

By: Anchia

H.B. No. 1361

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of a fee for certain plastic bags provided to customers by retailers.

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. PLASTIC CARRYOUT BAGS

Sec. 376.001. DEFINITIONS. In this chapter:

(1) "Compostable plastic bag" means a plastic bag that meets the standard for compostable plastics developed by the American Society for Testing and Materials International as specified in ASTM D6400-04 as that standard existed on January 1, 2009.

(2) "Disposable plastic bag" means a plastic carryout bag that is provided by a retailer to a customer at the point of sale. The term does not include a reusable plastic bag.

(3) "Retailer" means a person engaged in the business of selling goods directly to a customer.

(4) "Reusable plastic bag" means a bag with handles that is specifically designed and manufactured for multiple reuses and is made of plastic that is at least 2.25 millimeters thick.

Sec. 376.002. DISPOSABLE PLASTIC BAG FEE. Except as provided by Section 376.003, a fee of seven cents is imposed on a customer for each disposable plastic bag provided to the customer

to carry out or protect goods purchased from a retailer.

Sec. 376.003. EXEMPTIONS. A fee may not be imposed under Section 376.002 for:

(1) a disposable plastic bag that is used solely to contain a product with no other packaging, including bulk grains, fruit, nuts, vegetables, or other food products; or

(2) a compostable plastic bag.

Sec. 376.004. COLLECTION BY RETAILER. (a) A retailer who provides a disposable plastic bag to a customer shall collect the fee imposed by Section 376.002. Except as provided by Subsection (d), the retailer shall remit the fee to the comptroller.

(b) The retailer shall add the fee imposed by Section 376.002 to the total price of the goods sold to the customer, and the fee is a part of the sales price, is a debt owed to the retailer by the customer, and is recoverable at law in the same manner as the original sales price.

(c) The amount of the fee shall be stated separately on a sales receipt, invoice, or other record of sale.

(d) A retailer may retain three percent of the total amount of the fees collected under Subsection (a) as reimbursement for any costs associated with the collection of the fees.

Sec. 376.005. ADMINISTRATION, COLLECTION, AND ENFORCEMENT BY COMPTROLLER. The comptroller shall adopt any rules for the administration, payment, collection, and enforcement of the fee imposed by this chapter.

Sec. 376.006. LOCAL RECYCLING PROGRAM ASSISTANCE ACCOUNT.

(a) The local recycling program assistance account is established

1 as an account in the general revenue fund.

2 (b) The comptroller shall deposit the revenue received from
3 the fee imposed by Section 376.002 to the credit of the account.

4 (c) Money in the account may be appropriated only to
5 counties and municipalities for the support of local recycling
6 programs.

7 SECTION 2. Section 376.002, Health and Safety Code, as
8 added by this Act, applies only to the provision by a retailer of a
9 disposable plastic bag on or after the effective date of this Act.

10 SECTION 3. (a) Except as provided by Subsection (b) of this
11 section, this Act takes effect January 1, 2010.

12 (b) Section 376.005, Health and Safety Code, as added by
13 this Act, takes effect September 1, 2009.