

A-Engrossed
House Bill 2509

Ordered by the House April 11
Including House Amendments dated April 11

Sponsored by Representatives PILUSO, SOLLMAN, GORSEK, RAYFIELD; Representatives KENY-GUYER, MCLAIN, MITCHELL, NERON, NOSSE, SANCHEZ, SCHOUTEN, SMITH WARNER (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.

[Prohibits use of single-use checkout bags except in certain cases. Allows Department of Environmental Quality to impose civil penalty of not more than \$250 per day.]

Prohibits retail establishments from providing single-use checkout bags to customers.

Prohibits restaurants from providing single-use checkout bags to customers.

Requires retail establishments to charge not less than five cents each for recycled paper checkout bags, reusable fabric checkout bags or reusable plastic checkout bags provided to customers, except in certain circumstances.

Requires restaurants to charge not less than five cents each for reusable plastic checkout bags provided to customers, except in certain cases.

Establishes certain preemptive restrictions on local governments.

Requires Department of Environmental Quality to report on certain impacts.

Punishes violations by maximum fine of \$250 per violation.

Repeals statute requiring retail establishments that offer plastic bags to customers to also offer paper bags.

A BILL FOR AN ACT

1
2 Relating to checkout bags; creating new provisions; and repealing ORS 459A.695.

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

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

5 (1) "Local provision" means a charter provision, ordinance, resolution or other provision
6 adopted by a city, county or other local government, as defined in ORS 174.116.

7 (2) "Recycled paper checkout bag" means a paper bag that contains at least 40 percent
8 post-consumer recycled fiber.

9 (3) "Restaurant" means an establishment where the primary business is the preparation
10 of food or drink:

11 (a) For consumption by the public;

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

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

15 (4) "Retail establishment" means a store that sells or offers for sale goods at retail and
16 that is not a restaurant.

17 (5) "Reusable fabric checkout bag" means a bag with handles that is specifically designed
18 and manufactured for multiple reuse and is made of cloth or other machine-washable fabric.

19 (6) "Reusable plastic checkout bag" means a bag with handles that is specifically designed
20 and manufactured for multiple reuse and is made of durable plastic that is at least four mils

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 **thick.**

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

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

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

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

11 (ii) **Contain or wrap frozen food, meat, fish, flowers, a potted plant or another item for**
12 **the purpose of addressing dampness or sanitation;**

13 (iii) **Contain unwrapped prepared food or a bakery good; or**

14 (iv) **Contain a prescription drug;**

15 (B) **A newspaper bag, door hanger bag, laundry bag or dry cleaning bag; or**

16 (C) **A bag sold in a package containing multiple bags for uses such as food storage, gar-**
17 **bage containment or pet waste collection.**

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

20 (a) **Single-use checkout bags to customers.**

21 (b) **Recycled paper checkout bags, reusable fabric checkout bags or reusable plastic**
22 **checkout bags to customers unless the retail establishment charges not less than five cents**
23 **for each recycled paper checkout bag, reusable fabric checkout bag or reusable plastic**
24 **checkout bag.**

25 (2) **A retail establishment may provide:**

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

28 (b) **Recycled paper checkout bags or reusable plastic checkout bags at no cost to cus-**
29 **tomers who:**

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

32 (B) **Use an electronic benefits transfer card issued by the Department of Human Ser-**
33 **vices.**

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

35 (a) **Single-use checkout bags to customers.**

36 (b) **Reusable plastic checkout bags to customers unless the restaurant charges not less**
37 **than five cents for each reusable plastic checkout bag.**

38 (4) **A restaurant may provide:**

39 (a) **Recycled paper checkout bags at no cost to customers.**

40 (b) **Reusable plastic checkout bags at no cost to customers who use an electronic benefits**
41 **transfer card issued by the Department of Human Services.**

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

45 (1) **May adopt a local provision that establishes definitions, requirements and restrictions**

1 that are identical to the definitions, requirements and restrictions established by sections 1
2 and 2 of this 2019 Act.

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

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

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

14 (5) Notwithstanding subsection (4) of this section, may allow a restaurant or retail es-
15 tablishment to charge a fee that is less than the fee established by section 2 (1)(b) and (3)(b)
16 if the city, county or other local government charged the fee before the effective date of this
17 2019 Act.

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

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

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

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

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

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

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

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

35 **SECTION 7.** ORS 459A.695 is repealed.
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