

Western Australia

Plastic Shopping Bags (Waste Avoidance) Bill 2010

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Western Australia

LEGISLATIVE COUNCIL

(Introduced by Hon Sally Talbot, MLC)

**Plastic Shopping Bags (Waste Avoidance)
Bill 2010**

A Bill for

An Act to restrict the supply of single use shopping bags.

The Parliament of Western Australia enacts as follows:

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1 **1. Short title**

2 This is the *Plastic Shopping Bags (Waste Avoidance) Act 2010*.

3 **2. Commencement**

4 This Act comes into operation 28 days after the day on which it
5 receives the Royal Assent.

6 **3. Interpretation**

7 In this Act —

8 ***alternative shopping bag*** means a carry bag that —

- 9 (a) is a biodegradable bag; or
- 10 (b) is designed to be used on a regular basis over a period of
11 approximately 2 years; or
- 12 (c) is of a kind brought within the ambit of this definition
13 by the regulations;

14 ***authorised person*** means a person who is an authorised person
15 for the purposes of the *Environmental Protection Act 1986*;

16 ***biodegradable bag*** means a carry bag comprised of material of
17 a type that has been assessed and tested in accordance with the
18 relevant standard and can, in accordance with the relevant
19 standard, be designated as compostable;

20 ***plastic shopping bag*** means —

- 21 (a) a carry bag —
 - 22 (i) the body of which comprises (in whole or in
23 part) polyethylene with a thickness of less than
24 35 microns; and
 - 25 (ii) that includes handles; or
 - 26 (b) a bag that is of a kind brought within the ambit of this
27 definition by the regulations,
- 28 but does not include —
- 29 (c) a biodegradable bag; or

- 1 (d) a plastic bag that constitutes, or forms an integral part
2 of, the packaging in which goods are sealed prior to
3 sale; or
4 (e) a bag of a kind excluded from the ambit of this
5 definition by the regulations;

6 *relevant standard* means AS 4736/2006 (as amended from time
7 to time);

8 *transition date* means the date prescribed by regulation for the
9 purposes of this definition.

10 **4. Retailer must provide alternative shopping bag until
11 transition date**

- 12 (1) From the day on which this section comes into operation until
13 the day immediately preceding the transition date, a retailer who
14 at any premises makes plastic shopping bags available to
15 customers as a means of carrying goods purchased, or to be
16 purchased, from the retailer must —
17 (a) be in a position to provide an alternative shopping bag to
18 a customer who requests that the retailer provide him or
19 her with such a bag; and
20 (b) display such notice or notices in the premises as
21 prescribed by the regulations.

22 Maximum Penalty: \$5 000.

- 23 (2) This section does not prevent a retailer from requiring a
24 customer to pay a fee for the provision of an alternative
25 shopping bag.

26 **5. Retailer not to provide plastic shopping bag**

- 27 (1) A retailer who provides a plastic shopping bag to a customer —
28 (a) on or after the transition date; and

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1 (b) as a means of carrying goods purchased, or to be
2 purchased, from the retailer,

3 is guilty of an offence.

4 Maximum Penalty: \$5 000.

5 (2) It is a defence to a charge under subsection (1) if the retailer
6 proves that he or she believed on reasonable grounds that the
7 bag was not a plastic shopping bag.

8 (3) This section applies whether or not a fee is charged to the
9 customer for provision of the plastic shopping bag.

10 **6. Person must not represent that supplied plastic shopping
11 bag is not a plastic shopping bag**

12 A person who —

13 (a) sells, supplies or provides a bag to another person
14 knowing that it is a plastic shopping bag; and

15 (b) prior to, or in the course of, selling, supplying or
16 providing the bag, represents to the other person that the
17 bag is not a plastic shopping bag,

18 commits an offence.

19 Maximum Penalty: \$20 000.

20 **7. Interaction with Environmental Protection Act**

21 (1) This Act and the *Environmental Protection Act 1986* will be
22 read together and construed as if the 2 Acts constituted a single
23 Act.

24 (2) Without derogating from subsection (1), authorised persons may
25 exercise their powers under the *Environmental Protection
26 Act 1986* for the purposes of the administration and enforcement
27 of this Act.

28 (3) In the event of an inconsistency between this Act and the
29 *Environmental Protection Act 1986*, the provisions of this Act
30 shall prevail.

1 **8. Regulations**

- 2 (1) The Governor may make such regulations as are contemplated
3 by, or as are necessary or expedient for the purposes of, this
4 Act.
- 5 (2) The regulations may exempt any specified person or class of
6 persons from the operation of this Act or of any specified
7 provision of this Act, and may do so unconditionally or subject
8 to conditions.
- 9 (3) Regulations under this Act may —
10 (a) be of general application or limited application;
11 (b) make different provision according to the matters or
12 circumstances to which they are expressed to apply;
13 (c) provide that a matter or thing in respect of which
14 regulations may be made is to be determined according
15 to the discretion of the Minister or any other person or
16 body prescribed by the regulations; or
17 (d) apply or incorporate, wholly or partially and with or
18 without modification, a code, standard, policy or other
19 document prepared or published by the Minister or
20 another prescribed body.

21 **9. Review of Act**

- 22 (1) The Minister is to carry out a review of the operation and
23 effectiveness of this Act as soon as is practicable after the
24 second anniversary of the transition date.
- 25 (2) In the course of the review carried out under subsection (1) the
26 Minister is to have regard to —
27 (a) the effect on the community of section 5;
28 (b) the extent to which this Act has been effective in
29 restricting the supply of plastic shopping bags; and
30 (c) such other matters that are considered by the Minister to
31 be relevant to a review of this Act.

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- 1 (3) The Minister is to prepare a report based on the review carried
2 out under subsection (1) and is to cause the report to be laid
3 before each House of Parliament as soon as practicable after the
4 report is prepared.

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