

By Representative Peterson

ESSB 5077 - H COMM AMD

By Committee on Environment & Energy

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Consumer" means a person who is a member of the public,
7 takes possession of food, is not functioning in the capacity of an
8 operator of a food facility, and does not offer the food for resale.

9 (2) "Food service establishment" means establishments that serve
10 food, beverages, or prepared food for consumption including
11 establishments:

12 (a) With the primary business purpose of serving food to be
13 consumed on the premises or providing prepared meals or other food or
14 beverage items that a consumer purchases and intends to eat
15 elsewhere; or

16 (b) That serve food, beverages, and prepackaged food and
17 beverages: (i) Via a drive through; (ii) in a packaged form for take
18 out or take away; or (iii) from stands or kiosks that provide no
19 shelter or seating for consumers.

20 (3) "Local health jurisdiction" or "jurisdictional health
21 department" means an administrative agency organized under chapter
22 70.05 RCW, a health district organized under chapter 70.46 RCW, or a
23 combined city-county health department organized under chapter 70.08
24 RCW, that administers public health and safety regulations and codes,
25 including food safety and restaurant inspections.

26 (4) "Plastic straw" means a tube made predominantly of plastic
27 derived from either petroleum or a biologically based polymer, such
28 as corn or other plant sources, and including compostable and
29 biodegradable petroleum or biologically based polymer straws, for
30 transferring a beverage from its container to the mouth of the
31 drinker.

1 NEW SECTION. **Sec. 2.** (1) Beginning January 1, 2020, a food
2 service establishment may not provide a single-use straw to a
3 consumer unless a straw is requested by the consumer.

4 (2) In recognition that a straw is an adaptive utensil that may
5 provide a basic accommodation for an individual with a disability to
6 eat and drink, a food service establishment must provide a single-use
7 plastic straw to an individual with a disability upon request by the
8 individual for a plastic straw.

9 (3) (a) Nothing in this section is intended to create any
10 requirement, power, or duty that is in conflict with any federal law,
11 including the Americans with disabilities act, 42 U.S.C. Sec. 12101,
12 et. seq.

13 (b) Nothing in this section creates a private right of action
14 against a food service establishment.

15 (4) Nothing in this section authorizes a food service
16 establishment to make single-use plastic straws available to
17 customers using cylinders, bins, dispensers, containers, or other
18 self-service means of allowing a customer to obtain a single-use
19 plastic straw or to offer to provide a single-use plastic straw that
20 a customer has not requested.

21 NEW SECTION. **Sec. 3.** (1) The local health jurisdiction or a
22 jurisdictional health department must enforce this chapter. The local
23 board of health may establish regulations to enforce this chapter.
24 The local board of health may establish and collect fees of up to
25 twenty-five dollars per food service establishment per year, as
26 necessary to cover costs incurred in carrying out its duties under
27 this chapter, consistent with RCW 70.05.060(7).

28 (a) The local health jurisdiction or a jurisdictional health
29 department must provide notice of violation to any person permitted
30 to operate the food service establishment for the first and second
31 violation of section 2 of this act.

32 (b) For the third and subsequent violations of section 2 of this
33 act, a person permitted to operate the food service establishment is
34 subject to a civil penalty of up to two hundred fifty dollars for
35 each day, not to exceed three thousand dollars per year.

36 (2) Penalties collected under this section may be retained by the
37 local health jurisdiction or jurisdictional health department for
38 enforcement activities.

1 NEW SECTION. **Sec. 4.** (1) Beginning January 1, 2020, a city,
2 county, town, or municipal corporation may not enact an ordinance
3 restricting the provision of plastic straws applicable to food
4 service establishments.

5 (2) Any local ordinance that restricts the provision of single-
6 use straws that is in effect as of January 1, 2020, is not preempted,
7 limited, or repealed, except that the requirements of section 2 of
8 this act also apply in such a local jurisdiction.

9 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act
10 constitute a new chapter in Title 70 RCW."

11 Correct the title.

EFFECT: (1) Specifies that a person must specifically request a
straw in order to be provided a single-use straw.

(2) Prohibits food service establishments from offering single-
use plastic straws without a customer request or from making single-
use plastic straws available in self-service containers.

(3) Preempts new local ordinances restricting the provision of
plastic straws that are applicable to food service establishments,
beginning January 1, 2020.

(4) Declares that restrictions on the provision of plastic straws
are not intended to create a conflict with any federal law, including
the federal Americans with Disabilities Act, and that a private right
of action against food service establishments is not created by the
straw provision requirements.

(5) Authorizes local boards of health to adopt annual fees of up
to \$25 per food service establishment to cover their costs in
carrying out straw enforcement duties.

(6) Specifies that a person authorized to operate a food service
establishment is the person that must receive notices of violation of
straw requirements that is subject to fees or civil penalties.

(7) Increases the penalties to up to \$250 per day for third or
subsequent violations, or up to \$3,000 per year.

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