

A BILL TO BE ENTITLED

AN ACT

relating to requirements for businesses that offer plastic checkout bags to customers; providing civil and administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 5, Health and Safety Code, is amended by adding Chapter 376 to read as follows:

CHAPTER 376. CHECKOUT BAGS

Sec. 376.001. DEFINITIONS. In this chapter:

(1) "Business" means a commercial enterprise or establishment, including a sole proprietorship, joint venture, partnership, corporation, or other legally recognizable entity, whether for profit or not for profit.

(2) "Checkout bag" means a carryout bag that is provided by a store to a customer at the point of sale.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Reusable bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of:

(A) cloth or other machine-washable fabric; or

(B) other durable material suitable for reuse, including plastic that is at least 2.25 millimeters thick.

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

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

5 (b) Before an employee of a business described by Subsection
6 (a) provides a customer with a plastic checkout bag, the employee
7 shall ask the customer if the customer would like to purchase a
8 reusable bag.

9 Sec. 376.004. RECYCLING PROGRAM. A business that offers a
10 plastic checkout bag to a customer shall establish a checkout bag
11 recycling program that requires the business to:

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

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

20 (3) maintain records describing the collection,
21 transport, and recycling of plastic checkout bags under the program
22 established under this section; and

23 (4) make the records of the program available to the
24 commission on request.

25 Sec. 376.005. RULES. The commission shall adopt rules to
26 implement this chapter.

27 SECTION 2. Section 7.052, Water Code, is amended by adding

1 Subsection (b-3) to read as follows:

2 (b-3) The amount of the penalty for a violation of Chapter
3 376, Health and Safety Code, may not exceed:

4 (1) \$200 for the first violation;

5 (2) \$400 for the second violation, if the violation
6 occurs on or before the first anniversary of the date of the first
7 violation; or

8 (3) \$600 for the third or a subsequent violation, if
9 the violation occurs on or before the first anniversary of the date
10 of the preceding violation.

11 SECTION 3. Sections 7.102 and 7.103, Water Code, are
12 amended to read as follows:

13 Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers,
14 allows, or permits a violation of a statute, rule, order, or permit
15 relating to Chapter 37 of this code, Chapter 366, 371, or 372,
16 Health and Safety Code, Subchapter G, Chapter 382, Health and
17 Safety Code, or Chapter 1903, Occupations Code, shall be assessed
18 for each violation a civil penalty not less than \$50 nor greater
19 than \$5,000 for each day of each violation as the court or jury
20 considers proper. A business that causes, suffers, allows, or
21 permits a violation of a statute, rule, or order relating to Chapter
22 376, Health and Safety Code, shall be assessed a civil penalty not
23 greater than \$100 for each day of each violation as the court or
24 jury considers proper. A person who causes, suffers, allows, or
25 permits a violation of a statute, rule, order, or permit relating to
26 any other matter within the commission's jurisdiction to enforce,
27 other than violations of Chapter 11, 12, 13, 16, or 36 of this code,

1 or Chapter 341, Health and Safety Code, shall be assessed for each
2 violation a civil penalty not less than \$50 nor greater than \$25,000
3 for each day of each violation as the court or jury considers
4 proper. Each day of a continuing violation is a separate
5 violation.

6 Sec. 7.103. CONTINUING VIOLATIONS. (a) Except as provided
7 by Subsection (b), if [~~If~~] it is shown on a trial of a defendant that
8 the defendant has previously been assessed a civil penalty for a
9 violation of a statute within the commission's jurisdiction or a
10 rule adopted or an order or a permit issued under such a statute
11 within the year before the date on which the violation being tried
12 occurred, the defendant shall be assessed a civil penalty not less
13 than \$100 nor greater than \$25,000 for each subsequent day and for
14 each subsequent violation.

15 (b) If it is shown on the trial of a defendant for a
16 violation of Chapter 376, Health and Safety Code, or a rule adopted
17 or an order issued under that chapter that the defendant has
18 previously been assessed a civil penalty for a violation of that
19 chapter or a rule adopted or an order issued under that chapter
20 within the year before the date on which the violation being tried
21 occurred, the defendant shall be assessed a civil penalty not
22 greater than:

23 (1) \$200 if the violation being tried is the
24 defendant's second violation of that chapter or a rule adopted or an
25 order issued under that chapter; or

26 (2) \$500 if the violation being tried is the
27 defendant's third or a subsequent violation of that chapter or a

1 rule adopted or an order issued under that chapter.

2 (c) Each day of a continuing violation is a separate
3 violation.

4 SECTION 4. This Act takes effect January 1, 2010, except
5 that Section 376.005, Health and Safety Code, as added by this Act,
6 takes effect September 1, 2009.