

By: Coleman

H.B. No. 1877

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of a fee for certain plastic bags provided to customers by retailers to fund a grant program to support local recycling efforts.

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. DISPOSABLE PLASTIC BAG FEE; LOCAL RECYCLING ASSISTANCE GRANT PROGRAM

Sec. 376.001. DEFINITIONS. In this chapter:

(1) "Compostable plastic bag" means a plastic bag that meets or exceeds 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, 2011.

(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. GRANT PROGRAM. (a) The comptroller shall

1 establish and administer a local recycling assistance grant program  
2 for the public purpose of supporting municipal and county recycling  
3 efforts in this state.

4 (b) Only a municipality or county may apply for and receive  
5 a grant under the program.

6 (c) The comptroller by rule shall establish criteria for the  
7 awarding of grants under this section. In adopting the rules, the  
8 comptroller must give preference to applicants that:

9 (1) do not have a recycling program on the date of the  
10 application; or

11 (2) will use the grant money to expand the recycling  
12 capacity of an existing recycling program.

13 (d) The comptroller shall adopt any other rules and forms  
14 necessary for the implementation and administration of the program.

15 Sec. 376.003. DISPOSABLE PLASTIC BAG FEE. Except as  
16 provided by Section 376.004, a fee of five cents is imposed on a  
17 customer for each disposable plastic bag provided to the customer  
18 to carry out or protect goods purchased from a retailer.

19 Sec. 376.004. EXEMPTIONS. A fee may not be imposed under  
20 Section 376.003 for:

21 (1) a disposable plastic bag that is used solely to  
22 carry bulk food, produce, or meat from a department within a store  
23 to the point of sale; or

24 (2) a compostable plastic bag.

25 Sec. 376.005. COLLECTION BY RETAILER. (a) A retailer who  
26 provides a disposable plastic bag to a customer shall collect the  
27 fee imposed by Section 376.003. Except as provided by Subsection

1 (d), the retailer shall remit the fee to the comptroller.

2 (b) The retailer shall add the fee imposed by Section  
3 376.003 to the total price of the goods sold to the customer, and  
4 the fee is a part of the sales price, is a debt owed to the retailer  
5 by the customer, and is recoverable at law in the same manner as the  
6 original sales price.

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

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

12 Sec. 376.006. ADMINISTRATION, COLLECTION, AND ENFORCEMENT  
13 BY COMPTROLLER. The comptroller shall adopt any rules for the  
14 administration, payment, collection, and enforcement of the fee  
15 imposed by this chapter.

16 Sec. 376.007. LOCAL RECYCLING PROGRAM ASSISTANCE ACCOUNT.

17 (a) The local recycling program assistance account is established  
18 as an account in the general revenue fund.

19 (b) The comptroller shall deposit the revenue received from  
20 the fee imposed by Section 376.003 to the credit of the account.

21 (c) Money in the account may be appropriated only for the  
22 implementation and administration of the grant program established  
23 under Section 376.002.

24 SECTION 2. (a) Except as provided by Subsection (b) of this  
25 section, this Act takes effect January 1, 2012.

26 (b) Section 376.006, Health and Safety Code, as added by  
27 this Act, takes effect September 1, 2011.