

By Senator Bullard

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1 A bill to be entitled
 2 An act relating to carryout bags; amending s.
 3 403.7033, F.S.; providing legislative findings;
 4 deleting obsolete provisions; providing definitions;
 5 creating statewide standards for reusable bags and
 6 recyclable paper bags for stores located within a
 7 county or municipality that adopts ordinances pursuant
 8 to this act; requiring affected stores to charge
 9 customers a fee for each recyclable paper bag
 10 provided; prohibiting affected stores from providing
 11 plastic carryout bags or other types of bags;
 12 providing for allocation of fees collected; providing
 13 reporting requirements for affected stores;
 14 authorizing local governments to impose a penalty;
 15 authorizing local governments desiring to regulate the
 16 use of carryout bags to adopt ordinances pursuant to
 17 this act; providing an effective date.

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 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. Section 403.7033, Florida Statutes, is amended
 22 to read:

23 403.7033 Standards for carryout bags ~~Departmental analysis~~
 24 ~~of particular recyclable materials.~~-

25 (1) LEGISLATIVE FINDINGS.-The Legislature finds that
 26 prudent regulation of recyclable materials is crucial to the
 27 ongoing welfare of Florida's ecology and economy. The Department
 28 of Environmental Protection conducted an analysis to determine
 29 the need for new or different regulations of bags used by

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30 customers to carry products from retail establishments and found
31 that the implementation of new standards requiring the
32 prohibition of plastic carryout bags encourages the use of
33 reusable bags. As such, the Legislature finds that it is
34 necessary and appropriate to adopt uniform statewide standards
35 prohibiting the use of plastic carryout bags, which may be
36 adopted by local ordinance across the state ~~the Department of~~
37 ~~Environmental Protection shall undertake an analysis of the need~~
38 ~~for new or different regulation of auxiliary containers,~~
39 ~~wrappings, or disposable plastic bags used by consumers to carry~~
40 ~~products from retail establishments. The analysis shall include~~
41 ~~input from state and local government agencies, stakeholders,~~
42 ~~private businesses, and citizens, and shall evaluate the~~
43 ~~efficacy and necessity of both statewide and local regulation of~~
44 ~~these materials. To ensure consistent and effective~~
45 ~~implementation, the department shall submit a report with~~
46 ~~conclusions and recommendations to the Legislature no later than~~
47 ~~February 1, 2010. Until such time that the Legislature adopts~~
48 ~~the recommendations of the department, no local government,~~
49 ~~local governmental agency, or state government agency may enact~~
50 ~~any rule, regulation, or ordinance regarding use, disposition,~~
51 ~~sale, prohibition, restriction, or tax of such auxiliary~~
52 ~~containers, wrappings, or disposable plastic bags.~~

53 (2) DEFINITIONS.—As used in this section, the term:

54 (a) "Affected store" means a retail establishment located
55 within a jurisdiction of a local government that adopts
56 standards relating to carryout bags and is:

57 1. A full-line, self-service retail store that has gross
58 annual sales of \$2 million or more and sells canned goods, dry

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59 grocery items, nonfood items, or perishable items; or

60 2. A drugstore, pharmacy, supermarket, grocery store,
61 convenience store, or other entity of at least 10,000 square
62 feet which engages in the retail sale of a limited line of
63 goods, including milk, bread, soda, and snack foods.

64 (b) "Carryout bag" means a bag provided to a customer at
65 the point of sale for the purpose of carrying away goods.

66 (c) "Local government" means a county or municipality.

67 (d) "Plastic carryout bag" means a carryout bag made
68 predominantly of plastic. The term does not include produce bags
69 or reusable bags made of plastic.

70 (e) "Postconsumer recycled material" means material that
71 has completed its intended use or life cycle and typically would
72 be disposed of as solid waste. The term does not include
73 materials or byproducts generated from, or commonly reused in,
74 an original manufacturing or fabrication process.

75 (f) "Produce bag" means a plastic bag without handles used
76 exclusively to carry produce, meats, or other food items inside
77 a store to the point of sale or to prevent such food items from
78 coming into direct contact with other purchased items.

79 (g) "Recyclable paper bag" means a paper bag that:

80 1. Contains no old-growth fiber;

81 2. Is 100 percent recyclable and contains at least 40
82 percent postconsumer recycled material;

83 3. Is capable of composting, consistent with ASTM D6400,
84 the standard specification for labeling of plastics designed to
85 be aerobically composted in municipal or industrial facilities;

86 4. Has printed on the bag the name of the manufacturer, the
87 country in which the bag was manufactured, and the percentage of

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88 postconsumer recycled material used; and

89 5. Visibly displays the word "recyclable" on the outside of
90 the bag.

91 (h) "Reusable bag" means a bag with handles which is
92 specifically designed and manufactured for multiple reuse and
93 which meets all of the following requirements:

94 1. Can carry a minimum of 22 pounds 125 times, over a
95 distance of at least 175 feet.

96 2. Has a minimum volume of 15 liters.

97 3. Is machine washable or can be cleaned or disinfected.

98 4. Does not contain lead, cadmium, or any other heavy metal
99 in toxic amounts as defined by applicable federal standards and
100 regulations for packaging of reusable bags.

101 5. Has printed on the bag, or on a tag permanently affixed
102 to the bag, the name of the manufacturer; the country in which
103 the bag was manufactured; a statement that the bag does not
104 contain lead, cadmium, or any other heavy metal in toxic
105 amounts; and the percentage of postconsumer recycled material
106 used, if any.

107 6. If made of plastic, is at least 2.25 mils thick.

108 (3) STANDARDS FOR CARRYOUT BAGS.-

109 (a) An affected store shall provide reusable bags, at no
110 cost or for a fee, to a customer for the purpose of carrying
111 away goods or other items from the point of sale, subject to the
112 terms of this section.

113 (b) An affected store may provide recyclable paper bags to
114 a customer for a fee of 10 cents for each recyclable paper bag
115 purchased. The affected store may not rebate or otherwise
116 reimburse any portion of the 10 cent charge and shall indicate

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117 on the customer receipt the number of recyclable paper bags
118 provided and the total amount charged for the bags.

119 (c) An affected store may not provide a customer with a
120 plastic carryout bag or other type of bag.

121 (d) This section does not prohibit a customer from using a
122 bag of any type which he or she brings to the affected store or
123 from carrying away goods that are not placed in a bag.

124 (e) Fees collected under this subsection shall be used as
125 follows:

126 1. At least 50 percent of the fees shall be distributed to
127 the school district in which the affected store is located, to
128 be used solely for educational purposes; and

129 2. Up to 50 percent of the fees may be retained by the
130 affected store to offset the costs of complying with this
131 section.

132 (4) REPORTING.—An affected store shall report quarterly to
133 the local government the total number of recyclable paper bags
134 provided, the total amount of fees collected for providing
135 recyclable paper bags, and a summary of any effort by the
136 affected store in the prior quarter to promote customer use of
137 reusable bags. Such reporting shall be done on a form prescribed
138 by the local government and signed by a responsible agent or
139 officer of the affected store confirming that the information
140 provided on the form is accurate and complete. The report must
141 be submitted within 30 days after the end of each of the
142 following quarters:

143 (a) January 1 through March 31.

144 (b) April 1 through June 30.

145 (c) July 1 through September 30.

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146 (d) October 1 through December 31.

147 (5) PENALTY.—A local government may impose a penalty for
148 violation of this section.

149 (6) APPLICATION.—To ensure uniform statewide standards, a
150 local government desiring to regulate the use of carryout bags
151 may adopt ordinances relating to carryout bags only pursuant to
152 this section.

153 Section 2. This act shall take effect upon becoming a law.