

*I Mina Trentai Kuattro Na Liheslaturan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
268-34 (COR)	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."	3/23/18 5:15 p.m.  <b>AS CORRECTED</b> 4/2/18 9:36 a.m.						

***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 Section 2. A new chapter 54B is *added* to Title 10 of Guam Code Annotated,  
2 to read:

3 “Chapter 54B

4 Choose to Reuse: *Mungnga Ma Ayek I Plastek* Act of 2018

5 **§ 54B001. Short Title.**

6 This Chapter shall be known as the Choose to Reuse: *Mungnga Ma Ayek I*  
7 *Plastek* Act of 2018.

8 **§ 54B002. Definitions.**

9 For the purposes of this Chapter:

10 (a) *Agency* means the Guam Environmental Protection Agency;

11 (b) *Disposable Carryout Bag* means any bag that is provided to a consumer  
12 by a retail or wholesale establishment at the point of sale to carry purchases. A  
13 disposable carryout bag shall not include any of the following:

14 \_\_\_\_\_ (1) a bag provided to the consumer for use in a retail or wholesale  
15 establishment to package bulk items, such as fruits, vegetables, nuts, grains, candy,  
16 meats, poultry, or fish;

17 \_\_\_\_\_ (2) a bag provided to the consumer for use in a retail or wholesale  
18 establishment to package small hardware items;

19 \_\_\_\_\_ (3) a bag to contain or wrap flowers, potted plants, or other items where  
20 dampness may be a problem;

21 \_\_\_\_\_ (4) a bag to contain non-prepackaged food items or bakery goods;

22 \_\_\_\_\_ (5) a bag provided by a pharmacy to carry prescription drugs;

23 \_\_\_\_\_ (6) a bag used for newspapers;

24 \_\_\_\_\_ (7) a bag used for laundry dry cleaning;

25 \_\_\_\_\_ (8) bags sold in packages containing multiple bags intended for  
26 garbage, pet waste, or yard waste;

27 \_\_\_\_\_ (9) a bag used to package and secure fragile merchandise;

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.