

Senate Bill 536

Sponsored by Senators HASS, ATKINSON, Representatives CANNON, GILLIAM (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits use of single-use checkout bags except in certain cases. Allows Department of Environmental Quality to impose civil penalty. Prohibits local governments from imposing charges on checkout bags or other bags provided to customers. Repeals statute requiring retail establishments that offer plastic bags to customers to also offer paper bags.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to bags; creating new provisions; amending ORS 459.235 and 459A.115; repealing ORS
3 459A.695; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 4 of this 2011 Act:**

6 (1) **"Recycled paper checkout bag" means a paper bag made by a manufacturer whose**
7 **total production of paper checkout bags in the preceding calendar year averaged at least 40**
8 **percent recycled fiber.**

9 (2)(a) **"Retail establishment" means any store in this state that sells or offers for sale**
10 **goods at retail.**

11 (b) **"Retail establishment" does not mean an establishment where the primary business**
12 **is the preparation of food or drink:**

13 (A) **For consumption by the public;**

14 (B) **In a form or quantity that is consumable then and there, whether or not it is con-**
15 **sumed within the confines of the place where prepared; or**

16 (C) **In consumable form for consumption outside the place where prepared.**

17 (3) **"Reusable checkout bag" means a bag with handles that is specifically designed and**
18 **manufactured for multiple reuse and is made of:**

19 (a) **Cloth or other machine-washable fabric; or**

20 (b) **Durable plastic that is at least 2.25 mils thick.**

21 (4)(a) **"Single-use checkout bag" means a bag made of paper, plastic or any other mate-**
22 **rial that is provided by a retail establishment to a customer at the time of checkout.**

23 (b) **"Single-use checkout bag" does not mean a bag made of paper, plastic or any other**
24 **material that is provided by a retail establishment to a customer at a time other than the**
25 **time of checkout.**

26 **SECTION 2. (1) Except as provided in subsection (2) of this section, a retail establishment**
27 **may not provide single-use checkout bags to customers.**

28 (2) **A retail establishment may:**

29 (a) **Make reusable checkout bags available for sale to customers.**

30 (b) **Provide reusable checkout bags at no cost to customers.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) Provide recycled paper checkout bags at no cost to:

2 (A) Customers who use a voucher issued under the Women, Infants and Children Pro-
 3 gram established in the Oregon Health Authority under ORS 409.600.

4 (B) Customers who use an electronic benefits card issued by the Department of Human
 5 Services.

6 (d) Provide recycled paper checkout bags to customers if the retail establishment charges
 7 not less than five cents for each recycled paper checkout bag.

8 (e) Provide single-use checkout bags to customers for items marked with protected
 9 health information or other confidential information.

10 (3) The Environmental Quality Commission may adopt rules necessary to implement
 11 sections 1 to 4 of this 2011 Act.

12 (4) The Department of Environmental Quality may require a retail establishment to
 13 provide, within a reasonable time, information necessary to ensure compliance with this
 14 section.

15 **SECTION 3.** (1) The Department of Environmental Quality may impose a civil penalty on
 16 a person for a violation of section 2 of this 2011 Act.

17 (2) A civil penalty imposed under this section may not exceed \$250.

18 (3) Civil penalties described in this section shall be imposed in the manner provided in
 19 ORS 183.745.

20 (4) All penalties recovered under this section shall be paid into the State Treasury and
 21 credited to the General Fund and are available for general governmental expenses.

22 **SECTION 4.** A local government, as defined in ORS 174.116, may not impose any tax, fee,
 23 assessment, surcharge or other charge on:

24 (1) Recycled paper checkout bags;

25 (2) Reusable checkout bags;

26 (3) Single-use checkout bags; or

27 (4) Any other bags made of paper, plastic or other material that are provided by a retail
 28 establishment to a customer.

29 **SECTION 5.** ORS 459A.695 is repealed.

30 **SECTION 6.** ORS 459.235 is amended to read:

31 459.235. (1) Applications for permits shall be on forms prescribed by the Department of Envi-
 32 ronmental Quality. An application shall contain a description of the existing and proposed operation
 33 and the existing and proposed facilities at the site, with detailed plans and specifications for any
 34 facilities to be constructed. The application shall include a recommendation by each local govern-
 35 ment unit having jurisdiction and such other information the department deems necessary in order
 36 to determine whether the site and solid waste disposal facilities located thereon and the operation
 37 will comply with applicable requirements.

38 (2) The Environmental Quality Commission shall establish a schedule of fees for disposal site
 39 permits. The permit fees contained in the schedule shall be based on the anticipated cost of filing
 40 and investigating the application, of issuing or denying the requested permit and of an inspection
 41 program to determine compliance or noncompliance with the permit.

42 (3) In addition to the fees imposed under subsection (2) of this section, the commission shall
 43 establish a schedule of permit fees for the purpose of implementing this section and ORS 90.318,
 44 182.375, 279A.125, 279A.155, 279B.025, 279B.240, 279B.270, 279B.280, 459.005, 459.015, 459.247, 459.418,
 45 459.995, 459A.005, 459A.010, 459A.020, 459A.030 to 459A.055, 459A.070, 459A.110, 459A.115, 459A.475,

1 459A.480, 459A.500 to 459A.685[459A.695] and 459A.750. The fees shall be based on the amount of
2 solid waste received at the disposal site.

3 (4) Notwithstanding any other fee or surcharge imposed under ORS 459.005 to 459.437 or
4 459A.005 to 459A.120, for the disposal of solid waste, in order to encourage the use of suitable ma-
5 terial other than virgin material for daily cover at a disposal site, the only fee that may be charged
6 for the disposal of substitute material that is also used for daily cover is the permit fee established
7 under this section.

8 **SECTION 7.** ORS 459A.115 is amended to read:

9 459A.115. (1) From January 1, 1992, to December 31, 1993, the schedule of fees as established
10 by the Environmental Quality Commission under ORS 459A.110 (1) is increased by 35 cents per ton.
11 The portion of the fees attributable to the 35 cents per ton increase shall be deposited into the
12 General Fund and credited to an account of the Department of Environmental Quality. Such moneys
13 are continuously appropriated to the department to implement the provisions of this section and
14 ORS 459.005, 459.015, 459.235, 459.247, 459.418, 459.995, 459A.005, 459A.010, 459A.020, 459A.030 to
15 459A.055, 459A.070, 459A.110, 459A.500 to 459A.685[459A.695] and 459A.750.

16 (2) Beginning January 1, 1994, the schedule of fees as established by the commission under ORS
17 459A.110 is increased by 31 cents per ton and shall be deposited into the General Fund and credited
18 to an account of the department. Such moneys are continuously appropriated to the department to
19 implement the provisions described in subsection (1) of this section, excluding ORS 459.418.

20 **SECTION 8.** (1) **Except as provided in subsection (2) of this section, sections 1 to 4 of this**
21 **2011 Act, the repeal of ORS 459A.695 by section 5 of this 2011 Act and the amendments to**
22 **ORS 459.235 and 459A.115 by sections 6 and 7 of this 2011 Act become operative on November**
23 **1, 2011.**

24 (2) **The Environmental Quality Commission may adopt rules before the operative date**
25 **specified in subsection (1) of this section, or take any other action before the operative date**
26 **specified in subsection (1) of this section, that is necessary to implement, on or after the**
27 **operative date specified in subsection (1) of this section, sections 1 to 4 of this 2011 Act, the**
28 **repeal of ORS 459A.695 by section 5 of this 2011 Act and the amendments to ORS 459.235 and**
29 **459A.115 by sections 6 and 7 of this 2011 Act.**

30 (3)(a) **Section 4 of this 2011 Act applies to any tax, fee, assessment, surcharge or other**
31 **charge imposed before, on or after the operative date specified in subsection (1) of this sec-**
32 **tion by a local government on recycled paper checkout bags, reusable checkout bags,**
33 **single-use checkout bags and any other bags made of paper, plastic or other material that**
34 **are provided by a retail establishment to a customer.**

35 (b) **Paragraph (a) of this subsection does not affect any tax, fee, assessment, surcharge**
36 **or other charge imposed by a local government on recycled paper checkout bags, reusable**
37 **checkout bags, single-use checkout bags and any other bags made of paper, plastic or other**
38 **material that are provided by a retail establishment to a customer that became due before**
39 **the operative date specified in subsection (1) of this section.**

40 **SECTION 9.** **This 2011 Act being necessary for the immediate preservation of the public**
41 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
42 **on its passage.**