

BILL ANALYSIS

Senate Research Center
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S.B. 338
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Plastic grocery bags are becoming a large part of Texas' waste and litter. While many stores and municipalities have independently tried to address the issue by entering into campaigns aimed at reducing the amount of plastic bags entering the stream of commerce, no uniform, statewide policy currently exists designed to reduce the number of plastic grocery bags.

As proposed, S.B. 338 requires large businesses to sell reusable carryout bags at a reasonable price, maintain a recycling program for plastic bags, and maintain records of the amount of bags recycled by the business.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 376.005, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 5, Health and Safety Code, by adding Chapter 376, as follows:

CHAPTER 376. CHECKOUT BAGS

Sec. 376.001. DEFINITIONS. Defines "business," "checkout bag," "commission," and "reusable bag."

Sec. 376.002. APPLICABILITY. Provides that this chapter does not apply to a business with fewer than 51 employees.

Sec. 376.003. BUSINESS REQUIRED TO OFFER REUSABLE BAGS AT REASONABLE PRICE. (a) Requires a business that offers a plastic checkout bag to a customer to make a reusable bag available for sale at a reasonable price.

(b) Requires an employee of a business described by Subsection (a) to ask the customer if the customer would like to purchase a reusable bag before providing a customer with a plastic checkout bag.

Sec. 376.004. RECYCLING PROGRAM. Requires a business that offers a plastic checkout bag to a customer to establish a checkout bag recycling program that requires the business to:

(1) print or display in a highly visible manner on the outside of a plastic checkout bag provided by the business the words "Please Return to a Participating Business for Recycling";

(2) place in a visible, easily accessible location at each location at which the business offers a plastic checkout bag to a customer, a plastic checkout bag collection bin clearly marked with information stating that the bin is for the purpose of collecting and recycling plastic checkout bags;

- (3) maintain records describing the collection, transport, and recycling of plastic checkout bags under the program established under this section; and
- (4) make the records of the program available to the Texas Commission on Environment Quality (TCEQ) on request.

Sec. 376.005. RULES. Requires TCEQ to adopt rules to implement this chapter.

SECTION 2. Amends Section 7.052, Water Code, by adding Subsection (b-3), to prohibit the amount of the penalty for a violation of Chapter 376 (Checkout Bags), Health and Safety Code, from exceeding: \$200 for the first violation; \$400 for the second violation, if the violation occurs on or before the first anniversary of the date of the first violation; or \$600 for the third violation or a subsequent violation, if the violation occurs on or before the first anniversary of the date of the preceding violation.

SECTION 3. Amends Sections 7.102 and 7.103, Water Code, as follows:

Sec. 7.102. MAXIMUM PENALTY. Requires a business that causes, suffers, allows, or permits a violation of a statute, rule, or order relating to Chapter 376, Health and Safety Code, to be assessed a civil penalty not greater than \$100 for each day of each violation as the court or jury considers proper.

Sec. 7.103. CONTINUING VIOLATIONS. (a) Creates an exception under Subsection (b).

(b) Requires the defendant, if it is shown on the trial of a defendant for a violation of Chapter 376, Health and Safety Code, or a rule adopted or an order issued under that chapter that the defendant has previously been assessed a civil penalty for a violation of that chapter or a rule adopted or an order issued under that chapter within the year before the date on which the violation being tried occurred, to be assessed a civil penalty not greater than: \$200 if the violation being tried is the defendant's second violation of that chapter or a rule adopted or an order issued under that chapter; or \$500 if the violation being tried is the defendant's third or a subsequent violation of that chapter or a rule adopted or an order issued under that chapter.

(c) Creates this subsection from existing text.

SECTION 4. Effective date: January 10, 2010.

Effective date, Section 376.005, Health and Safety Code: September 1, 2009.