

1-1 By: Fraser S.B. No. 908
1-2 (In the Senate - Filed February 23, 2011; March 17, 2011,
1-3 read first time and referred to Committee on Natural Resources;
1-4 March 30, 2011, reported favorably by the following vote: Yeas 6,
1-5 Nays 1; March 30, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to requirements for businesses that offer plastic checkout
1-9 bags to customers.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subtitle B, Title 5, Health and Safety Code, is
1-12 amended by adding Chapter 376 to read as follows:

1-13 CHAPTER 376. PLASTIC CHECKOUT BAGS

1-14 Sec. 376.001. POLICY AND PURPOSE. The policy of this state
1-15 and the purpose of this chapter are to encourage the recycling of
1-16 plastic checkout bags and to require the applicable businesses to
1-17 use checkout bags that are made of recyclable material and to offer
1-18 reusable bags at a reasonable price.

1-19 Sec. 376.002. DEFINITIONS. In this chapter:

1-20 (1) "Business" means a commercial enterprise or
1-21 establishment, including a sole proprietorship, joint venture,
1-22 partnership, corporation, or other legally recognizable entity,
1-23 whether for profit or not for profit, that:

1-24 (A) is a full-line, self-service retail store;

1-25 (B) has annual sales of \$5 million or more, not
1-26 including sales of motor fuel as defined by Section 162.001, Tax
1-27 Code;

1-28 (C) sells a line of dry grocery items, canned
1-29 goods, and at least some perishable food items; and

1-30 (D) has over 20,000 square feet of retail space.

1-31 (2) "Checkout bag" means a carryout bag that is
1-32 provided by a business to a customer at the point of sale. The term
1-33 does not include a reusable bag.

1-34 (3) "Commission" means the Texas Commission on
1-35 Environmental Quality.

1-36 (4) "Reusable bag" means a bag with handles that is
1-37 specifically designed and manufactured for multiple reuse and is
1-38 made of:

1-39 (A) cloth or other machine-washable fabric; or

1-40 (B) other durable material suitable for reuse,
1-41 including plastic that is at least 2.25 millimeters thick.

1-42 Sec. 376.003. APPLICABILITY. This chapter does not apply
1-43 to a business with fewer than 51 employees per business location.

1-44 Sec. 376.004. BUSINESS REQUIRED TO OFFER REUSABLE BAGS AT
1-45 REASONABLE PRICE. (a) A business that offers a plastic checkout
1-46 bag to a customer shall make reusable bags available for sale at a
1-47 reasonable price and shall display the reusable bags at or near the
1-48 point of sale or the entrance to the business.

1-49 (b) A business described by Subsection (a) shall provide
1-50 training to an employee whose position may include offering a
1-51 plastic checkout bag to a customer. The training shall include
1-52 efficient bagging techniques, offering the sale or distribution of
1-53 reusable bags, and other procedures intended to reduce the use of
1-54 plastic checkout bags.

1-55 Sec. 376.005. RECYCLING PROGRAM. (a) Except as provided
1-56 by Subsection (b), a business that offers a plastic checkout bag to
1-57 a customer shall establish a plastic checkout bag recycling program
1-58 that requires the business to:

1-59 (1) print or display in a highly visible manner on the
1-60 outside of a plastic checkout bag provided by the business the words
1-61 "Please Return to a Participating Business for Recycling" or a
1-62 similar message to encourage recycling of the bag;

1-63 (2) place in a visible, easily accessible location at
1-64 or near the entrance of the business a plastic checkout bag

2-1 collection bin clearly marked with information stating that the bin
2-2 is for the purpose of collecting and recycling plastic checkout
2-3 bags;

2-4 (3) maintain a record describing the collection,
2-5 transport, and recycling of plastic checkout bags under the program
2-6 established under this section until at least the second
2-7 anniversary of the date the record is made; and

2-8 (4) make the record available to the commission on
2-9 request.

2-10 (b) A business is exempt from establishing a plastic
2-11 checkout bag recycling program as required by Subsection (a) if:

2-12 (1) there is no public recycling program that accepts
2-13 plastic checkout bags in the county in which the business is
2-14 located; and

2-15 (2) a private recycling service that accepts plastic
2-16 checkout bags is not available to the business at a reasonable cost.

2-17 Sec. 376.006. RULES. The commission shall adopt rules to
2-18 implement this chapter.

2-19 Sec. 376.007. PREEMPTION OF LOCAL ORDINANCE. This chapter
2-20 preempts a local ordinance or rule to the extent of any conflict
2-21 with this chapter.

2-22 SECTION 2. This Act takes effect January 1, 2012.

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