
SENATE BILL 5432

State of Washington

64th Legislature

2015 Regular Session

By Senators Chase, Hasegawa, and Benton

Read first time 01/21/15. Referred to Committee on Energy,
Environment & Telecommunications.

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

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

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires
9 otherwise.

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

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

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

17 (ii) Fruit or vegetables;

18 (iii) Nuts or other bulk items;

19 (iv) Dairy products;

20 (v) Ice;

21 (vi) Cooked foods;

1 (vii) Flowers or potted plants; or
2 (viii) Prescription drugs;
3 (b) Newspaper bags, door hanger bags, or laundry dry cleaning
4 bags; or

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

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

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

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 2.** (1) A person who owns or operates a retail
37 store may not provide a carryout bag for free or for charge to a
38 consumer unless the carryout bag is either a compostable plastic
39 carryout bag, a recyclable paper carryout bag, or a reusable carryout

1 bag. The department shall develop guidelines identifying the
2 specifications of carryout bags allowed under this section.

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

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

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

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

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

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

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

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

34 NEW SECTION. **Sec. 3.** (1) Nothing in section 2 of this act
35 prohibits cities, towns, counties, or other municipalities from
36 implementing a local single-use carryout bag ban that is in effect as
37 of January 1, 2015. Any local single-use carryout bag bans in effect
38 as of January 1, 2015, may remain in effect until December 31, 2020.

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

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.21
11 RCW to read as follows:

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

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 35A.21
15 RCW to read as follows:

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

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.32
19 RCW to read as follows:

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

22 NEW SECTION. **Sec. 7.** Sections 1 through 3 of this act
23 constitute a new chapter in Title 70 RCW.

24 NEW SECTION. **Sec. 8.** This act takes effect January 1, 2016.

--- END ---