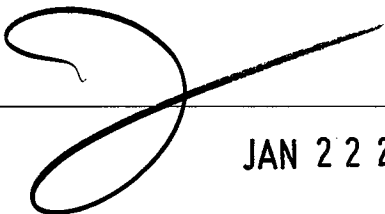
5 The sums appropriated shall be expended by the department  
6 of health for the purposes of this Act.

7 SECTION 7. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10 SECTION 8. This Act shall take effect on July 1, 2025, and  
11 shall be repealed on July 1, 2032; provided that if there are  
12 moneys remaining in the extended producer responsibility special  
13 fund when this Act is repealed, the department of health and the  
14 counties may continue to expend the remaining moneys in a manner  
15 consistent with this Act after July 1, 2032, until all moneys  
16 have been expended.

17

INTRODUCED BY:

  
JAN 22 2025

# H.B. NO. 1264

**Report Title:**

Department of Health; Counties; Extended Producer Responsibility; Waste Reduction; Packaging; Fast-moving Consumer Goods; Extended Producer Responsibility Special Fund; Appropriation

**Description:**

Establishes an Extended Producer Responsibility Program. Requires certain producers of fast-moving consumer goods to register with the Department of Health and pay an annual fee based on the amount of packaging volume the covered producer places on the market each calendar year. Provides for the deposit of fees into an Extended Producer Responsibility Special Fund. Provides for the expenditure of moneys from the Extended Producer Responsibility Special Fund for the creation of a countywide needs assessment of resources needed to reduce the volume of packaging waste sent to landfills or power plants that burn municipal solid waste as a fuel by fifty per cent and eighty per cent by a date to be determined by rule. Appropriates funds. Sunsets 7/1/2032.

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

