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**SENATE BILL 5432**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Chase, Hasegawa, and Benton

AN ACT Relating to retail store carryout bags; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.32 RCW; adding a new chapter to Title 70 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Carryout bag" means a bag that is provided by a retail store to a customer at the point of sale for use to transport or carry away purchases, such as merchandise, goods, or food. "Carryout bag" does not include:

(a) Bags used by consumers inside stores to package:

(i) Fresh meat and fresh meat products, including but not limited to pork, beef, seafood, and poultry;

(ii) Fruit or vegetables;

(iii) Nuts or other bulk items;

(iv) Dairy products;

(v) Ice;

(vi) Cooked foods;

(vii) Flowers or potted plants; or

(viii) Prescription drugs;

(b) Newspaper bags, door hanger bags, or laundry dry cleaning bags; or

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

(2) "Department" means the Washington state department of ecology.

(3) "Food provider" means any person or establishment that provides prepared food for public consumption on or off its premises and includes but is not limited to any store, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.

(4) "Person" means any public or private corporation, copartnership, sole proprietorship, association, firm, or individual.

(5) "Recyclable paper carryout bag" means any paper bag that has a manufacturer's stated capacity of one-eight barrel (882 cubic inches) or larger and meets the following requirements:

(a) Contains a minimum average of forty percent postconsumer recycled materials; and

(b) Displays the minimum percent of postconsumer content on the outside of the bag.

(6) "Recycle" means the act of transforming or remanufacturing waste materials into a finished product for use other than landfill disposal or incineration.

(7) "Retail store" means any person, corporation, partnership, business venture, public sports or entertainment facility, government agency, street vendor, vendor at public events or festivals, or organization that sells or provides merchandise, goods, or materials including but not limited to clothing, food, beverages, household goods, or personal items of any kind, directly to a customer.

(8) "Reusable carryout bag" means any carryout bag that is made of reusable machine-washable textile materials, or durable plastic that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse.

NEW SECTION. **Sec.**  (1) A person who owns or operates a retail store may not provide a carryout bag for free or for charge to a consumer unless the carryout bag is either a compostable plastic carryout bag, a recyclable paper carryout bag, or a reusable carryout bag. The department shall develop guidelines identifying the specifications of carryout bags allowed under this section.

(2) Carryout bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the transportation of prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises.

(3) This section does not apply to carryout bags in a retail store's existing on-site inventory as of January 1, 2016.

(4) Retail stores providing carryout bags consistent with the department's guidelines developed under subsection (1) of this section are deemed to be in compliance with this section.

(5) A retail store that provides recyclable paper carryout bags must collect a pass-through charge of at least five cents for each recyclable paper carryout bag provided to customers. It is a violation of this section for any retail store to pay or otherwise reimburse a customer for any portion of the pass-through charge.

(6) A retail store must indicate on the customer transaction receipt the number of recyclable paper carryout bags provided and the total amount of the pass-through charge.

(7) Retail stores may not collect a pass-through charge from anyone with a voucher or electronic benefits card issued under the women, infants, and children (WIC) program or temporary assistance for needy families (TANF) support program, the federal supplemental nutrition assistance program (SNAP, also known as basic food), or the Washington state food assistance program (FAP).

(8) A violation of this section is a civil infraction under chapter 7.80 RCW. Retail stores operating in violation of this section are subject to a class 1 civil infraction under chapter 7.80 RCW. Each calendar day of operation in violation of this section comprises a new violation.

(9) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

NEW SECTION. **Sec.**  (1) Nothing in section 2 of this act prohibits cities, towns, counties, or other municipalities from implementing a local single-use carryout bag ban that is in effect as of January 1, 2015. Any local single-use carryout bag bans in effect as of January 1, 2015, may remain in effect until December 31, 2020.

(2) Cities, towns, counties, and other municipalities with no single-use carryout bag ban in effect as of January 1, 2015, and all municipalities after December 31, 2020, may enact only those laws and ordinances relating to retail store single-use carryout bags that are consistent with this chapter. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law may not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such a city, town, county, or municipality.

NEW SECTION. **Sec.**  A new section is added to chapter 35.21 RCW to read as follows:

Any city or town ordinances regarding consumer access to retail carryout bags must be consistent with sections 1 and 2 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 35A.21 RCW to read as follows:

Any code city ordinances regarding consumer access to retail carryout bags must be consistent with sections 1 and 2 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 36.32 RCW to read as follows:

Any county ordinances regarding consumer access to retail carryout bags must be consistent with sections 1 and 2 of this act.

NEW SECTION. **Sec.**  Sections 1 through 3 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec.**  This act takes effect January 1, 2016.

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