**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 79 TO TITLE 39 SO AS TO REQUIRE STORES TO CHARGE A MINIMUM OF FIVE CENTS FOR SINGLE‑USE CARRYOUT BAGS, TO DEFINE NECESSARY TERMS, TO ESTABLISH CERTAIN RECORD KEEPING REQUIREMENTS, AND TO PROVIDE A PENALTY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 39 of the 1976 Code is amended by adding:

“CHAPTER 79

Single‑Use Bags

Section 39‑79‑10. As used in this chapter, the term:

(1) ‘Department’ means the Department of Health and Environmental Control.

(2) ‘Director’ means the Director of the Department of Health and Environmental Control or his designee.

(3) ‘Produce bag’ or ‘product bag’ means a bag without handles used exclusively to carry produce, meats, other foods items, or merchandise to the point of sale inside a store or to prevent the items from coming into direct contact with other items.

(4) ‘Reusable use bag’ means a bag that:

(a) is designed and manufactured to withstand repeated use over a period of time;

(b) is machine washable or made from a material that can be cleaned and disinfected regularly;

(c) is at least two and one quarter mil thick if made from plastic;

(d) has a minimum lifetime of seventy‑five uses; and

(e) has a carrying capability of at least eighteen pounds.

(5) ‘Single‑use carryout bag’ means a bag provided at the checkout stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment. The term includes compostable and biodegradable bags but does not include produce bags, product bags, or bags provided by pharmacists to transport prescription drugs.

(6) ‘Store’ means a retail establishment located in this State that is a:

(a) full‑line, self‑service market located in a permanent building that operates year round that sells a line of staple foods, meats, produce, household supplies, dairy products, or other perishable items at retail;

(b) drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that include milk, bread, soda, and snack food; or

(c) store engaged in the retail sale of household supplies, hardware, plumbing supplies, electrical supplies, and miscellaneous merchandise or other items customarily placed in single‑use carryout bags.

The term ‘store’ does not include businesses where the sale of prepared food is the essential part of the business or where the sale of food is an incidental part of the business. Food sales are considered incidental if the sales compromise no more than two percent of the business’s gross sales as measured by the dollar value of food sales as a percentage of the dollar value of total sales at a single location.

Section 39‑79‑20. (A) A store may not provide a single‑use carryout bag to a customer for the purpose of transporting food or merchandise out of the establishment unless the store charges a minimum of five cents for the single‑use carryout bag. A store may not rebate or otherwise reimburse a customer any portion of the minimum charge for a single‑use carryout bag.

(B) The store must post a sign clearly indicating the charge for a single‑use carryout bag and separately itemize the amount charged for single‑use carryout bags on the customer’s receipt.

(C) The money collected by a store for the sale of a single‑use carryout bag must be transferred to the Department of Education and designated to aid school districts with capital projects and the instruction of or items related to science, technology, engineering, and mathematics curriculum that is focused on promoting innovation.

Section 39‑79‑30. A store is exempt from the provisions of this chapter in situations considered by the director to be an emergency for the immediate preservation of public health or safety.

Section 39‑79‑40. A store must keep complete and accurate records of single‑use carryout bags sold for a minimum of three years. The records must be made available for inspection by the department during regular business hours and stored at the store’s physical address unless an alternative location or method of review is agreed upon by the director and the store. The provision of false information or maintaining incomplete records or documents is a violation of this chapter.

Section 39‑79‑50. A store that violates the provisions of this chapter must be punished as follows:

(1) for a first violation, the department shall send a written warning to the store;

(2) for a second violation within one year of the first violation, the department may charge an administrative penalty of not more than two hundred and fifty dollars; and

(3) for each subsequent violation within one year of the first violation, the department may charge an administrative penalty of not more than five hundred dollars.”

SECTION 2. This act takes effect upon approval by the Governor.

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