

HOUSE BILL REPORT

HB 1053

As Reported by House Committee On:
Environment & Energy

Title: An act relating to delaying the implementation of restrictions on carryout bags.

Brief Description: Delaying the implementation of restrictions on carryout bags.

Sponsors: Representatives Peterson, Dye, Kloba and Ortiz-Self.

Brief History:

Committee Activity:

Environment & Energy: 1/12/21, 1/19/21 [DPS].

Brief Summary of Substitute Bill

- Delays the implementation of restrictions on retail establishment carryout bags until July 1, 2021.
- Authorizes the Governor to delay the effective date of carryout bag restrictions due to Coronavirus Disease 2019-related supply chain issues up to January 1, 2022.
- Delays the preemption of local carryout bag ordinances until the effective date of state restrictions on carryout bags.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno, Berry, Boehnke, Fey, Goehner, Harris-Talley, Ramel, Shewmake and Slatter.

Staff: Erik Olson (786-7296) and Jacob Lipson (786-7196).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Several municipalities in Washington have adopted ordinances to address single-use plastic bags and other types of carryout bags. In addition to restricting single-use plastic bags, some local ordinances establish bag performance specifications and require grocers and other retail establishments to levy a charge for the provision of single-use paper or other carryout bags.

2020 Legislation.

In 2020, Washington enacted legislation that prohibits retail establishments from providing customers a single-use plastic carryout bag, or a paper or reusable plastic carryout bag that does not meet recycled content requirements. These restrictions take effect on January 1, 2021. Further, a retail establishment may provide single-use plastic bags from existing inventory until June 11, 2021, in areas without local ordinances restricting plastic carryout bags. Food banks and food assistance programs are not considered retail establishments but are encouraged to take actions to reduce single-use plastic carryout bags. A retail establishment is defined as any person, corporation, partnership, business, facility, vendor, or organization that sells or provides food, merchandise, or materials directly to a customer.

Carryout bags do not include bags used inside stores by customers to:

- package bulk items;
- contain or wrap items where dampness or sanitation may be a problem;
- contain unwrapped prepared foods or bakery items;
- contain prescription drugs; or
- protect an item from damaging other items when placed inside a carryout bag.

Retail establishments may provide the following types of carryout bags to customers:

- recycled content paper carryout bags, which must contain at least 40 percent post-consumer recycled content materials, be capable of composting consistent with existing American Society of Testing and Materials standards for the labeling of items with paper substrates and plastic or polymer coatings, and display the post-consumer recycled content on the bag's exterior; and
- reusable carryout bags, which must have a minimum lifetime of 125 uses and be machine washable or made of a durable material that can be cleaned or disinfected.

Additionally, beginning on January 1, 2021, retail establishments must collect and retain from customers a pass-through charge of 8 cents for each recycled content paper carryout bag and reusable carryout bag made of film plastic.

The pass-through charge is a taxable retail sale and must be shown on customer receipts.

Retail establishments may not collect a pass-through charge from persons using vouchers or electronic benefit cards issued under the Women, Infants, and Children Nutrition Program, the Temporary Assistance for Needy Families program, Supplemental Nutrition

Assistance Program, or the Food Assistance Program.

Local governments may not enact or implement new local carryout bag ordinances. Local government carryout bag ordinances enacted as of April 1, 2020, were preempted as of January 1, 2021. If a local ordinance has established a pass-through charge of 10 cents, the pass-through charge is not preempted until January 1, 2026.

A violation of the carryout bag requirements is subject to a \$250 penalty. The penalty is appealable to the Pollution Control Hearings Board. The Department of Ecology may adopt rules to implement, administer, and enforce the restrictions on carryout and in-store bags. Enforcement of bag restrictions must be largely on a complaint basis.

Governor's Proclamation.

On December 18, 2020, the Governor issued Proclamation 20-82 which waives and suspends the January 1, 2021, effective date of restrictions on single-use plastic and paper carryout bags and reusable film plastic bags until 11:59 p.m. on January 30, 2021, or as amended or rescinded.

Summary of Substitute Bill:

The January 1, 2021, effective date of restrictions on single-use plastic carryout bags and on paper or reusable plastic carryout bags that do not meet recycled content requirements is delayed until July 1, 2021.

The Governor may order a delay of the July 1, 2021, effective date for the implementation of carryout bag restrictions after determining that Coronavirus Disease 2019-related issues continue to cause significant supply chain problems for carryout bag requirements.

However, the Governor may not order an extension of the implementation date beyond January 1, 2022. If the Governor decides to order a delay, the Governor must provide notice of the updated effective date to affected parties at least 45 days in advance.

The January 1, 2021, preemption of enacted city, town, county, or municipal corporation ordinances that restrict single-use carryout bags is delayed until July 1, 2021, or the extended implementation date of restrictions on single-use carryout bags established by an order of the Governor.

Substitute Bill Compared to Original Bill:

The substitute bill delays the preemption of city, town, county, or municipal corporation carryout bag ordinances until July 1, 2021, or the effective date of carryout bag restrictions, as ordered by the Governor.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) The Coronavirus Disease 2019 pandemic has harmed the supply chain for paper and plastic bags and poses safety risks to grocery store employees. Some cities have gone from over 85 percent of their residents using reusable tote bags to 100 percent of their residents using plastic or paper bags during the pandemic. Similar shifts away from reusable bags have transpired across the United States which has greatly increased the demand for paper and plastic bags and reduced the available supply of bags. Many retailers cannot currently comply with the plastic bag ban as there are not currently enough permissible bags. House Bill 1053 delays the implementation of the 2020 legislation and gives large grocers, small grocers, restaurants, and other affected parties time to recover from the pandemic and comply with the carryout bag restrictions.

(Opposed) The implementation of the of the plastic bag ban is taking too long. One potential change to the bill would be to tie the implementation date to when reusable bags can be used. Certain stores have had no issues finding supplies to comply with the plastic bag ban. Rejecting the delay of the plastic bag ban would help the environment, and businesses would be able to adapt to the new restrictions.

Persons Testifying: (In support) Representative Peterson, prime sponsor; Cat Holm, Washington Food Industry Association; Holly Chisa, Northwest Grocery Association; and Bruce Wishart, Zero Waste Washington and Puget Soundkeeper.

(Opposed) Rick Hughes, Shorewood Communications, Incorporated.

Persons Signed In To Testify But Not Testifying: None.