

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1145

67th Legislature
2021 Regular Session

Passed by the House March 1, 2021
Yeas 97 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 3, 2021
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1145** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1145

Passed Legislature - 2021 Regular Session

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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