

SENATE BILL REPORT

SB 5323

As of January 24, 2019

Title: An act relating to reducing pollution from plastic bags by establishing minimum state standards for the use of bags at retail establishments.

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

Sponsors: Senators Das, Carlyle, Kuderer, Palumbo, Hunt, Rolfes, Frockt, Keiser, Pedersen and Saldaña.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/24/19.

Brief Summary of Bill

- Prohibits a retailer from providing a customer a single use plastic bag, a paper or reusable plastic bag that does not meet recycled content requirements.
- Requires a retailer to collect a pass-through charge of at least \$0.10 for each recycled content paper or plastic bag provided.
- Preempts local carryout bag ordinances.
- Specifies recycled content requirements for paper and plastic bags.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Jan Odano (786-7486)

Background: The plastic shopping bag was first developed in Sweden in 1965. It quickly replaced cloth and paper bags in Europe and became commonplace in the United States after 1982.

Many countries around the world have banned single-use plastic carryout bags. Several Washington State municipalities have adopted ordinances addressing single-use plastic carryout bags. Some of these ordinances require retailers to charge customers for providing paper bags and specify bag performance.

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.

ASTM International (ASTM) is a non-profit organization that develops voluntary consensus standards for materials, products, systems, and services. ASTM standards are used by individual, companies and other institutions.

A class 1 civil infraction is a non-criminal offense. A person who has committed a civil infraction is subject to a maximum fine of \$250.

The federal government implements programs to assist low-income individuals and families. The U.S. Department of Agriculture administers Women, Infants, & Children (WIC) and Supplemental Nutrition Assistance Program (SNAP) to assist with access to food. The Department of Health and Human Services provides block grants to states to run the Temporary Assistance for Needy Families (TANF), to assist families with children to provide basic needs. Additionally, under the State Food Assistance Program (FAP), Washington state provides assistance to legal immigrants who are not eligible for SNAP.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): A retail establishment is prohibited from providing a customer, or at an event, a single-use plastic carryout bag, or a paper or reusable plastic carryout bag that does not meet recycled content requirements. A retailer in areas without local ordinances restricting plastic carryout bags may provide single-use plastic bags from existing inventory until January 1, 2020. Food banks and food assistance programs are not considered retail establishments.

A retailer must collect a pass-through charge of at least \$0.10 for each paper or reusable plastic film bag provided. The pass-through charge is a taxable retail sale and must be shown as such on receipts provided to customers. A retail establishment is prohibited from reimbursing the customer any portion of the pass-through charge, however a retailer may not collect the pass-through charge from a person with a voucher or electronic benefits card issued under WIC, SNAP, TANF, or FAP.

Any compostable film bags provided by retail establishments must meet the ASTM composting standard, be labeled as compostable, and be tinted either green or brown. Polyethelene or other non-compostable carryout bags may not be tinted green or brown or be labeled in any way to imply the plastic bag will biodegrade or decompose.

A recycled content paper carryout bag must:

- contain an average of 40 percent postconsumer recycled materials;
- be capable of meeting ASTM composting requirements; and
- display the minimum percentage of the recycled content in print on the exterior of the bag.

A reusable carryout bag must:

- have the capacity to carry at least 22 pounds, over a distance of 175 feet, for at least a minimum of 125 uses;
- be durable so that it can be washed and disinfected; and

- be made from a minimum of 40 percent postconsumer recycled material, be at least 4 mils thick, and display that the bag is reusable.

Local government carryout bag ordinances are preempted. Local carryout bag ordinances in effect as of January 1, 2019, is not preempted until January 1, 2020. A local government may, by ordinance, increase the 10 cent pass-through charge for providing recycled content paper or plastic film bags.

Enforcement must be primarily based on complaints filed with the Department of Ecology (DOE). DOE must establish a forum to receive complaints alleging violations. The forum may include a complaint form on its website, a telephone hotline, or electronic social media. A violation is a class 1 civil infraction with a maximum penalty of \$250.

DOE must provide education and outreach activities to inform retail establishments, consumers and other interested individuals about the restrictions on single-use plastic carryout bag.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.