
SENATE BILL 5386

State of Washington

63rd Legislature

2013 Regular Session

By Senators Mullet, Benton, Hatfield, Hobbs, and Delvin

Read first time 01/29/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to reducing the littering of retail carryout bags;
2 adding a new section to chapter 70.93 RCW; adding a new section to
3 chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding
4 a new section to chapter 36.32 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.93 RCW
7 to read as follows:

8 (1) Any city, code city, or county may, through its local
9 legislative authority, choose to regulate consumer access to retail
10 carryout bags consistent with the provisions of this section. Nothing
11 in this section requires a city, code city, or county to regulate
12 retail carryout bags.

13 (2) A city, code city, or county interested in regulating consumer
14 access to retail carryout bags may only do so by adopting the following
15 model ordinance:

16 "(1) A retail establishment in [city/county] may not provide a
17 single-use plastic carryout bag to any customer.

18 (2) A retail establishment in [city/county] that provides a paper
19 carryout bag with a manufacturer's stated capacity of one-eighth barrel

1 (882 cubic inches) or larger must collect a pass-through charge of at
2 least five cents for each paper carryout bag provided to customers. It
3 is a violation of this section for any retail establishment to pay or
4 otherwise reimburse a customer for any portion of the pass-through
5 charge. However, a retail establishment may not collect a pass-through
6 charge from anyone with a voucher or electronic benefits card issued
7 under the women, infants, and children (WIC) or temporary assistance
8 for needy families (TANF) support programs, or the federal supplemental
9 nutrition assistance program (SNAP, also known as basic food), or the
10 Washington state food assistance program (FAP).

11 (3) An establishment must indicate on the customer transaction
12 receipt the number of paper carryout bags provided and the total amount
13 of the pass-through charge.

14 (4) A violation of this section is a civil infraction under chapter
15 7.80 RCW.

16 (5) The definitions in this subsection apply throughout this
17 section unless the context clearly requires otherwise.

18 (a) "Carryout bag" means a bag that is provided by a retail
19 establishment at the check stand, cash register, point of sale, or
20 other point of departure to a customer for the purpose of transporting
21 food or merchandise out of the establishment. Carryout bags do not
22 include:

23 (i) Bags used by customers inside stores to package bulk items such
24 as fruit, vegetables, nuts, grains, candy, greeting cards, or small
25 hardware items, such as nails and bolts, or to contain or wrap frozen
26 foods, meat, or fish, whether prepackaged or not, or to contain or wrap
27 flowers or potted plants, or other items where dampness may be a
28 problem, or to contain unwrapped prepared foods or bakery goods, or to
29 contain prescription drugs, or to safeguard public health and safety
30 during the transportation of prepared take-out foods and prepared
31 liquids intended for consumption away from the retail establishment; or

32 (ii) Newspaper bags, door-hanger bags, laundry dry cleaning bags,
33 or bags sold in packages containing multiple bags intended for use as
34 garbage, pet waste, or yard waste bags.

35 (b) "Paper bag" means a paper carryout bag that has a
36 manufacturer's stated capacity of one-eighth barrel (882 cubic inches)
37 or larger.

1 (c) "Pass-through charge" means a charge to be collected by a
2 retailer from its customer when providing recyclable paper bags and
3 retained by retailers to offset the cost of bags and other costs
4 related to the pass-through charge.

5 (d) "Retail establishment" means any person, corporation,
6 partnership, business venture, public sports or entertainment
7 facilities, government agency, street vendor or vendor at public events
8 or festivals or organizations that sell or provide merchandise, goods,
9 or materials including, without limitation, clothing, food, beverages,
10 household goods, or personal items of any kind directly to a customer.
11 Examples include but are not limited to: Department stores, clothing
12 stores, jewelry stores, grocery stores, pharmacies, home improvement
13 stores, liquor stores, convenience stores, gas stations, restaurants,
14 food vending trucks, farmers markets, and temporary vendors of food and
15 merchandise at street fairs and festivals. Food banks and other food
16 assistance programs are not considered retail establishments for the
17 purposes of this section.

18 (e) "Single-use plastic carryout bag" means any carryout bag made
19 from plastic or any material marketed or labeled as biodegradable or
20 compostable that is neither intended nor suitable for continuous reuse
21 as a carryout bag or that is less than 2.25 mils thick."

22 (3) A city, code city, or county adopting an ordinance consistent
23 with this section may amend the model ordinance provided in subsection
24 (2) of this section only to change the numbering or style to match the
25 style used in the other ordinances of the city, code city, or county.

26 (4) The language provided in subsection (2) of this section only
27 applies to retail establishments located in cities, code cities, or
28 counties choosing to adopt the model ordinance.

29 (5)(a) An ordinance adopted by a city, code city, or county
30 attempting to regulate consumer access to retail carryout bags that is
31 inconsistent with the model ordinance provided in subsection (2) of
32 this section is unenforceable and deemed void.

33 (b) A city, code city, or county that has adopted an ordinance
34 regulating consumer access to retail carryout bags prior to the
35 effective date of this section may continue to enforce the local
36 ordinance until January 1, 2014. After January 1, 2014, all cities,
37 code cities, and counties intending to regulate consumer access to

1 retail carryout bags must amend the existing ordinances to be
2 consistent with the model ordinance provided in subsection (2) of this
3 section.

4 (c) A city, code city, or county that has adopted an ordinance
5 regulating consumer access to retail carryout bags must provide a six-
6 month period of time following the adoption date of the ordinance
7 before enforcing the ordinance to allow retailers to exhaust existing
8 inventory of retail carryout bags.

9 (6) The definitions included in the model ordinance in subsection
10 (2) of this section also apply to this section and sections 2 through
11 4 of this act.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21 RCW
13 to read as follows:

14 Any city or town ordinances regarding consumer access to retail
15 carryout bags must be consistent with section 1 of this act.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 35A.21 RCW
17 to read as follows:

18 Any code city ordinances regarding consumer access to retail
19 carryout bags must be consistent with section 1 of this act.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.32 RCW
21 to read as follows:

22 Any county ordinances regarding consumer access to retail carryout
23 bags must be consistent with section 1 of this act.

--- END ---