

ESSB 5077 - H COMM AMD

By Committee on Environment & Energy

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Consumer" means a person who is a member of the public,
7 takes possession of food, is not functioning in the capacity of an
8 operator of a food facility, and does not offer the food for resale.

9 (2) "Food service establishment" means establishments that serve
10 food, beverages, or prepared food for consumption including
11 establishments:

12 (a) With the primary business purpose of serving food to be
13 consumed on the premises or providing prepared meals or other food or
14 beverage items that a consumer purchases and intends to eat
15 elsewhere; or

16 (b) That serve food, beverages, and prepackaged food and
17 beverages: (i) Via a drive through; (ii) in a packaged form for take
18 out or take away; or (iii) from stands or kiosks that provide no
19 shelter or seating for consumers.

20 (3) "Local health jurisdiction" or "jurisdictional health
21 department" means an administrative agency organized under chapter
22 70.05 RCW, a health district organized under chapter 70.46 RCW, or a
23 combined city-county health department organized under chapter 70.08
24 RCW, that administers public health and safety regulations and codes,
25 including food safety and restaurant inspections.

26 (4) "Plastic straw" means a tube made predominantly of plastic
27 derived from either petroleum or a biologically based polymer, such
28 as corn or other plant sources, and including compostable and
29 biodegradable petroleum or biologically based polymer straws, for
30 transferring a beverage from its container to the mouth of the
31 drinker.

1 NEW SECTION. **Sec. 2.** (1) Beginning January 1, 2020, a food
2 service establishment may not provide a single-use straw to a
3 consumer unless a straw is requested by the consumer. In lieu of a
4 straw, a food service establishment may also offer a tippy cup lid to
5 a customer that requests a straw.

6 (2) In recognition that a straw is an adaptive utensil that may
7 provide a basic accommodation for an individual with a disability to
8 eat and drink, a food service establishment that provides straws of
9 any type to customers must provide a single-use plastic straw to an
10 individual with a disability upon request by the individual for a
11 plastic straw.

12 (3)(a) Nothing in this section is intended to create any
13 requirement, power, or duty that is in conflict with any federal law,
14 including the Americans with disabilities act, 42 U.S.C. Sec. 12101,
15 et. seq.

16 (b) Nothing in this section creates a private right of action
17 against a food service establishment.

18 (4) Nothing in this section authorizes a food service
19 establishment to make single-use plastic straws available to
20 customers using cylinders, bins, dispensers, containers, or other
21 self-service means of allowing a customer to obtain a single-use
22 plastic straw or to offer to provide a single-use plastic straw that
23 a customer has not requested.

24 (5) Nothing in this section limits the ability of a hospital or
25 other medical facility to provide a plastic straw to a person that
26 needs the straw for medical purposes.

27 NEW SECTION. **Sec. 3.** (1) The local health jurisdiction or a
28 jurisdictional health department must enforce this chapter. The local
29 board of health may establish regulations to enforce this chapter.
30 The local board of health may establish and collect fees of up to
31 twenty-five dollars per food service establishment per year, as
32 necessary to cover costs incurred in carrying out its duties under
33 this chapter, consistent with RCW 70.05.060(7).

34 (a) The local health jurisdiction or a jurisdictional health
35 department must provide notice of violation to any person permitted
36 to operate the food service establishment for the first and second
37 violation of section 2 of this act.

38 (b) For the third and subsequent violations of section 2 of this
39 act, a person permitted to operate the food service establishment is

1 subject to a civil penalty of up to two hundred fifty dollars for
2 each day, not to exceed three thousand dollars per year.

3 (2) Penalties collected under this section may be retained by the
4 local health jurisdiction or jurisdictional health department for
5 enforcement activities.

6 NEW SECTION. **Sec. 4.** (1) Beginning January 1, 2020, a city,
7 county, town, or municipal corporation may not enact an ordinance
8 restricting the provision of plastic straws applicable to food
9 service establishments.

10 (2) Any local ordinance that restricts the provision of single-
11 use straws that is in effect as of January 1, 2020, is not preempted,
12 limited, or repealed, except that the requirements of section 2 of
13 this act also apply in such a local jurisdiction.

14 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act
15 constitute a new chapter in Title 70 RCW."

16 Correct the title.

EFFECT: (1) Specifies that a person must specifically request a
straw in order to be provided a single-use straw.

(2) Prohibits food service establishments from offering single-
use plastic straws without a customer request or from making single-
use plastic straws available in self-service containers.

(3) Preempts new local ordinances restricting the provision of
plastic straws that are applicable to food service establishments,
beginning January 1, 2020.

(4) Declares that restrictions on the provision of plastic straws
are not intended to create a conflict with any federal law, including
the federal Americans with Disabilities Act, and that a private right
of action against food service establishments is not created by the
straw provision requirements.

(5) Authorizes local boards of health to adopt annual fees of up
to \$25 per food service establishment to cover their costs in
carrying out straw enforcement duties.

(6) Specifies that a person authorized to operate a food service
establishment is the person that must receive notices of violation of
straw requirements that is subject to fees or civil penalties.

(7) Increases the penalties to up to \$250 per day for third or
subsequent violations, or up to \$3,000 per year.

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