
Environment & Energy Committee

HB 1205

Brief Description: Reducing pollution from plastic bags by establishing minimum state standards for the use of bags at retail establishments.

Sponsors: Representatives Peterson, Orwall, Doglio, Senn, Mead, Gregerson, Fitzgibbon, Dolan, Ortiz-Self, Lovick, Frame, Slatter, Walen, Macri, Goodman and Tarleton.

Brief Summary of Bill

- Restricts the provision of single-use plastic carryout bags by retail establishments.
- Authorizes retail establishments to provide recycled content paper carryout bags and reusable bags made of film plastic that meet minimum performance and technical specifications, and establishes a per bag charge to be collected and retained by the retail establishment for those bags.
- Establishes restrictions related to the labeling of bags as "compostable".
- Preempts local governments from establishing local carryout bag ordinances.

Hearing Date: 1/21/19

Staff: Jacob Lipson (786-7196).

Background:

A number of municipalities in Washington have adopted ordinances addressing single-use plastic bags and other types of carryout bags. In addition to restricting single-use plastic bags, some local ordinances establish bag performance specifications and require a charge to be levied by grocers and other retail establishments for the provision of single-use paper or other carryout bags.

Civil infractions are noncriminal offenses that provide monetary penalties. A person that commits a Class 1 civil infraction is subject to a fine of up to \$250.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The American Society of Testing and Materials (ASTM) is an international organization that adopts technical standards applicable to a variety of consumer products.

The United States Department of Agriculture (USDA) oversees a variety of state-administered food distribution and nutrition programs, including the Supplemental Nutrition Assistance Program (SNAP) and the Women, Infants, and Children (WIC) Nutrition Program. The Food Assistance Program (FAP) for legal immigrants is a state-funded program through the Washington State Department of Agriculture that provides food assistance to legal immigrants who are ineligible for federal SNAP benefits solely because of their alien status. Applicants must otherwise meet all the eligibility requirements of SNAP. The Temporary Assistance for Needy Families (TANF) is a program that provides federal block grants to states in order to support temporary cash assistance, subsidized childcare, and work programs for families.

Summary of Bill:

Restrictions on Carryout Bags.

Retail establishments may not provide single use plastic bags designed to be used once and disposed. Retail establishments are defined to include entities that sell or provide food, merchandise, goods, or materials directly to a customer, including home delivery and vendors operating at events. Food banks and food assistance programs are not retail establishments, but are encouraged to reduce the use of single-use plastic bags.

Retail establishments may provide the following types of carryout bags to customers:

- recycled content paper carryout bags, which must contain at least 40% post-consumer recycled content materials, be capable of composting consistent with existing American Society of Testing and Materials (ASTM) standards for the labeling of items with paper substrates and plastic or polymer coatings, and display the post-consumer recycled content on the bag's exterior; and
- reusable carryout bags, which must have a minimum lifetime of 125 uses and be machine washable or made of a durable material that can be cleaned or disinfected.

Reusable carryout bags include reusable carryout bags made of film plastic, which must have a minimum thickness of 4 mils, be made from at least 40% postconsumer recycled content material, and display wording on the bag's exterior that shows the bag is reusable as well as the percentage of its recycled content.

Carryout bags do not include bags used inside stores by customers to:

- package bulk items;
- contain or wrap items where dampness or sanitation may be a problem;
- contain unwrapped prepared foods or bakery items;
- contain prescription drugs; or
- protect an item from damaging other items when placed inside a carryout bag.

Pass-Through Charges on Carryout Bags.

Retail establishments must collect and retain from customers a pass-through charge of at least 10 cents for each paper carryout bag and reusable carryout bag made of film plastic. This charge is a taxable retail sale, and must be shown on customer receipts. Retail establishments may not collect a pass-through charge from persons with vouchers or electronic benefit cards issued under

the Women, Infants, and Children (WIC) Nutrition Program, the Temporary Assistance for Needy Families (TANF) program, Supplemental Nutrition Assistance Program (SNAP) or the Food Assistance Program (FAP) .

Restrictions Regarding the Identification of Bags as Compostable.

Compostable film bags provided to customers by retail establishments for products must be tinted brown or green. Non-compostable plastic bags provided by retail establishments may not be tinted brown or green or labeled as "biodegradable," "compostable," or similar terms.

To qualify as a compostable film bag, a bag must meet ASTM standards for the labeling of plastics designed to be aerobically composted in municipal or industrial facilities and be labeled as "compostable" consistent with guides published by the United States Federal Trade Commission.

Other Provisions.

Local governments are preempted from implementing local carryout bag ordinances, taking effect January 1, 2020 for existing ordinances, except that the amount of the 10 cent minimum pass-through charge may be raised by local ordinance.

Restricted carryout or compostable bags may be provided from existing inventory until January 1, 2020, except as provided by local ordinances. Upon request by the Department of Ecology (ECY), retail establishments must provide documentation that the acquisition of restricted bags preceded the effective date of the restrictions.

The ECY may adopt rules to implement, administer, and enforce the restrictions on carryout and in-store bags. Enforcement of bag restrictions must be largely on a complaint basis, and the ECY must establish a forum such as a telephone hotline or electronic social media strategy to receive complaints.

The ECY must provide education and outreach activities to inform retail establishments, consumers, and others; the act is null and void if funding is not provided from the Waste Reduction, Litter Control, and Recycling Account by July 1, 2019, for purposes of implementing the ECY's education and outreach activities.

A severability clause is included.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.