



Eugene City Council

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EUGENE CITY COUNCIL AGENDA

November 18, 2019

7:30 p.m. CITY COUNCIL PUBLIC HEARING
Harris Hall, 125 East 8th Avenue
Eugene, Oregon 97401

Meeting of November 18, 2019;
Her Honor Mayor Lucy Vinis Presiding

Councilors

Betty Taylor, President
Greg Evans
Mike Clark
Jennifer Yeh

Emily Semple, Vice President
Chris Pryor
Claire Syrett
Alan Zelenka

7:30 p.m. CITY COUNCIL PUBLIC HEARING

- 1. PUBLIC HEARING: An Ordinance Concerning Restrictions on the Use of Polystyrene Containers and Adding Sections 6.874, 6.876, and 6.878 to the Eugene Code, 1971.**
- 2. PUBLIC HEARING: An Ordinance Concerning Single-Use Checkout Bags, Amending Sections 6.850 and 6.855 of the Eugene Code, 1971, and Repealing Sections 6.860 and 6.865 of that Code.**

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

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EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Concerning Restrictions on the Use of Polystyrene Containers and Adding Sections 6.874, 6.876, and 6.878 to the Eugene Code, 1971.

Meeting Date: November 18, 2019
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Anna Reid
Contact Telephone Number: 541-682-5463

ISSUE STATEMENT

Polystyrene carryout items are a common form of single-use plastic and a source of litter. They are manufactured from non-renewable fossil fuels and synthetic chemicals and are very difficult to recycle. These containers are not biodegradable; once they are in landfills or the natural environment, they persist for hundreds of years. They may break into small pieces, which creates hazards for wildlife and challenges for clean-up efforts. This ordinance is in response to City Council's directive to draft an ordinance banning polystyrene carryout containers. This public hearing provides an opportunity to provide feedback to City Council on the proposed ordinance.

BACKGROUND

Polystyrene carryout items have been banned in various regions all over the globe as well as in Oregon cities such as Ashland, Florence, Medford, Milwaukie, Portland, and Silverton due to their negative impacts on the environment.

During the 2019 Oregon legislative regular session, House Bill 2883, which would have enacted a statewide polystyrene container ban, failed in the Senate.

The local polystyrene ordinance proposed is modeled primarily after the introduced version of HB 2883; however, there are three main differences in the proposed ordinance:

1. The term and definition of the businesses affected is "retail food and beverage establishment," which is the same one as is used in the local single-use items ordinance. This is aimed to create consistency and clarity for Eugene businesses and members of the public.
2. City departments and retail food and beverage establishments performing work under a City contract are prohibited from using polystyrene containers for prepared food. Proposed language also prohibits the use of polystyrene containers at City facilities, City-sponsored events, and City-permitted events. These regulations are similar to those in the City's 2012 plastic bag ordinance and demonstrates the City's commitment to modeling the desired behavior. By prohibiting the distribution of polystyrene containers at City-sponsored and permitted events, the language incorporates one of the basic elements within the sustainable events framework. For example, the use of polystyrene containers would be prohibited at a 5K race that is sponsored by the City, and a City-permitted block party would prohibit the distribution of prepared food and beverages in polystyrene containers.

3. The proposed local ordinance allows retail food and beverage establishments to apply for up to a one-year exemption if the ordinance creates an undue hardship.

The proposed ordinance aligns with City Council's sustainable development goal by meeting the community's present environmental, economic and social needs without compromising the ability of future generations to meet their own needs.

A triple bottom line lens was used to develop the proposed ordinance. The environmental benefits of banning polystyrene containers include mitigating litter, preventing waste, and reducing the impacts associated with the manufacturing and disposal of these items. The proposed ordinance presents negligible financial impacts to retail food and beverage establishments and there are no expected social impacts, as there is no consumer fee or deposit.

PREVIOUS COUNCIL DIRECTION

[March 11, 2019, Work Session](#)

At the March 11, 2019, work session, staff provided updates regarding the above-referenced State legislative process and provided recommendations to City Council. City Council directed the Intergovernmental Relations Manager to lobby in support of HB 2883, directed staff to draft an ordinance banning polystyrene carryout containers based on the standards within HB 2883, and to wait until House Bill 2883 came to fruition before scheduling a public hearing.

COUNCIL OPTIONS

No formal action is sought at this public hearing. Action is tentatively scheduled for November 25, 2019.

CITY MANAGER'S RECOMMENDATION

This item is scheduled for public hearing only. No recommendation is being made at this time.

SUGGESTED MOTION

No motion is suggested for the public hearing.

ATTACHMENTS

- A. Proposed Ordinance
- B. House Bill 2883 as introduced

FOR MORE INFORMATION

Staff Contact: Anna Reid
Telephone: 541-682-5463
Staff E-Mail: areid@eugene-or.gov

ORDINANCE NO. _____

**AN ORDINANCE CONCERNING RESTRICTIONS ON THE USE OF
POLYSTYRENE CONTAINERS AND ADDING SECTIONS 6.874, 6.876,
AND 6.878 TO THE EUGENE CODE, 1971.**

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 6.874, 6.876, and 6.878 of the Eugene Code, 1971, are added

to provide as follows:

6.874 Polystyrene Container Use - Definitions. For purposes of sections 6.874 to 6.878 of this code, the following words and phrases mean:

City sponsored event. Any event organized or sponsored by the city or any department of the city.

Polystyrene container. A container that is made, in whole or in part, of a thermoplastic polymer, including, but not limited to, a solid polystyrene plastic or a polystyrene plastic foam, made for the purpose of and ordinarily used once for the purpose of serving, containing, preserving or consuming prepared food before being discarded. Types of polystyrene containers include, but are not limited to cups, bowls, plates, trays, and clamshell containers. Polystyrene containers do not include:

- (a) A cooler or other container that is made of a polystyrene foam, that is intended for more than one use and that is enclosed by a solid plastic shell;
- (b) A tray or container used solely to store, ship or otherwise transport an ingredient or food product that is not prepared food; or
- (c) Polystyrene plastic material that is used solely for packing or protecting items other than prepared food during storage, shipping or other transportation.

Prepared food. Food or a beverage that a retail food and beverage establishment prepares on their premises or that another person prepares and provides to the retail food and beverage establishment for sale to the public and that a person may consume immediately or without the need for additional preparation. Prepared food does not include raw meat, fish, or eggs that have not been prepared for immediate consumption.

Retail food and beverage establishment. Full service restaurants, limited service restaurants, fast food restaurants, food carts, bars, coffee and tea shops, grocery stores, convenience stores, hotels and motels, caterers, and food service contractors.

Undue hardship. Circumstances or situations unique to the retail food and beverage establishment, such that there are no reasonable alternatives to polystyrene containers.

6.876 Polystyrene Container Use – Regulations. Except as exempted in section 6.878 of this code:

- (a) Retail food and beverage establishments shall not use, provide, or make polystyrene containers available to members of the public in the course of selling, offering for sale, serving, or dispensing prepared food to members of the public.
- (b) No person shall sell, offer for sale, serve or dispense prepared food in a polystyrene container at any city facility, city sponsored event, or city permitted event.
- (c) City departments may not purchase, acquire, or use polystyrene containers for prepared food.
- (d) Retail food and beverage establishments under contract with the city may not use polystyrene containers for prepared food in city facilities and while performing under a city contract.

6.878 Polystyrene Container Use - Exemptions. Notwithstanding section 6.876 this code, the city manager or designee may exempt a retail food and beverage establishment from the requirements set forth in section 6.876 of this code for a period of not more than one year upon the retail food and beverage establishment showing, in writing, that this code would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. Requests for exemptions will not be accepted after December 31, 2020. The decision to grant or deny an exemption shall be in writing, and the city manager's or designee's decision shall be final.

Section 2. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

_____ day of November, 2019

Approved by the Mayor this

_____ day of November, 2019

City Recorder

Mayor

House Bill 2883

Sponsored by Representatives SCHOUTEN, SOLLMAN, MCLAIN; Representatives GOMBERG, GORSEK, HOLVEY, KENY-GUYER, MITCHELL, NERON, NOSSE, POWER, PRUSAK, WILDE, Senators BURDICK, DEMBROW, FAGAN, HASS, MANNING JR, MONNES ANDERSON, RILEY, ROBLAN, STEINER HAYWARD

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 food vendor from using polystyrene container in selling, offering for sale, serving or dispensing prepared food to public. Allows Department of Environmental Quality to impose civil penalty of not more than \$250 per day.

Becomes operative January 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to a prohibition on using polystyrene containers for prepared food; and prescribing an effective date.

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

SECTION 1. (1) As used in this section:

(a) "Food vendor" means a business, organization or person that, as a principal or regular activity, sells prepared food or offers prepared food for sale to the public, including, but not limited to, a store, shop or other sales outlet, a restaurant, a grocery store, a supermarket, a delicatessen or a cart, truck or other vehicle from which the business, organization or other person sells prepared food or offers prepared food for sale.

(b)(A) "Polystyrene container" means a cup or cup lid, bowl, plate or other container that is:

(i) Made of a thermoplastic polymer, including, but not limited to, a solid polystyrene plastic or a polystyrene plastic foam;

(ii) Made for the purpose of serving, containing, preserving or consuming prepared food; and

(iii) Ordinarily used once for the purpose described in sub-subparagraph (ii) of this subparagraph before being discarded.

(B) "Polystyrene container" does not include:

(i) A cooler or other container that is made of a polystyrene foam, that is intended for more than one use and that is enclosed by a solid plastic shell;

(ii) A tray or container used solely to store, ship or otherwise transport an ingredient or food product that is not prepared food; or

(iii) Polystyrene plastic material that is used solely for packing or protecting other items during storage, shipping or other transportation.

(c)(A) "Prepared food" means food or a beverage that:

(i) A food vendor prepares on the food vendor's premises or that another person prepares and provides to the food vendor for sale to the public; and

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.

(ii) A person may consume immediately or without the need for further or additional preparation.

(B) "Prepared food" does not include raw meat, fish or eggs that have not been prepared for immediate consumption.

(2) A food vendor may not use a polystyrene container in selling, offering for sale, serving or dispensing prepared food to a member of the public.

SECTION 2. (1) The Department of Environmental Quality may impose a civil penalty on a food vendor for a violation of section 1 of this 2019 Act. Each day a violation occurs constitutes a separate violation.

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

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

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

SECTION 3. (1) Section 1 of this 2019 Act becomes operative on January 1, 2020.

(2) The Director of the Department of Environmental Quality may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the director by section 1 of this 2019 Act.

SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Concerning Single-Use Checkout Bags, Amending Sections 6.850 and 6.855 of the Eugene Code, 1971, and Repealing Sections 6.860 and 6.865 of that Code.

Meeting Date: November 18, 2019
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Anna Reid
Contact Telephone Number: 541-682-5463

ISSUE STATEMENT

Over the past two decades, single-use plastic bags have been banned and regulated in various regions all over the globe due to their negative impacts on the environment. This ordinance is in response to Oregon Legislature adopting House Bill 2509, which regulates single-use checkout bags statewide and requires local governments to adopt identical definitions, requirements and restrictions. This public hearing is an opportunity to provide feedback to City Council on the proposed ordinance.

BACKGROUND

In 2012, the City Council adopted [Ordinance No. 20498](#), which became effective in May 2013, encouraging the use of reusable bags, banning single-use plastic carryout bags, and requiring businesses to charge a five-cent fee for each recyclable carryout paper bag. Exemptions in the 2012 ordinance allowed food providers to distribute single-use plastic bags to customers when providing hot prepared take-out foods and required retail establishments to provide a reusable bag or a recyclable paper bag at no cost to customers using Women, Infants and Children Program vouchers.

In June of this year, Oregon Legislature adopted House Bill 2509. In addition to prohibiting retail establishments from providing single-use bags made of plastic, the act prohibits the distribution of single-use bags made of non-recycled paper or any other material. The act also does not allow an exemption for restaurants. The act also allows retail establishments to provide recycled paper checkout bags or reusable plastic checkout bags at no cost to customers using WIC vouchers and those using a state-issued electronic benefits transfer card. The act allows local governments the option to require businesses to charge more than a five-cent fee for each recycled paper or reusable plastic checkout bag and to impose a penalty other than the one established in the act, which is a Class D violation subject to a maximum fine of \$250. This law goes into effect on January 1, 2020.

The proposed ordinance, which aligns with the State's requirements by further restricting the use of single-use plastic bags also supports City Council's sustainable development goal by meeting the community's present environmental, economic and social needs without compromising the ability of future generations to meet their own needs.

A triple bottom line lens was used to develop the proposed ordinance. Where House Bill 2509 allows flexibility for local governments in setting fees higher than five cents for each reusable checkout bag provided to customers, the proposed ordinance keeps the fee for customers at the minimum-allowed five-cent fee for each recycled paper or reusable plastic checkout bag. The environmental benefits of banning single-use checkout bags include mitigating litter, preventing waste, and reducing the impacts associated with manufacturing these items.

PREVIOUS COUNCIL DIRECTION

[October 22, 2012, Meeting](#)

On October 22, 2019, City Council adopted Ordinance No. 20498 and it went into effect on May 1, 2013.

[March 11, 2019, Work Session](#)

At the March 11, 2019, work session, staff provided updates regarding the above-referenced State legislative process and provided recommendations to City Council. City Council directed the Intergovernmental Relations Manager to support the inclusion of restaurants into HB 2509, support the removal of the pre-emption of locally adopted ordinances, and support maintaining a five-cent bag fee. Council also directed staff to draft amendments to the current bag ban to include banning single use carryout bags for restaurants and to wait until House Bill 2509 came to fruition before scheduling a public hearing.

COUNCIL OPTIONS

No formal action is sought at this public hearing. Action is scheduled for November 25, 2019.

CITY MANAGER'S RECOMMENDATION

This item is scheduled for public hearing only. No recommendation is being made at this time.

SUGGESTED MOTION

No motion is suggested for the public hearing.

ATTACHMENTS

- A. Proposed Ordinance
- B. House Bill 2509

FOR MORE INFORMATION

Staff Contact: Anna Reid
Telephone: 541-682-5463
Staff E-Mail: areid@eugene-or.gov

ORDINANCE NO. _____

AN ORDINANCE CONCERNING SINGLE-USE CHECKOUT BAGS, AMENDING SECTIONS 6.850 AND 6.855 OF THE EUGENE CODE, 1971, AND REPEALING SECTIONS 6.860 AND 6.865 OF THAT CODE.

The City Council of the City of Eugene finds as follows:

A. In 2013, the City Council adopted Ordinance No. 20498, regulating plastic bag use in the City of Eugene, banning single-use plastic carryout bags, and requiring a five-cent fee for each recyclable carryout paper bag.

B. In 2019, the Oregon Legislature adopted House Bill 2509 which implemented statewide regulation of single-use checkout bags and required local governments to adopt regulations identical to the definitions, requirements, and restrictions in House Bill 2509 (Chapter 434, Oregon Laws 2019).

C. The City Council makes the following amendments to Sections 6.850 and 6.855 of the Eugene Code, 1971, and repeals Sections 6.860 and 6.865 of that Code to bring the Code into conformance with the requirements of HB 2509.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 6.850 and 6.855 of the Eugene Code, 1971, are amended to provide as follows:

6.850 ~~**[Plastic Bag Use]**~~ **Single-Use Checkout Bag - Definitions.** For purposes of sections 6.850 to 6.865 of this code, the following words and phrases mean:

~~**[ASTM standard.** The American Society for Testing and Materials (ASTM)'s International D-6400.~~

~~**Carryout bag.** Any bag that is provided by a retail establishment at the point of sale to a customer for use to transport or carry away purchases, such as merchandise, goods or food, from the retail establishment. "Carryout bag" does not include:~~

~~(a) Bags used by consumers inside retail establishments to:~~

1. ~~Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;~~
 2. ~~Contain or wrap frozen foods, meat, fish, whether packaged or not;~~
 3. ~~Contain or wrap flowers, potted plants, or other items where dampness may be a problem;~~
 4. ~~Contain unwrapped prepared foods or bakery goods; or~~
 5. ~~Pharmacy prescription bags;~~
- (b) ~~Laundry dry cleaning bags or bags sold in packages containing multiple bags intended for use as garbage waste, pet waste, or yard waste bags;~~
- (c) ~~Product bags.~~

City sponsored event. ~~Any event organized or sponsored by the city or any department of the city.~~

Customer. ~~Any person obtaining goods from a retail establishment or from a vendor.~~

Food provider. ~~Any person in the city that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, grocery store, delicatessen, or catering truck or vehicle.~~

Grocery store. ~~Any retail establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items and includes supermarkets, convenience stores, and gasoline stations.~~

Pharmacy. ~~A retail use where the profession of pharmacy by a pharmacist licensed by the state of Oregon's Board of Pharmacy is practiced and where prescription medications are offered for sale.~~

Product bag. ~~Any bag provided to a customer for use within a retail establishment to assist in the collection or transport of products to the point of sale within the retail establishment. A product bag is not a carryout bag.~~

Recyclable paper bag. ~~A paper bag that meets all of the following requirements:~~

- (a) ~~Is 100% recyclable and contains a minimum of 40% recycled content;~~
- (b) ~~Is capable of composting consistent with the timeline and specifications of the ASTM Standard as defined in this section.~~

Retail establishment. ~~Any store or vendor located within or doing business within the geographical limits of the city that sells or offers for sale goods at retail.~~

~~**Reusable bag.** A bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:~~

- ~~(a) If cloth, is machine washable; or~~
- ~~(b) If plastic, has a minimum plastic thickness of 4.0 mils.~~

~~**Vendor.** Any retail establishment, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the geographical limits of the city, which provides perishable or nonperishable goods for sale to the public.~~

~~**Single-use plastic carryout bag.** Any plastic carryout bag made available by a retail establishment to a customer at the point of sale. It does not include reusable bags, recyclable paper bags, or product bags.~~

~~**Undue hardship.** Circumstances or situations unique to the particular retail establishment such that there are no reasonable alternatives to single-use plastic carryout bags or a recyclable paper bag pass through cannot be collected.]~~

Garment bag. *Means a large bag that incorporates a hanger on which garments may be hung to prevent wrinkling during travel or storage.*

Recycled paper checkout bag. *Means a paper bag that contains at least 40 percent post-consumer recycled fiber.*

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.*

Retail establishment. *Means a store that sells or offers for sale goods at retail and that is not a restaurant.*

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.*

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.*

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.

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:**
 - 1. Package bulk items such as fruit, vegetables, nuts, grains, greeting cards or small hardware items, including nails, bolts or screws;**
 - 2. Contain or wrap frozen food, meat, fish, flowers, a potted plant or another item for the purpose of addressing dampness or sanitation;**
 - 3. Contain unwrapped prepared food or a bakery good; or**
 - 4. 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.**

6.855 [Plastic Bag Use] Single-Use Checkout Bag – Regulations and Exemptions. ~~[Except as exempted in section 6.865 of this code:~~

- ~~(a) No retail establishment shall provide or make available to a customer a single-use plastic carryout bag;~~
- ~~(b) No person shall distribute a single-use plastic carryout bag at any city facility, city managed concession, city sponsored event, or city permitted event.]~~
- (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:**
 - 1. Use a voucher issued under the Women, Infants and Children Program established under ORS 413.500.**
 - 2. 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 2. Sections 6.860 and 6.865 of the Eugene Code, 1971, are repealed.

[6.860 Plastic Bag Use – Cost Pass-Through.] ~~When a retail establishment makes a recyclable paper bag available to a customer at the point of sale pursuant to section 6.865(b) of this code, the retail establishment shall:~~

- ~~(a) Charge the customer a reasonable pass-through cost of not less than 5 cents per recyclable paper bag provided to the customer; and~~
- ~~(b) Indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.~~

6.865 Plastic Bag Use – Exemptions. ~~Notwithstanding sections 6.855 and 6.860 of this code:~~

- ~~(a) Single-use plastic carryout bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the transportation of hot prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises.~~
- ~~(b) Retail establishments may distribute product bags and make reusable bags available to customers whether through sale or otherwise.~~
- ~~(c) A retail establishment shall provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon the request of a customer who uses a voucher issued under the Women, Infants and Children Program established in the Oregon Health Authority under ORS 413.500.~~
- ~~(d) Vendors at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass through charge required in section 6.860(b) of this code.~~
- ~~(e) The city manager or the designee may exempt a retail establishment from the requirement set forth in sections 6.855-6.860 of this code for a period of not more than one year upon the retail establishment showing, in writing, that this code would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption shall be in writing, and the city manager's or designee's decision shall be final.]~~

Section 3. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

_____ day of November, 2019

Approved by the Mayor this

_____ day of November, 2019

City Recorder

Mayor

80th OREGON LEGISLATIVE ASSEMBLY--2019 Regular Session

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 (Presession 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