

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

Bill No. 268-34 (COR)

As Corrected by the Prime Sponsor.

Introduced by:

Régine Biscoe Lee

AN ACT TO *ADD* A NEW CHAPTER 54B TO TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO IMPOSING AN OPTIONAL BAG FEE ON CARRYOUT BAGS PROVIDED TO CONSUMERS BY RETAIL ESTABLISHMENTS ON GUAM; AND TO CITE THIS ACT AS THE “CHOOSE TO REUSE: MUNGNGA MA AYEK I PLASTEK ACT OF 2018.”

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that

the Government of Guam has a duty to protect and support the natural environment, the economy and health of its citizens.

Since 1964, plastic production has increased twenty-fold, reaching three hundred eleven million (311,000,000) metric tons in 2014 – the equivalent of more than nine hundred (900) Empire State Buildings, according to a January 2016 report by the World Economic Forum (WEF) discussing the *New Plastic Economy*. The United Nations Environment Programme estimates the annual damage of plastics to marine ecosystems to be at least \$13 billion per year, and accounting for the cost includes lost revenue from fisheries, tourism, and the cost of clean-up efforts. Likewise, the Asia-Pacific Economic Cooperation (APEC) estimates that the cost of ocean plastics to the tourism, fishing and shipping industries in the Asia-Pacific region is \$1.26 billion annually.

Currently, there are more than one hundred fifty (150) million metric tons of plastics in the ocean. During the 2016 International Coastal Cleanup, eight thousand

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1 one hundred twelve (8,112) plastic grocery bags and other plastic bags were
2 collected on Guam's coasts according to the Ocean Conservancy's International
3 Coastal Cleanup 2017 Report. Without significant action to reduce the flow, the
4 ocean is expected to contain one (1) metric ton of plastic for every three (3) metric
5 tons of fish by 2025. By 2050 there is expected to be more plastic by weight in the
6 oceans of the world than fish, consequently this will impact ecosystems and food
7 supplies. In a report detailing the threat of plastic on seabirds published in the
8 Proceedings of the National Academy of Science in 2015, ninety-nine percent (99%)
9 of all seabird species will have ingested plastic by the year 2050. Effective waste
10 management policies must be considered in order to curb the detrimental impacts on
11 marine wildlife from plastic litter entering into the ocean.

12 Governments around the world are being asked by the UN Environment
13 Programme, through its Clean Seas campaign launched in February 2017, to engage
14 in the fight against marine plastic litter by passing local laws to reduce plastic
15 pollution. Many of Guam's neighboring Pacific islands as well as fellow U.S.
16 territories have already enacted legislation to reduce the usage of plastic bags. This
17 includes the U.S. territories of Puerto Rico, American Samoa, and the U.S. Virgin
18 Islands; Hawaii; the Republic of the Marshall Islands; Yap in the Federated States
19 of Micronesia; and most recently Palau and Fiji. The Commonwealth of the Northern
20 Mariana Islands is also in the process of passing a plastic bag ban. In October 2017,
21 the youth of Guam took a stance against the use of plastic bag by passing a bill in
22 the Guam Youth Congress to end the use of plastic bags on Guam.

23 It is, therefore, the intent of *I Liheslaturan Guåhan* to listen to the voice of our
24 youth and join these nations working towards reducing land-based plastics from
25 entering the ocean by incentivizing the use of reusable carryout bags at retail
26 establishments.

1 (10) a bag used to help insulate frozen items; or

2 (11) a reusable carryout bag as defined by this Chapter.

3 (c) Reusable Carryout Bag means a bag specifically designed and
4 manufactured for multiple reuse and is made of cloth, fiber, or other machine
5 washable fabric.

6 (d) Retail Establishment means any entity that engages in the business of
7 selling tangible property to others for consumption or use by the purchaser, and not
8 for resale.

9 (e) Wholesale Establishment means any entity that engages in the business of
10 selling tangible property for the purpose of resale.

11 **§ 54B003. Requirements for disposable carryout bags at retail**
12 **establishments.**

13 Retail or wholesale establishments may offer for sale or distribute reusable
14 carryout bags to consumers. Retail or wholesale establishments shall not offer for
15 sale or distribute disposable carryout bags unless such bags meet the following
16 criteria:

17 (a) Disposable carryout bags made of paper shall contain a minimum of 40%
18 post-consumer recycled content.

19 (b) Disposable carryout bags made of plastic, including plastics made from
20 bio-based polymers, shall be biodegradable or compostable. If otherwise not
21 biodegradable or compostable, be made of high-density polyethylene (HDPE) film
22 marked with the SPI resin identification code 2.

23 **§ 54B004. Establishment of Disposable Carryout Bag Fee and**
24 **Requirements.**

25 (a) A retail establishment providing a disposable carryout bag to a consumer
26 shall collect a disposable carryout bag fee of ten cents (\$.10) from the consumer at
27 the time of purchase for each disposable carryout bag provided to the consumer.

1 Nothing in this chapter shall be construed as requiring retail establishments to
2 provide disposable carryout bags to a consumer, retail establishment may forego
3 providing disposable carryout bags to consumers.

4 (b) A retail establishment shall not refund to the consumer any part of the
5 disposable carryout bag fee, nor shall the retail establishment advertise or state to
6 the public or to a consumer directly or indirectly that the reimbursement of any part
7 thereof to be collected by the retail establishment will be assumed or absorbed by
8 the retail establishment.

9 (c) All retail establishments shall separately indicate on the consumer
10 transaction receipt the number of disposable carryout bags provided and the total fee
11 charged.

12 (d) No retail establishment shall charge a fee for, or prevent a consumer from
13 using, a carryout bag brought by the consumer to such establishment to carry
14 purchased goods from such establishment.

15 (e) All retail establishments shall post signs at or near the point of sale to
16 notify consumers of the provisions of this Chapter. Such signs shall measure at least
17 five inches by seven inches and shall read as follows: “Håfa Adai! Pursuant to Guam
18 law, all carryout bags provided by this establishment to a consumer, with limited
19 exceptions, shall be subject to a ten cent (\$.10) fee per bag. Carryout bags brought
20 by consumers into this establishment to carry purchased goods shall not be subject
21 the carryout bag fee. Hu ufresen maisa yu’ para bai hu Prutehi yan hu Difende... i
22 aire, i hanom yan i tano’ Chamoru.”

23 (f) Upon availability of funds, the Agency may work in conjunction with any
24 retail establishment, wholesale establishment, or nonprofit to establish a program to
25 distribute reusable carryout bags at no cost to any consumer for a one-year period.

26 § 54B005. Retention, Remittance, and Transfer of the Disposable
27 Carryout Bag Fee.

1 (a) A retail establishment shall retain two cents (\$.02) for every ten cents
2 (\$.10) collected;

3 (b) (1) An additional two cents (\$.02) of each ten cents (\$.10) may be retained
4 by a retail establishment for a certified reusable bag program that:

5 (A) Provides to consumers a reusable bag;

6 (B) Credits the consumer no less than five cents (\$.05) for each carryout
7 bag a consumer provides for packaging their purchase(s) for carryout;

8 (C) Is prominently advertised at each checkout register; and

9 (D) Reflects the total credit amount on the consumer transaction receipt.

10 (2) For every retail establishment that has not implemented a certified
11 reusable bag program, the two cents (\$.02) of each ten cents (\$.10) shall be paid to
12 the Department of Revenue and Taxation for the administration of this Act.

13 (3) The Administrator, or their authorized designee, shall certify a retail
14 establishment's reusable bag program according to the requirements of §
15 54B005(b)(1)(A) to § 54B005(b)(1)(D) of this Act. The Agency shall keep a record
16 of all retail establishments with a certified reusable bag program. Certification shall
17 be presented to the Department of Revenue and Taxation by the retail establishment
18 at the time of payment of fee.

19 (c) The fees retained by a retail establishment under this Section shall not be
20 classified as gross income for the purposes of calculating the establishment's
21 Business Privilege Tax.

22 (d) The remaining six cents (\$.06) of each ten cents (\$.10) shall be paid to the
23 Department of Revenue and Taxation and shall be deposited by the Department of
24 Revenue and Taxation, in coordination with Department of Administration, into the
25 Recycling Revolving Fund. Fifty percent (50%) of the funds collected shall be
26 allocated to the University of Guam Center for Island Sustainability to be used for
27 matching grants and to fund programs of the Center of Island Sustainability. Fifty

1 percent (50%) shall be allocated to the Guam Environmental Protection Agency to
2 carry out the provisions of the Act.

3 **§ 54B006. Enforcement and Penalties.**

4 The Agency shall be responsible for the enforcement of the provisions of the
5 Act. Any entity violating the provisions of this Act shall be subject to a civil penalty
6 not to exceed five hundred dollars (\$500) for the first offense; an amount not to
7 exceed one thousand dollars (\$1,000) for the second offense; and an amount not to
8 exceed ten thousand dollars (\$10,000) for any offense thereafter during a one-year
9 period. Fees collected under this Section shall be deposited into the Recycling
10 Revolving Fund to be used for the enforcement of this Act. The Administrator of the
11 Agency in coordination with the Chief Technology Officer of the Office of
12 Technology shall establish and promote an email address or other tool for digital
13 reporting that consumers and businesses may utilize to report violations or to ask
14 questions regarding implementation of this Act with prompt response from the
15 Agency.

16 **§ 54B007. Reporting Requirements.**

17 The Administrator, in collaboration with the Director of the Department of
18 Revenue and Taxation and the University of Guam Center for Island Sustainability,
19 shall issue an annual report on the progress of the reduction of the use of disposable
20 carryout bags. The report shall include, but not be limited to, the following: (1) the
21 general effectiveness of this Chapter in reducing the use of disposable carryout bags
22 on Guam; (2) the total number of plastic bags distributed by retail establishments to
23 consumers; (3) the number of notices of violation issued pursuant to this Chapter;
24 and (4) the use of funds collected under §54B005(d). The Agency may recommend
25 to I Liheslaturan Guåhan increases in the disposable carryout bag fee if the annual
26 report determines that the fee has not been effective in reducing the use of disposable
27 carryout bags on Guam.

1 § 54B008. Prohibition of the Distribution and Use of Disposable Plastic
2 Bags.

3 Beginning January 1, 2024, no retail establishment, wholesale establishment,
4 or any other entity licensed under Chapter 70 of Title 11, Guam Code Annotated, to
5 do business shall purchase or sell or distribute to consumers any disposable carryout
6 plastic bag, except disposable carryout bags listed in § 54B002(b)(1) through §
7 54B002(b)(11) of this Chapter, within the territory of Guam. Any entity found in
8 violation of this Section, shall be subject to a civil penalty not to exceed ten thousand
9 dollars (\$10,000). All fees collected pursuant to this section shall be deposited into
10 the Recycling Revolving Fund.”

11 **Section 3. Effective Date.** This Act *shall* become effective on January 1,
12 2019.