

SENATE BILL REPORT

SHB 1145

As Passed Senate, April 3, 2021

Title: An act relating to allowing the use of nonwood renewable fiber in recycled content paper carryout bags.

Brief Description: Allowing the use of nonwood renewable fiber in recycled content paper carryout bags.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representative Rude).

Brief History: Passed House: 3/1/21, 97-0.

Committee Activity: Environment, Energy & Technology: 3/17/21, 3/23/21 [DP, DNP].

Floor Activity: Passed Senate: 4/3/21, 47-0.

Brief Summary of Bill

- Makes nonwood renewable fiber derived from wheat straw grown in North America eligible to count toward the minimum 40 percent recycled content requirements for paper carryout bags provided by retail establishments.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Brown, Das, Fortunato, Hobbs, Liias, Nguyen, Sheldon, Short, Stanford and Wellman.

Minority Report: Do not pass.

Signed by Senator Ericksen, Ranking Member.

Staff: Gregory Vogel (786-7413)

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

Background: Local Carryout Bag Ordinances. 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.

2020 Restrictions on Single-Use Carryout Bags. Beginning January 1, 2021, 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 percent postconsumer recycled content materials, be capable of composting consistent with existing American Society of Testing and Materials standards for the labeling of items with paper substrates and plastic or polymer coatings, and display the postconsumer 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 those made of film plastic, which must meet minimum thickness requirements.

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.

On December 18, 2020, the Governor issued an emergency proclamation to delay implementation of the bag ban. On January 15, 2021, the Legislature extended the delay until the termination of the COVID-19 state of emergency, or until rescinded by gubernatorial or legislative action, whichever occurs first.

Pass-through Charges on Carryout Bags. Retail establishments must collect and retain from customers a pass-through charge of 8 cents for each:

- paper carryout bag with a manufacturer's stated capacity of at least one-eighth barrel or 882 cubic inches; and
- reusable carryout bag made of film plastic, until December 31, 2025.

Beginning January 1, 2026, the pass-through charge for reusable film plastic bags increases to 12 cents per bag.

This charge is a taxable retail sale and must be shown on customer receipts. Retail establishments may deduct from business and occupation taxes the amounts collected from pass-through charges. This tax deduction is not subject to the tax preference performance statement or automatic expiration date. Retail establishments may not collect a pass-through charge from persons using vouchers or electronic benefit cards issued under the Women, Infants, and Children Nutrition Program, the Temporary Assistance for Needy Families program, the Supplemental Nutrition Assistance Program, or the Food Assistance Program.

Enforcement of Carryout Bag Restrictions. The Department of Ecology (Ecology) 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 Ecology must establish a forum to receive complaints, which may include a telephone hotline, electronic social media strategy, or a form on Ecology's website. Local jurisdictions and other persons may file complaints using the form, and local jurisdictions may review complaints filed with Ecology to support education and outreach to retail establishments by the local jurisdictions. Ecology, in collaboration with local jurisdictions, must provide education and outreach activities to inform retail establishments, consumers, and others. The civil penalties of up to \$250 per violation of bag restrictions are appealable to the Pollution Control Hearings Board.

Summary of Bill: The 40 percent minimum recycled content requirement for paper carryout bags offered by retail establishments may be satisfied by any of the following three combinations of materials:

- at least 40 percent postconsumer recycled materials;
- at least 40 percent nonwood renewable fiber, which is defined as plant-based fiber derived from wheat straw grown in North America; or
- at least 40 percent of any combination of postconsumer recycled materials or nonwood renewable fiber.

Paper carryout bags provided by retail establishments must display on the exterior of the bag either the recycled content or the wheat straw fiber content, or both.

Appropriation: None.

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.

Staff Summary of Public Testimony: PRO: This bill relates to a local issue. There is a startup company called Columbia Pulp that takes wheat straw, a waste byproduct of wheat

farming, turns it into pulp and supplies it to paper mills to create paper. The ban on plastic bags has the 40 percent recycled content requirement and this allows the straw to be used for that. Benefits include reduced need for burning fields and this is also a revenue generator for farmers who want to use excess straw. This business provides about a 100 jobs in a rural community.

We were initially skeptical of this as we have heard about the need to drive the recycling system and the bag bill deliberately has recycled content requirements to drive the value of resins and pulp. In this case, this is a public health issue. When the fields are burned, there are air quality issues, and this is a beneficial use of wheat straw.

Persons Testifying: PRO: Representative Skyler Rude, Prime Sponsor; Heather Trim, Zero Waste Washington.

Persons Signed In To Testify But Not Testifying: No one.