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**HOUSE BILL 1632**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Gregerson, Doglio, Peterson, Mead, Tarleton, Macri, Valdez, Fey, Kloba, Pollet, and Bergquist

AN ACT Relating to reducing pollution from single-use plastic food service ware; adding a new chapter to Title 70 RCW; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that plastic products have proliferated in modern commerce. While many plastic products feature some positive environmental, economic, and logistical attributes, the costs of many plastic products, especially single-use plastic products, far outweigh their benefits. Plastic utensils, straws, cups, plates, and wrappers all frequently wind up as litter or end up polluting our marine environment. Single-use plastics break down into small, toxic pieces in the marine environment and enter the diets of fish, birds, and other organisms, where they may pose a particular burden for endangered species like salmon and southern resident killer whales. Single-use plastic food service products also contaminate our recycling and compost systems, contaminating other recyclables, such as paper, and reducing the cost-effectiveness of recycling other truly recyclable plastic products and jeopardizing the quality of our compost.

(2) Transitioning away from single-use plastic products like forks, straws, and cups is not an impractical environmental dream. For each of these products, suitable durable, reusable, compostable, or other nonplastic alternatives are readily available, price competitive, and capable of performing the intended product functions. Governments across the globe, ranging from local governments here in Washington to national governments in Europe and Taiwan, have all already enacted or otherwise committed to restrictions on some or all of the single-use plastic products addressed by this chapter.

(3) The legislature acknowledges that there will be challenges in moving immediately away from single-use plastic food service products. As of 2018, many local jurisdictions, particularly in western Washington, are located near facilities capable of composting compostable food service products, which has made practical the enactment of local restrictions on various types of single-use plastic food service products. However, many areas of the state do not currently have infrastructure in place to commercially process compostable food service products. It is the legislature's expectation that by putting in place a 2030 deadline for the first statewide restrictions on single-use plastic food service products, it will provide both incentive and sufficient time to improve the statewide capacity to handle compostable products.

(4) Therefore, in light of the need to protect our sensitive marine environments, and with a desire to lead a transition to more environmentally sustainable alternatives, it is the intent of the legislature to phase out the use of single-use plastic food service products, and to take other steps to reduce the waste of single-use plastic food service products prior to the effective date of these phaseouts.

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

(1) "Compostable" means a product that is capable of being completely broken down into a stable product in a controlled, aerobic commercial process that results in a material safe and desirable as a soil amendment.

(2) "Condiment packaging" means plastic packaging used to deliver single-serving condiments to customers. Condiment packaging includes, but is not limited to, single-serving plastic packaging for ketchup, mustard, relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly and jam, and soy sauce.

(3) "Consumed on premises" means consumption of food or beverages in the public areas of a food service business, common areas of a food court, and outside seating areas and parking lots exclusively for customers of the food service business, rather than taken out for consumption elsewhere.

(4) "Food service businesses" means businesses selling or providing food for consumption on or off the premises, including full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts, home delivery services, and business or institutional cafeterias.

(5) "Food service product" means a product including, but not limited to, containers, plates, bowls, cups, lids, meat trays, deli rounds, utensils, sachets, straws, condiment packaging, clamshells and other hinged or lidded containers, sandwich wrap, portion cups, and other food service products that are intended for one-time use and used for food or drink offered for sale or use.

(6) "Plastic food service product" means a food service product that is composed of:

(a) Plastic; or

(b) Fiber or paper with a plastic coating, window, component, or additive.

(7) "Recyclable" means materials that are transported for recycling, reprocessing, reclamation, or for any process that extracts or modifies the commodity for reuse or another commercially valuable purpose.

(8) "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides merchandise, goods, or materials directly to a customer. "Retail establishment" includes, but is not limited to, food service businesses, grocery stores, department stores, hardware stores, home delivery services, pharmacies, liquor stores, restaurants, catering trucks, convenience stores, or other retail stores or vendors, including temporary stores or vendors at farmers markets, street fairs, and festivals.

(9) "Standard specification" means one of the following:

(a) ASTM D6400 – standard specification labeling of plastics designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019; or

(b) ASTM D6868 – standard specification for labeling of end items that incorporate plastics and polymers as coatings or additives with paper and other substrates designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019.

(10)(a) "Utensil" means a product designed to be used by a consumer to facilitate the consumption of food or beverages, including knives, forks, spoons, cocktail picks, chopsticks, splash sticks, and stirrers.

(b) "Utensils" does not include plates, bowls, cups, and other products used to contain food or beverages.

NEW SECTION. **Sec.**  (1) Effective July 1, 2030, no food service business may sell or provide food for consumption on or off the premises in or with plastic food service products, except as provided in subsection (2) of this section.

(2)(a) A food service business may sell or provide food in compostable food service products that meet standard specification.

(b) A food service business may sell or provide:

(i) Durable, reusable food service products;

(ii) Recyclable fiber-based, glass, or metal food service ware; and

(iii) Recyclable plastic beverage containers made from high density polyethylene (HDPE) or polyethylene terephthalate (PET).

(c) Until July 1, 2040, a food service business may sell or provide prepackaged foods in plastic containers that have been filled and sealed prior to receipt by the food service business.

(3) If located in a jurisdiction with a program adopted under chapter 70.95 RCW that provides for the collection of compostable food service products and food waste or recyclable food service products, a food service business that provides food for consumption on premises using compostable or recyclable food service products must provide:

(a) Conveniently located and clearly marked containers where customers may discard compostable and recyclable food service products; and

(b) For the collection and delivery of these materials to appropriate processing facilities.

(4) A landlord of food service businesses subject to the requirements of this section must make adequate space and services available to the food service businesses for the collection and pick up of the compostable and recyclable materials generated by the food service businesses.

(5) A landlord operating a food court, or a similar setting that includes food service businesses and common areas set aside and maintained for the consumption of food and beverages, must provide in the common areas the services required in subsection (3)(a) and (b) of this section.

NEW SECTION. **Sec.**  Effective July 1, 2040, no retail establishment may sell or provide plastic food service products, except for recyclable plastic beverage containers made from high density polyethylene (HDPE) or polyethylene terephthalate (PET).

NEW SECTION. **Sec.**  (1) A food service business at which the opportunity is provided for the on-site consumption of food or beverages may provide the following types of plastic food service ware only upon the request of the consumer:

(a) Utensils;

(b) Straws; and

(c) Condiment packaging.

(2) A food service business at which no opportunity is provided for the on-site consumption of food or beverages may provide types of plastic food service products identified in subsection (1) of this section only after asking if the customer would like to obtain the plastic food service products, and the customer responds affirmatively.

(3) Nothing in this section prohibits a food service business from making utensils and condiments available to customers using cylinders, bins, dispensers, containers, or other means of allowing for single plastic utensils and condiments to be obtained at the affirmative volition of the customer. Utensils provided by a food service business for use by customers may not be bundled or packaged in plastic in such a way that a customer is unable to take only the type of utensil or utensils desired without also taking a different type or types of utensil.

(4) This section expires January 1, 2030.

NEW SECTION. **Sec.**  (1) The requirements of this chapter may be enforced by a local health jurisdiction organized under chapter 70.05 RCW, a jurisdictional health department, a combined city-county health department organized under chapter 70.08 RCW, or a health district organized under chapter 70.46 RCW.

(2) For the first violation of this chapter by a food service business or retail establishment, the local jurisdiction or department with authority to enforce this chapter may not issue a penalty, but must instead provide the operator of the food service business or retail establishment with a notice of violation with instructional information regarding the requirements of this chapter. Subsequent violations of this chapter by the same operator of a food service business or establishment are subject to penalties of up to two hundred fifty dollars per day.

(3) Penalties collected under this section may be retained by the jurisdiction or department for the purposes of enforcement of this chapter.

NEW SECTION. **Sec.**  The department of health, in consultation with the department of social and health services, must seek the advice of community health groups, advocates for persons with disabilities, and other stakeholders to ensure that plastic straws or acceptable replacement products are available to individuals whose disabilities necessitate their access to such products. By December 1, 2021, the department of health, in consultation with the department of social and health services, must provide recommendations to the appropriate committees of the legislature regarding how to address the needs of individuals with disabilities in light of the restrictions established in sections 3 through 5 of this act.

NEW SECTION. **Sec.**  (1) A city, town, county, or municipal corporation may not implement an ordinance restricting plastic food service products:

(a) Applicable to food service businesses, beginning January 1, 2030; and

(b) Applicable to retail establishments, beginning January 1, 2040.

(2) Any local plastic food service products ordinance that is in effect as of January 1, 2030, as applied to food service businesses, or as of January 1, 2040, as applied to retail establishments, is preempted by this chapter, as of those dates.

NEW SECTION. **Sec.**  Section 5 of this act takes effect October 1, 2019.

NEW SECTION. **Sec.**  Sections 2 through 8 of this act constitute a new chapter in Title 70 RCW.

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