

Enrolled House Bill 2509

Sponsored by Representatives PILUSO, SOLLMAN, GORSEK, RAYFIELD, Senators DEMBROW, HASS; Representatives GOMBERG, KENY-GUYER, MCKEOWN, MCLAIN, MITCHELL, NERON, NOSSE, SANCHEZ, SCHOUTEN, SMITH WARNER, WILDE, Senator MONNES ANDERSON (Pre-session filed.)

CHAPTER

AN ACT

Relating to checkout bags; creating new provisions; and repealing ORS 459A.695.

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

SECTION 1. As used in this section and sections 2, 3 and 5 of this 2019 Act:

(1) **“Garment bag” means a large bag that incorporates a hanger on which garments may be hung to prevent wrinkling during travel or storage.**

(2) **“Local provision” means a charter provision, ordinance, resolution or other provision adopted by a city, county or other local government, as defined in ORS 174.116.**

(3) **“Recycled paper checkout bag” means a paper bag that contains at least 40 percent post-consumer recycled fiber.**

(4) **“Restaurant” means an establishment where the primary business is the preparation of food or drink:**

(a) **For consumption by the public;**

(b) **In a form or quantity that is consumable then and there, whether or not it is consumed within the confines of the place where prepared; or**

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

(5) **“Retail establishment” means a store that sells or offers for sale goods at retail and that is not a restaurant.**

(6) **“Reusable fabric checkout bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine-washable fabric.**

(7) **“Reusable plastic checkout bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of durable plastic that is at least four mils thick.**

(8)(a) **“Single-use checkout bag” means a bag made of paper, plastic or any other material that is provided by a retail establishment to a customer at the time of checkout, and that is not a recycled paper checkout bag, a reusable fabric checkout bag or a reusable plastic checkout bag.**

(b) **“Single-use checkout bag” does not mean:**

(A) **A bag that is provided by a retail establishment to a customer at a time other than the time of checkout, including but not limited to bags provided to:**

(i) **Package bulk items such as fruit, vegetables, nuts, grains, greeting cards or small hardware items, including nails, bolts or screws;**

- (ii) Contain or wrap frozen food, meat, fish, flowers, a potted plant or another item for the purpose of addressing dampness or sanitation;
 - (iii) Contain unwrapped prepared food or a bakery good; or
 - (iv) Contain a prescription drug;
 - (B) A newspaper bag, door hanger bag, garment bag, laundry bag or dry cleaning bag;
- or
- (C) A bag sold in a package containing multiple bags for uses such as food storage, garbage containment or pet waste collection.

SECTION 2. (1) Except as provided in subsection (2) of this section, a retail establishment may not provide:

- (a) Single-use checkout bags to customers.
- (b) Recycled paper checkout bags, reusable fabric checkout bags or reusable plastic checkout bags to customers unless the retail establishment charges not less than five cents for each recycled paper checkout bag, reusable fabric checkout bag or reusable plastic checkout bag.

(2) A retail establishment may provide:

(a) Reusable fabric checkout bags at no cost to customers as a promotion on 12 or fewer days in a calendar year.

(b) Recycled paper checkout bags or reusable plastic checkout bags at no cost to customers who:

(A) Use a voucher issued under the Women, Infants and Children Program established under ORS 413.500.

(B) Use an electronic benefits transfer card issued by the Department of Human Services.

(3) Except as provided in subsection (4) of this section, a restaurant may not provide:

- (a) Single-use checkout bags to customers.
- (b) Reusable plastic checkout bags to customers unless the restaurant charges not less than five cents for each reusable plastic checkout bag.

(4) A restaurant may provide:

- (a) Recycled paper checkout bags at no cost to customers.
- (b) Reusable plastic checkout bags at no cost to customers who use an electronic benefits transfer card issued by the Department of Human Services.

SECTION 3. To prohibit or limit the use of recycled paper checkout bags, reusable fabric checkout bags, reusable plastic checkout bags or single-use checkout bags by a restaurant or retail establishment, a city, county or other local government, as defined in ORS 174.116:

(1) May adopt a local provision that establishes definitions, requirements and restrictions that are identical to the definitions, requirements and restrictions established by sections 1 and 2 of this 2019 Act.

(2) May amend a local provision that was in effect before the effective date of this 2019 Act so the local provision establishes definitions, requirements and restrictions that are identical to the definitions, requirements and restrictions established by sections 1 and 2 of this 2019 Act.

(3) May adopt, amend or enforce a local provision to impose a penalty other than the penalty established by section 4 of this 2019 Act. A restaurant or retail establishment may be charged with a violation under either the local provision or section 4 of this 2019 Act, but not both.

(4) May not adopt or enforce a local provision that establishes definitions, requirements or restrictions that are not identical to the definitions, requirements and restrictions established by sections 1 and 2 of this 2019 Act.

(5) Notwithstanding subsection (4) of this section, may adopt, amend or enforce a local provision to require a restaurant or retail establishment to charge a fee of more than five cents under provisions otherwise identical to section 2 (1)(b) and (3)(b) of this 2019 Act.

SECTION 4. (1) Notwithstanding ORS 153.018 (3), a violation of section 2 of this 2019 Act by a restaurant or retail establishment, as those terms are defined in section 1 of this 2019 Act, is a Class D violation subject to a maximum fine of \$250.

(2) Each day that the restaurant or retail establishment commits a violation constitutes a separate offense.

SECTION 5. (1) The Department of Environmental Quality shall produce a report on the impacts of sections 2 and 3 of this 2019 Act that assesses, in retail establishments that primarily sell groceries:

(a) Collection of the fee described in section 2 (1)(b) of this 2019 Act; and

(b) Customers' use of recycled paper checkout bags, reusable fabric checkout bags and reusable plastic checkout bags.

(2) No later than September 15, 2024, retail establishments that primarily sell groceries shall provide to the department the information described in subsection (1) of this section.

(3) No later than September 15, 2025, the department shall submit the report described in subsection (1) of this section, in the manner provided by ORS 192.245, to an interim committee of the Legislative Assembly related to the environment.

SECTION 6. Section 5 of this 2019 Act is repealed on December 31, 2025.

SECTION 7. ORS 459A.695 is repealed.

Passed by House April 25, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 11, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State