
SUBSTITUTE HOUSE BILL 1053

State of Washington

67th Legislature

2021 Regular Session

By House Environment & Energy (originally sponsored by
Representatives Peterson, Dye, Kloba, and Ortiz-Self)

READ FIRST TIME 01/22/21.

1 AN ACT Relating to delaying the implementation of restrictions on
2 carryout bags; amending RCW 70A.530.020, 70A.530.040, 70A.530.060,
3 and 70A.530.050; and declaring an emergency.

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

5 **Sec. 1.** RCW 70A.530.020 and 2020 c 138 s 3 are each amended to
6 read as follows:

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

10 (a) A single-use plastic carryout bag;

11 (b) A paper carryout bag or reusable carryout bag made of film
12 plastic that does not meet recycled content requirements; or

13 (c) Beginning January 1, 2026, a reusable carryout bag made of
14 film plastic with a thickness of less than four mils, in the event
15 that the 2025 legislature does not amend this section to reflect the
16 recommendations to the legislature made consistent with RCW
17 70A.530.060.

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

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

7 (ii) Beginning January 1, 2026, a retail establishment must
8 collect a pass-through charge of twelve cents for reusable carryout
9 bags made of film plastic and eight cents for recycled content paper
10 carryout bags, in the event that the 2025 legislature does not amend
11 this section to reflect the recommendations to the legislature made
12 consistent with RCW 70A.530.060. It is the intent of the legislature
13 for the 2025 legislature to reassess the amount of the pass-through
14 charge authorized under this subsection (2)(b), taking into
15 consideration the content of the report to the legislature under RCW
16 70A.530.060.

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

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

23 (a) Bags used by consumers inside stores to:

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

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

29 (A) Frozen foods;

30 (B) Meat;

31 (C) Fish;

32 (D) Flowers; and

33 (E) Potted plants;

34 (iii) Contain unwrapped prepared foods or bakery goods;

35 (iv) Contain prescription drugs; or

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

39 (b) Newspaper bags, mailing pouches, sealed envelopes, door
40 hanger bags, laundry/dry cleaning bags, or bags sold in packages

1 containing multiple bags for uses such as food storage, garbage, or
2 pet waste.

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

7 (b) A retail establishment may not use or provide polyethylene or
8 other noncompostable plastic bags for bagging of customer products in
9 stores, as carryout bags, or for home delivery that do not meet the
10 requirements for noncompostable products and film bags in chapter
11 ~~((70.360))~~ 70A.455 RCW.

12 (5) ~~((Except as provided by local regulations enacted as of April
13 1, 2020, a retail establishment may provide a bag restricted under
14 subsection (1) of this section from existing inventory until one year
15 after June 11, 2020. The retail establishment, upon request by the
16 department, must provide purchase invoices, distribution receipts, or
17 other information documenting that the bag was acquired prior to June
18 11, 2020.))~~ Upon making a determination that COVID-19 related issues
19 are continuing to cause significant supply chain problems regarding
20 carryout bags required under this chapter, the governor may order a
21 delay of the July 1, 2021, effective date for the restrictions
22 specified in subsection (1) of this section. However, the governor
23 may not order an extension of the implementation date beyond January
24 1, 2022. If the governor decides to order a delay under this section,
25 the governor must provide notice of the updated effective date to
26 affected parties at least 45 days in advance.

27 (6) For the purposes of this section:

28 (a) A recycled content paper carryout bag must:

29 (i) Contain a minimum of forty percent postconsumer recycled
30 materials;

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

35 (iii) Display in print on the exterior of the paper bag the
36 minimum percentage of postconsumer content.

37 (b) A reusable carryout bag must:

38 (i) Have a minimum lifetime of one hundred twenty-five uses,
39 which for purposes of this subsection means the capacity to carry a

1 minimum of twenty-two pounds one hundred twenty-five times over a
2 distance of at least one hundred seventy-five feet;

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

5 (iii) If made of film plastic:

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

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

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

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

19 **Sec. 2.** RCW 70A.530.040 and 2020 c 138 s 5 are each amended to
20 read as follows:

21 (1) Until June 1, 2025, the department shall prioritize the
22 expedited processing of applications for permits related to the
23 expansion or reconfiguration of an existing pulp and paper mill for
24 the purpose of manufacturing paper bags or raw materials used to
25 manufacture paper bags.

26 (2) The department may adopt rules as necessary for the purpose
27 of implementing, administering, and enforcing this chapter.

28 (3) The enforcement of this chapter must be based primarily on
29 complaints filed with the department and local governments. The
30 department must establish a forum for the filing of complaints. Local
31 governments and any person may file complaints with the department
32 using the forum and local governments may review complaints filed
33 with the department via the forum for purposes of the local
34 government carrying out education and outreach to retail
35 establishments. The forum established by the department may include a
36 complaint form on the department's web site, a telephone hotline, or
37 a public outreach strategy relying upon electronic social media to
38 receive complaints that allege violations. The department, in
39 collaboration with the local governments, must provide education and

1 outreach activities to inform retail establishments, consumers, and
2 other interested individuals about the requirements of this chapter.

3 (4) The department or local government shall work with retail
4 establishments, retail associations, unions, and other organizations
5 to create educational elements regarding the ban and the benefits of
6 reusable carryout bags. Educational elements may include signage at
7 store locations, informational literature, and employee training by
8 October 1, 2020.

9 (5) Retail establishments are encouraged to educate their staff
10 to promote reusable bags as the best option for carryout bags and to
11 post signs encouraging customers to use reusable carryout bags.

12 (6) A violation of this chapter is subject to a civil penalty of
13 up to two hundred fifty dollars. Each calendar day of operation or
14 activity in violation of this chapter comprises a new violation.
15 Penalties issued under this section are appealable to the pollution
16 control hearings board established in chapter 43.21B RCW.

17 ~~((7) If specific funding for the purposes of chapter 138, Laws
18 of 2020, referencing chapter 138, Laws of 2020 by bill or chapter
19 number, is not provided by July 1, 2020, from the waste reduction,
20 recycling, and litter control account for purposes of implementing
21 the education and outreach activities required under this section,
22 then chapter 138, Laws of 2020 is null and void.))~~

23 **Sec. 3.** RCW 70A.530.060 and 2020 c 138 s 7 are each amended to
24 read as follows:

25 (1) By December 1, 2024, the department of commerce, in
26 consultation with the department, must submit a report to the
27 appropriate committees of the legislature in order to allow an
28 opportunity for the legislature to amend the mil thickness
29 requirements for reusable carryout bags made of film plastic, the
30 amount of the pass-through charges for bags, or to make other needed
31 revisions to this chapter during the 2025 legislative session. The
32 report required under this section must include:

33 (a) An assessment of the effectiveness of the pass-through charge
34 for reducing the total volume of bags purchased and encouraging the
35 use of reusable carryout bags;

36 (b) An assessment of the sufficiency of the amount of the pass-
37 through charge allowed under this chapter ~~((70A.530 RCW [this
38 chapter]))~~ relative to the cost of the authorized bags to retail
39 establishments and an assessment of the pricing and availability of

1 various types of carryout bags. For purposes of conducting this
2 assessment, the department and the department of commerce may
3 request, but not require, retail establishments and bag distributors
4 to furnish information regarding the cost of various types of paper
5 and plastic carryout bags provided to retail establishments; and

6 (c) Recommendations for revisions to this chapter (~~(70A.530—RCW~~
7 ~~[this chapter])~~), if needed.

8 (2) This section expires July 1, 2027.

9 **Sec. 4.** RCW 70A.530.050 and 2020 c 138 s 6 are each amended to
10 read as follows:

11 (1) Except as provided in subsection (2) of this section, a city,
12 town, county, or municipal corporation may not implement a local
13 carryout bag ordinance. Except as provided in subsection (2) of this
14 section, any carryout bag ordinance that was enacted as of April 1,
15 2020, is preempted by this chapter.

16 (2)(a) A city, town, county, or municipal corporation carryout
17 bag ordinance enacted as of April 1, 2020, that has established a
18 pass-through charge of ten cents is not preempted with respect to the
19 amount of the pass-through charge until January 1, 2026.

20 (b) A city, town, county, or municipal corporation ordinance not
21 specified in (a) of this subsection and enacted as of April 1, 2020,
22 is not preempted until (~~January~~) either July 1, 2021, or the date
23 established in an order issued by the governor under RCW
24 70A.530.020(5).

25 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of
27 the state government and its existing public institutions, and takes
28 effect immediately.

--- END ---