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**SUBSTITUTE HOUSE BILL 1145**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

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

READ FIRST TIME 02/08/21.

1 AN ACT Relating to allowing the use of nonwood renewable fiber in  
2 recycled content paper carryout bags; and amending RCW 70A.530.010,  
3 70A.530.020, and 70A.530.005.

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

5 **Sec. 1.** RCW 70A.530.010 and 2020 c 138 s 2 are each amended to  
6 read as follows:

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

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

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

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

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

1 ((4)) (5) "~~(Recycled content)~~ Compliant paper carryout bag"  
2 means a paper carryout bag provided by a retail establishment to a  
3 customer that meets the requirements in RCW 70A.530.020(6)(a).

4 ((5)) (6) "Retail establishment" means any person, corporation,  
5 partnership, business, facility, vendor, organization, or individual  
6 that sells or provides food, merchandise, goods, or materials  
7 directly to a customer including home delivery, temporary stores, or  
8 vendors at farmers markets, street fairs, and festivals.

9 ((6)) (7) "Reusable carryout bag" means a carryout bag made of  
10 cloth or other durable material with handles that is specifically  
11 designed and manufactured for long-term multiple reuse and meets the  
12 requirements of RCW 70A.530.020(6)(b).

13 ((7)) (8) "Single-use plastic carryout bag" means any carryout  
14 bag that is made from plastic that is designed and suitable only to  
15 be used once and disposed.

16 **Sec. 2.** RCW 70A.530.020 and 2020 c 138 s 3 are each amended to  
17 read as follows:

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

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

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

25 (c) Beginning January 1, 2026, a reusable carryout bag made of  
26 film plastic with a thickness of less than four mils, in the event  
27 that the 2025 legislature does not amend this section to reflect the  
28 recommendations to the legislature made consistent with RCW  
29 70A.530.060.

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

34 (b)(i) Until December 31, 2025, a retail establishment must  
35 collect a pass-through charge of eight cents for every ~~(recycled~~  
36 ~~content)~~ compliant paper carryout bag with a manufacturer's stated  
37 capacity of one-eighth barrel (eight hundred eighty-two cubic inches)  
38 or greater or reusable carryout bag made of film plastic it provides,

1 except as provided in subsection (5) of this section and RCW  
2 70A.530.030.

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

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

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

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

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

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

25 (A) Frozen foods;

26 (B) Meat;

27 (C) Fish;

28 (D) Flowers; and

29 (E) Potted plants;

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

31 (iv) Contain prescription drugs; or

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

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

39 (4)(a) Any compostable film bag that a retail establishment  
40 provides to customers for products, including for products bagged in

1 stores prior to checkout, must meet the requirements for compostable  
2 products and film bags in chapter ((70.360)) 70A.455 RCW.

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

8 (5) Except as provided by local regulations enacted as of April  
9 1, 2020, a retail establishment may provide a bag restricted under  
10 subsection (1) of this section from existing inventory until one year  
11 after June 11, 2020. The retail establishment, upon request by the  
12 department, must provide purchase invoices, distribution receipts, or  
13 other information documenting that the bag was acquired prior to June  
14 11, 2020.

15 (6) For the purposes of this section:

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

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

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

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

28 (b) A reusable carryout bag must:

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

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

35 (iii) If made of film plastic:

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

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

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

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

11 **Sec. 3.** RCW 70A.530.005 and 2020 c 138 s 1 are each amended to  
12 read as follows:

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

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

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

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

36 (2) Alternatives to single-use plastic carryout bags are  
37 convenient, functional, widely available, and measure as superior  
38 across most environmental performance metrics. Alternatives to  
39 single-use plastic carryout bags feature especially superior

1 environmental performance with respect to litter and marine debris,  
2 since plastic bags do not biodegrade.

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

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

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

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

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

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

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

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