CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1145**

67th Legislature

2021 Regular Session

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| Passed by the House March 1, 2021Yeas 97 Nays 0**Speaker of the House of Representatives**Passed by the Senate April 3, 2021Yeas 47 Nays 0**President of the Senate** | CERTIFICATEI, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1145** as passed by the House of Representatives and the Senate on the dates hereon set forth.Chief Clerk |
| Approved  |  |
| **Governor of the State of Washington** | **Secretary of State** **State of Washington** |

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**SUBSTITUTE HOUSE BILL 1145**

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Passed Legislature - 2021 Regular Session

**State of Washington 67th Legislature 2021 Regular Session**

**By** House Environment & Energy (originally sponsored by Representative Rude)

AN ACT Relating to allowing the use of nonwood renewable fiber in recycled content paper carryout bags; and amending RCW 70A.530.010, 70A.530.020, and 70A.530.005.

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

**Sec.**  RCW 70A.530.010 and 2020 c 138 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Carryout bag" means any bag that is provided by a retail establishment at home delivery, the check stand, cash register, point of sale, or other point of departure to a customer for use to transport or carry away purchases.

(2) "Department" means the department of ecology.

(3) "Nonwood renewable fiber" means plant-based fiber derived from wheat straw grown in North America.

(4) "Pass-through charge" means a charge to be collected and retained by retail establishments from their customers when providing ((~~recycled content~~)) compliant paper carryout bags and reusable carryout bags made of film plastic.

((~~(4)~~)) (5) "((~~Recycled content~~)) Compliant paper carryout bag" means a paper carryout bag provided by a retail establishment to a customer that meets the requirements in RCW 70A.530.020(6)(a).

((~~(5)~~)) (6) "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides food, merchandise, goods, or materials directly to a customer including home delivery, temporary stores, or vendors at farmers markets, street fairs, and festivals.

((~~(6)~~)) (7) "Reusable carryout bag" means a carryout bag made of cloth or other durable material with handles that is specifically designed and manufactured for long-term multiple reuse and meets the requirements of RCW 70A.530.020(6)(b).

((~~(7)~~)) (8) "Single-use plastic carryout bag" means any carryout bag that is made from plastic that is designed and suitable only to be used once and disposed.

**Sec.**  RCW 70A.530.020 and 2020 c 138 s 3 are each amended to read as follows:

(1) Beginning January 1, 2021, except as provided in this section and RCW 70A.530.030, a retail establishment may not provide to a customer or a person at an event:

(a) A single-use plastic carryout bag;

(b) A paper carryout bag that does not meet the requirements of subsection (6)(a) of this section or a reusable carryout bag made of film plastic that does not meet recycled content requirements; or

(c) Beginning January 1, 2026, a reusable carryout bag made of film plastic with a thickness of less than four mils, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with RCW 70A.530.060.

(2)(a) A retail establishment may provide a reusable carryout bag or a ((~~recycled content~~)) compliant paper carryout bag of any size to a customer at the point of sale. A retail establishment may make reusable carryout bags available to customers through sale.

(b)(i) Until December 31, 2025, a retail establishment must collect a pass-through charge of eight cents for every ((~~recycled content~~)) compliant paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (eight hundred eighty-two cubic inches) or greater or reusable carryout bag made of film plastic it provides, except as provided in subsection (5) of this section and RCW 70A.530.030.

(ii) Beginning January 1, 2026, a retail establishment must collect a pass-through charge of twelve cents for reusable carryout bags made of film plastic and eight cents for ((~~recycled content~~)) compliant paper carryout bags, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with RCW 70A.530.060. It is the intent of the legislature for the 2025 legislature to reassess the amount of the pass-through charge authorized under this subsection (2)(b), taking into consideration the content of the report to the legislature under RCW 70A.530.060.

(c) A retail establishment must keep all revenue from pass-through charges. The pass-through charge is a taxable retail sale. A retail establishment must show all pass-through charges on a receipt provided to the customer.

(3) Carryout bags provided by a retail establishment do not include:

(a) Bags used by consumers inside stores to:

(i) Package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws;

(ii) Contain or wrap items where dampness or sanitation might be a problem including, but not limited to:

(A) Frozen foods;

(B) Meat;

(C) Fish;

(D) Flowers; and

(E) Potted plants;

(iii) Contain unwrapped prepared foods or bakery goods;

(iv) Contain prescription drugs; or

(v) Protect a purchased item from damaging or contaminating other purchased items when placed in a ((~~recycled content~~)) compliant paper carryout bag or reusable carryout bag; or

(b) Newspaper bags, mailing pouches, sealed envelopes, door hanger bags, laundry/dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, or pet waste.

(4)(a) Any compostable film bag that a retail establishment provides to customers for products, including for products bagged in stores prior to checkout, must meet the requirements for compostable products and film bags in chapter ((~~70.360~~)) 70A.455 RCW.

(b) A retail establishment may not use or provide polyethylene or other noncompostable plastic bags for bagging of customer products in stores, as carryout bags, or for home delivery that do not meet the requirements for noncompostable products and film bags in chapter ((~~70.360~~)) 70A.455 RCW.

(5) Except as provided by local regulations enacted as of April 1, 2020, a retail establishment may provide a bag restricted under subsection (1) of this section from existing inventory until one year after June 11, 2020. The retail establishment, upon request by the department, must provide purchase invoices, distribution receipts, or other information documenting that the bag was acquired prior to June 11, 2020.

(6) For the purposes of this section:

(a) A ((~~recycled content~~)) compliant paper carryout bag must:

(i) Contain a minimum of forty percent postconsumer recycled materials, a minimum of 40 percent nonwood renewable fiber, or a combination of postconsumer recycled materials and nonwood renewable fiber that totals at least 40 percent;

(ii) Be capable of composting, consistent with the timeline and specifications of the entire American society of testing materials D6868 and associated test methods that must be met, as it existed as of January 1, 2020; and

(iii) Display in print on the exterior of the paper bag the minimum percentage of postconsumer content, wheat straw fiber content, or both.

(b) A reusable carryout bag must:

(i) Have a minimum lifetime of one hundred twenty-five uses, which for purposes of this subsection means the capacity to carry a minimum of twenty-two pounds one hundred twenty-five times over a distance of at least one hundred seventy-five feet;

(ii) Be machine washable or made from a durable material that may be cleaned or disinfected; and

(iii) If made of film plastic:

(A) Be made from a minimum of twenty percent postconsumer recycled content until July 1, 2022, and thereafter must be made from a minimum of forty percent postconsumer recycled content;

(B) Display in print on the exterior of the plastic bag the minimum percentage of postconsumer recycled content, the mil thickness, and that the bag is reusable; and

(C) Have a minimum thickness of no less than 2.25 mils until December 31, 2025, and beginning January 1, 2026, must have a minimum thickness of four mils.

(c) Except for the purposes of subsection (4) of this section, food banks and other food assistance programs are not retail establishments, but are encouraged to take actions to reduce the use of single-use plastic carryout bags.

**Sec.**  RCW 70A.530.005 and 2020 c 138 s 1 are each amended to read as follows:

(1) State policy has long placed waste reduction as the highest priority in the collection, handling, and management of solid waste. Reducing plastic bag waste holds particular importance among state waste reduction efforts for a number of reasons:

(a) Single-use plastic carryout bags are made of nonrenewable resources and never biodegrade; instead, over time, they break down into tiny particles. Single-use plastic carryout bags, and the particles they break into, are carried into rivers, lakes, Puget Sound, and the world's oceans, posing a threat to animal life and the food chain;

(b) Plastic bags are one of the most commonly found items that litter state roads, beaches, and other public spaces; and

(c) Even when plastic bags avoid the common fate of becoming litter, they are a drain on public resources and a burden on environment and resource conservation goals. For example, if plastic bags are disposed of in commingled recycling systems rather than as garbage or in retailer drop-off programs, they clog processing and sorting machinery, resulting in missorted materials and costly inefficiencies that are ultimately borne by utility ratepayers. Likewise, when green or brown-tinted plastic bags confuse consumers into attempting to dispose of them as compost, the resultant plastic contamination undercuts the ability to use the compost in gardens, farms, landscaping, and surface water and transportation projects.

(2) Alternatives to single-use plastic carryout bags are convenient, functional, widely available, and measure as superior across most environmental performance metrics. Alternatives to single-use plastic carryout bags feature especially superior environmental performance with respect to litter and marine debris, since plastic bags do not biodegrade.

(3) As of 2020, many local governments in Washington have shown leadership in regulating the use of single-use plastic carryout bags. This local leadership has shown the value of establishing state standards that will streamline regulatory inconsistency and reduce burdens on covered retailers caused by a patchwork of inconsistent local requirements across the state.

(4) Data provided from grocery retailers has shown that requests for paper bags have skyrocketed where plastic bag bans have been implemented. To accommodate the anticipated consequences of a statewide plastic bag ban, it is rational to expect additional capacity will be needed in Washington state for manufacturing paper bags. The legislature intends to provide that capacity by prioritizing and expediting siting and permitting of expansions or reconfiguring for paper manufacturing.

(5) Therefore, in order to reduce waste, litter, and marine pollution, conserve resources, and protect fish and wildlife, it is the intent of the legislature to:

(a) Prohibit the use of single-use plastic carryout bags;

(b) Require a pass-through charge on ((~~recycled content~~)) compliant paper carryout bags and reusable carryout bags made of film plastic, to encourage shoppers to bring their own reusable carryout bags;

(c) Require that bags provided by a retail establishment contain recycled content or derive from nonwood renewable fiber; and

(d) Encourage the provision of reusable and ((~~recycled content~~)) compliant paper carryout bags by retail establishments.

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