
HOUSE BILL 2250

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Fitzgibbon, Pedersen, Carlyle, and Reykdal

Read first time 01/10/12. Referred to Committee on Environment.

1 AN ACT Relating to ensuring statewide consistency in the regulation
2 of retail store carryout bags; adding a new section to chapter 36.01
3 RCW; adding a new section to chapter 35.21 RCW; adding a new section to
4 chapter 35A.70 RCW; adding a new section to chapter 82.04 RCW; adding
5 a new chapter to Title 70 RCW; and prescribing penalties.

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 otherwise.

9 (1) "Carryout bag" means a bag that is provided by a retail store
10 to a customer at the point of sale. "Carryout bag" does not include a
11 bag used solely to contain the following:

12 (a) Fresh meat and fresh meat products, including but not limited
13 to pork, beef, seafood, and poultry;

14 (b) Fruit or vegetables;

15 (c) Nuts or other bulk items;

16 (d) Dairy products;

17 (e) Ice;

18 (f) Prepared foods;

19 (g) Pharmaceutical products;

1 (h) Auto parts; and

2 (i) Jewelry.

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

4 (3) "Mil" means one-thousandth of an inch.

5 (4) "Plastic carryout bag" means a carryout bag that is made of
6 plastic with a thickness gauge of at least fifteen mils.

7 (5) "Recycle" means the act of transforming or remanufacturing
8 waste materials into a finished product for use other than landfill
9 disposal or incineration.

10 (6) "Retail store" means a place of business located in Washington
11 for the sale of goods or commodities directly to consumers.

12 (7) "Reusable carryout bag" means a carryout bag that is made of
13 durable plastic that is measured at a thickness gauge of at least
14 fifteen mils and:

15 (a) Is specifically designed and manufactured for multiple reuse;
16 or

17 (b) Is made of reusable, machine-washable, textile materials.

18 NEW SECTION. **Sec. 2.** (1) Every retail store operator who provides
19 plastic carryout bags to customers may establish, in lieu of any local
20 ordinance banning or restricting carryout bags pursuant to section 4 of
21 this act, an in-store recycling program for carryout bags that
22 includes, but need not be limited to, the following:

23 (a) The provision of a bin for the collection of plastic carryout
24 bags that is placed in a visible location that is easily accessible to
25 the consumer and clearly marked as available for the purpose of
26 collecting plastic carryout bags for recycling;

27 (b) A process ensuring that all plastic carryout bags returned to
28 a store are collected, transported, and recycled in a manner consistent
29 with the provisions of this chapter, except that any plastic carryout
30 bags collected by a store that are contaminated by food or other
31 foreign material may be disposed of in any solid waste or hazardous
32 waste facility; and

33 (c) The provision to the consumer of an opportunity to purchase
34 reusable bags, which may be purchased and used in lieu of a plastic
35 carryout bag or paper bag, that is made available within the store.

36 (2) A retail store opting to establish an in-store recycling
37 program in lieu of compliance with a local ordinance developed under

1 section 4 of this act that operates the in-store recycling program in
2 violation of this section is subject to a class 1 civil infraction
3 under chapter 7.80 RCW. However, prior to being subject to a civil
4 infraction, the retail store must first receive a written notice of
5 violation and be provided with at least ninety days to correct any
6 violations.

7 NEW SECTION. **Sec. 3.** (1) Any manufacturer or distributor of a
8 plastic carryout bag that sells plastic carryout bags to a retail store
9 must develop, and make available to retail stores, educational posters,
10 notices, and other materials to encourage the reducing, reusing, and
11 recycling of plastic.

12 (2) A manufacturer or distributor who sells plastic carryout bags
13 to a retail store must make arrangements with the retail store, upon
14 the retail store's request, for the collection, transport, and
15 recycling of all plastic carryout bags collected consistent with the
16 provisions of this chapter. Arrangements may include contracts or
17 other agreements with third parties at the cost of the manufacturer or
18 distributor.

19 (3) Any manufacturer or distributor operating in violation of this
20 section is subject to a class 1 civil infraction under chapter 7.80
21 RCW. However, prior to being subject to a civil infraction, the
22 manufacturer or distributor must first receive a written notice of
23 violation and be provided with at least ninety days to correct any
24 violations.

25 NEW SECTION. **Sec. 4.** (1) Only a county may enact a local
26 ordinance that bans, restricts, or otherwise regulates, taxes, or
27 requires fees for the use of carryout bags in any geographic area
28 located within a county. An ordinance adopted by a county relating to
29 carryout bags must equally affect all retail stores located within the
30 geographic effective area of the ordinance.

31 (2) A county may only regulate the use of carryout bags in areas
32 that are adversely affected by chronic carryout bag littering problems
33 that may only be reasonably mitigated through restrictions on the use
34 of carryout bags.

35 (3) Prior to a county acting to regulate the use of carryout bags,
36 at least three cities, towns, or other units of local government

1 located wholly within the county must jointly request that the county
2 take legislative action regarding carryout bags. This request must
3 include findings of fact that demonstrate:

4 (a) A need for local carryout bag regulations;

5 (b) Justification for how chronic regional carryout bag littering
6 is causing a local health or safety concern; and

7 (c) Evidence that the regional carryout bag littering problem
8 cannot be mitigated through nonregulatory methods.

9 (4) If a county acts to regulate the use of carryout bags, the
10 county:

11 (a) Must first make good faith efforts for at least one year to
12 mitigate the effects of chronic carryout bag littering, including
13 working with retail stores on the establishment of in-store recycling
14 programs as provided in section 2 of this act; and

15 (b) May only do so regionally in an area no larger than the
16 jurisdictions of the cities, towns, or other units of local government
17 that requested the county action.

18 (5) Any county that enacts an ordinance that places a fee or tax on
19 the use of carryout bags made of any substance, or bans, restricts, or
20 otherwise regulates the use of carryout bags made of any substance,
21 must exempt from that ordinance any retail store that implements an in-
22 store recycling program for carryout bags that is operated consistent
23 with the provisions of section 2 of this act.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.01 RCW
25 to read as follows:

26 Any county that seeks to enact an ordinance relating to retail
27 store carryout bags, as those terms are defined in section 1 of this
28 act, must do so in compliance with the provisions of section 4 of this
29 act.

30 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.21 RCW
31 to read as follows:

32 Cities and towns are prohibited from enacting local regulations
33 regarding retail store carryout bags, as those terms are defined in
34 section 1 of this act. Any local restrictions may only be developed as
35 provided in section 4 of this act.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 35A.70 RCW
2 to read as follows:

3 Code cities are prohibited from enacting local regulations
4 regarding retail store carryout bags, as those terms are defined in
5 section 1 of this act. Any local restrictions may only be developed as
6 provided in section 4 of this act.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.04 RCW
8 to read as follows:

9 (1) In computing tax due under this chapter, there may be deducted
10 from the measure of the tax all reasonable costs incurred by retail
11 stores that are required by an act of county government under section
12 4 of this act to provide carryout bags made of paper to customers
13 instead of plastic carryout bags.

14 (2) The terms used in this section have the same meaning as
15 provided in section 1 of this act.

16 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act constitute
17 a new chapter in Title 70 RCW.

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