

DEBRA J. HEFFERNAN
STATE REPRESENTATIVE
6th District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

COMMITTEES
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Natural Resources, Chair
Capital Improvement, Vice-Chair
Education
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House Natural Resources Committee Meeting Minutes

6.16.21

Chair Heffernan called the virtual meeting to order at 1:00 p.m. She stated that the meeting was planned in accordance with HCR 1 and took a roll call of the committee members. Members present included Vice Chair Griffith, and Reps. Carson, Lambert, Bush, Bentz, Kowalko, Collins, Gray, and Postles. Also in attendance were Reps. Brady, Bennett, and K. Johnson. Secretary Shawn Garvin of the Department of Natural Resources and Environmental Control was also present. For a list of guests present, please see the attendance list below.

Chair Heffernan call on Rep. Brady to Introduce **HB 212, AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO RECYCLING AND WASTE REDUCTION.** Rep. Brady stated that this bill is a continuation of policy to make Delaware more environmentally friendly and plastic-free. He explained that HB 130 was passed the 150th General Assembly and banned single use bags of a certain thickness, but companies have since began to supply thicker plastic bags for use. Rep. Brady stated that this bill takes the initiative to correct this unforeseen circumstance through the banning of plastic bags. HB 212 prohibits the use of plastic bags and adds the definition of reusable bags and its required material, minimum capacity, and usability. He added that exceptions to this law would be plastic bags used for frozen foods, meat and fish, plotted plants, garbage for yard and pet waste, live animals, toxic chemicals, variations of non-handled bags, and bags used by customers for food packaging. Rep. Brady stated that the bill will become effective 6 months, July 1st, 2022, after its foreseen passage in January. Rep. Brady explained that the amendment to this bill removes the size qualification of a plastic bag, removes vague language around beverages, and removes a separate enforcement mechanism that allows DNREC to enforce this law.

Rep. Gray stated that there are grocers in his district that are reluctant to support another change to plastic bag usage. Rep. Brady asked if there could not be more time afforded to see the public's reaction on the current ban of plastic bags.

Rep. Brady responded that the bill will not be effective until July 1st, 2022. He added that the sponsors of the bill and government agencies will outline an initiative to incentivize the transfer of thicker plastic bags into a commodity yet to be determined for the retailer and the consumer.

Rep. Gray requested that a clause be made that would allows retailers to use up the rest of their plastic bag inventory.

Rep. Brady stated that the 1-year timeframe outlined in the bill takes into consideration the use of leftover inventory. He deferred to the Secretary Shawn Garvin to address these concerns.

With permission from the Chair, Secretary Shawn Garvin of the Department of Natural Resources and Environmental Control (DNREC) clarified that many places use 2.5 mm bags

over the less common 10 mm bags. Secretary Garvin stated that the year timeframe before this bill takes effect is enough time for retailers to use up inventory.

Rep. Brady stated that reconsideration for industry concerns will be taken into account come January or February of next year. He also called on Julie Miro Wenger and Mary Kate McGlocklin to provide expert testimony to the committee.

With permission from the Chair, Mary Kate McLaughlin, thanked the sponsor of the bill.

With permission from the Chair, Julie Miro Wenger stated the need to incorporate the elimination of paper bags into the bill. Ms. Wenger stated that leaders in the food industry remain vocal advocates for sustainability and environmentalism. She added that disposable paper bags have a drastic impact on the environment and require 10 times the number of trucks for transportation than reusable bags. Ms. Wenger explained that a bill only addressing plastic bags will have the unintended cost of using paper bags which results in high costs to the retailer and the customer. She added that the increased use of paper bags will drive up volume in municipal recycling programs with increased paper in the solid waste drain, both will face increased costs. Ms. Wenger stated that municipalities may have to pay more for recycling and waste removal services whose costs will fall to the property taxpayers in the area.

Rep. Brady reiterated the dangers of plastic bags on the environment and added that he is looking into having bags that are made up of a reusable agricultural material. He stated that paper bags are not out of consideration, but they are of lesser importance at this time.

Chair Heffernan opened the meeting for public comment.

Dee Durham, founder and chair of Plastic Free Delaware, expressed support of this bill. Mrs. Durham stated that the bill follows similar definitions used by New Jersey. She presented data that shows less than 10 percent of plastic bags are properly recycled. Mrs. Durham stated that since the ban of plastic bags consisting of less than 2.5 mm in thickness, DNREC and the Delaware Solid Waste Authority (DSWA) have witnessed a large increase in thicker plastic bags.

Zachary Taylor, director of the American Recyclable Plastic Bag Alliance, stated concerns that this bill will burden small business owners struggling in the pandemic. Mr. Taylor explained that the definition of reusable bags is contrary to the purpose of reducing plastic. He states that the majority of bags with stitch handles are made with plastic. The mandate for stitch handles means that this bag cannot be recycled anywhere in the United States. Mr. Taylor suggested that the 2.25 million reusable bags that have been approved for recycling can be used through the store take back program pioneered by members and their retail partners. Mr. Taylor stated that this bill misses the mark by forcing Delaware businesses and consumers to use unrecyclable bags and will have a greater environmental impact. He encouraged the committee to give more time to this topic before moving the bill forward.

Ellen Valentino, representing The Mid-Atlantic Petroleum Distributors Association, expressed concern for the removal of the small business exemption in the bill. She stated that small business may not have the time to change their practices in the given timeframe of the bill. Mrs. Valentino urged the committee to continue dialogue on this issue.

John Webber, regional manager of the Mid-Atlantic Surfrider Foundation, expressed support for the bill. Mr. Webber explained that previous legislation handling plastic bags was not supported by the foundation as it did not meet their standards. He added that HB 212 complied with their activist toolkit and addresses the loopholes found in other bills. Mr. Webber stated that paper bags should come at a cost and allow the merchant to keep the fees related to paper bags.

Sherri Evans-Stanton, Director for the Sierra Club Delaware Chapter, stated that plastic bags create environmental problems and health concerns. Ms. Evans-Stanton explained her experience with watching merchants sell thicker plastic bags without seeing customers reuse them, instead customers typically bring in durable reusable bags. Ms. Evans-Stanton added that Delaware should seek to attract manufacturers of reusable bags to the state as to stop importing bags from overseas. She stated that the timeframe of this bill gives businesses enough time to get rid of their plastic bag inventory.

Coralie Pryde, from the League of Women Voters of Delaware expressed support for the bill. Ms. Pryde explained that the current use of plastic bags has detrimental effects on the environment as its materials use hydraulic fracking. She added that when bags are not properly landfilled or recycled, they end up in the habitats of living creatures who often ingest them. Ms. Pryde explained that as the plastic bags break down, they leave microparticles that can be ingested in animals and through the food chain be consumed by human beings. Ms. Pryde urged the committee to pass this bill.

Cheryl Siskin from Plastic Free Delaware and the Sierra Club of Delaware expressed support for the bill. Mrs. Siskin stated that previous legislation promised that businesses would not be using thicker plastic bags but have been as their bags are thicker than 2.5 mm. She stated that this bill is a good step towards the hopes to ban all plastic in the state.

Brian Moran, Vice Chair of the Delaware Chapter of the Surfrider Foundation, suggested that a nominal fee should be placed on any bag provided from a retailer. Mr. Moran explained that this fee will help offset the costs of these bags to the retailer and incentivize people to bring their own bags. Mr. Moran stated that his organization are still finding plastic bags on their beach cleanups. He urged the committee to pass this bill.

Shweta Arya, Outreach Director for Delaware Interfaith Power and Light, expressed support of the bill. Mrs. Arya stated that Delaware needs to tie up loose ends in plastic bag bans and removal. Mrs. Arya explained that HB 212 enhances current legislation on plastic bags. She added that a nominal fee for bags provided by retailers would help bring in the business community to support this bill.

Rep. Brady stated that he understood that the effective date of the bill would be July 1st, 2022. Rep. Brady committed to working with the House Secretary to fix this mistake.

With permission from the Chair, Greg Patterson from DNREC agreed with the statements of Secretary Garvin and thanked the sponsor of the bill.

A motion was made by Rep. Griffith and seconded by Rep. Bentz to release HB 212 from committee; motion carried. Yes= 7 (Heffernan, Griffith, Carson, Lambert, Bush, Bentz, and Kowalko); No= 2 (Gray and Postles); Absent= 2 (Collins and Shupe). The bill was released from

committee with a F=3, M=3, U=0 vote.

Chair Heffernan called on Rep. Carson to introduce **HB 218, AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO HUNTING AND FISHING AUTHORIZATIONS**. Rep. Carson stated that the bill modernizes fishing, hunting, and trapping license and associated waterfowl and trout stamp specifications to include digital formats.

Chair Heffernan opened the meeting for public comment.

Secretary Garvin of DNREC expressed support for the bill.

A motion was made by Rep. Lambert and seconded by Rep. Griffith to release HB 218 from committee; motion carried. Yes= 9 (Heffernan, Griffith, Carson, Lambert, Bush, Bentz, and Kowalko, Gray, and Postles); No=0; Absent= 2 (Collins and Shupe). The bill was released from committee with a F=3, M=6, U=0 vote.

Chair Heffernan called on Rep. Bennett to introduce **HB 149, AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION ACCESS PASSES**. Rep. Bennett explained that she received a question from a constituent as to why there was not a senior discount for conservation passes. She was under the belief that the conservation passes covered the state parks and had the same discount. She stated that the intent of the bill is to create a senior discount for the conservation passes consistent to that of the state parks. Rep. Bennett explained that the amendment includes conservation passes with the state parks senior lifetime pass which would change the age state in the bill from 62 to 65. Rep. Bennett added that once the amendment is passed the fiscal impact will change to indeterminable due to the minimal impact to the department.

Secretary Garvin thanked the sponsor of the bill and expressed support for the bill.

Chair Heffernan commended Rep. Bennett in helping Delaware's senior citizens.

Chair Heffernan opened the meeting for public comment. There were none.

Rep. Postles asked if the amendment changed the age requirement to mirror the state park pass.

Rep. Bennett affirmed.

A motion was made by Rep. Griffith and seconded by Rep. Carson to release HB 149 from committee; motion carried. Yes= 9 (Heffernan, Griffith, Carson, Lambert, Bush, Bentz, and Kowalko, Gray, and Postles); No=0; Absent= 2 (Collins and Shupe). The bill was released from committee with a F=3, M=6, U=0 vote.

Chair Heffernan called on Rep. K. Johnson to introduce **HB 194, AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO UNMARKED HUMAN BURIALS AND SKELETAL REMAINS**. Rep. K. Johnson stated that the bill would make failure to report discovered remains a prohibited act, and revises the definition of committee to include the Lenape Indian Tribe of Delaware, so that they are included in the body that

determines the treatment and disposition of Native American unmarked burials and human skeletal remains. This act adds a new definition of committee convened by the Director of the Division of Historical and Cultural Affairs to address discovery of non-native American unmarked burials and human skeletal remains, including those enslaved individuals and the undermined cultural affiliation. The bill also adds new definitions for “lineal descendants” and “proven kinship” to replace the undefined term “next of kin.”

Chair Heffernan noted the importance of the bill and thanked Rep. K. Johnson.

With permission from the Chair, Tim Slavin Division Director of the Division of Historical and Cultural Affairs, expressed support for the bill. Mr. Slavin stated that this bill will help align new practices with current discoveries the state has made which challenges current legislation. Mr. Slavin cited the example of new discoveries being found at the John Dickenson plantation. He added that the Department of State is in support of the bill.

Rep. Lambert expressed support for the bill, explaining that the Delaware Legislative Black Caucus took a trip to the Dickinson Plantation and that the technological advancement in finding unmarked graves was amazing. Rep. Lambert stated the importance of finding these burial grounds.

Chair Heffernan opened the meeting for public comment. Seeing none she requested a motion.

A motion was made by Rep. Griffith and seconded by Rep. Gray to release HB 194 from committee; motion carried. Yes= 8 (Heffernan, Griffith, Lambert, Bush, Bentz, Collins, Gray, and Postles); No=0; Absent= 3 (Carson, Kowalko, and Shupe). The bill was released from committee with a F=3, M=5, U=0 vote.

Chair Heffernan called on Rep. Gray to introduce **HB 197, AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO SERVICE CHARGES OF LICENSING AGENTS**. Rep. Gray stated that this bill enables agents that are selling state park permits and surf fishing vehicle permits to receive a fee amounting to what they are being charged to provide the service. Rep. Gray explained that current law states that 50 cents are the maximum reimbursement fee which will be raised to a maximum of \$2.50.

Secretary Garvin expressed support for the bill since charges have not been made since 1988 and this bill updates these charges.

With permission from the Chair, Ray Bivens from DNREC explained that many of the permits are being paid with credit cards which have additional transaction fees. He expressed support for the bill.

Rep. Griffith asked for a description as to the nature of how these vendors are losing money and the maximum that they are able to charge their customers.

Mr. Bivens explained that DNREC is only able to pay a vendor 50 cents for a transaction while payment with a credit card can raise transaction fees upwards to \$2.50. This bill allows for vendors to recoup costs for the transaction and staff expenses.

Rep. Lambert asked for clarification when referring the fee to 75 cents to \$5 and if this is a charge per family or per person.

Secretary Garvin responded that the tag is only for a vehicle and not for individuals.

Chair Heffernan opened the meeting for public comment. Seeing none, she requested a motion.

A motion was made by Rep. Griffith and seconded by Rep. Postles to release HB 197 from committee; motion carried. Yes= 9 (Heffernan, Griffith, Lambert, Bush, Bentz, Kowalko, Collins, Gray, and Postles); No=0; Absent= 2 (Carson and Shupe). The bill was released from committee with a F=3, M=5, U=0 vote.

Chair Heffernan adjourned the meeting at 2:17 p.m.

Respectfully submitted by:

Valeria Coverdale

Attendance List:

Tim Slavin, Delaware Div. of Historical & Cultural Affairs

Stephanie Becker

Janice Durham

Mary Kate McLaughlin

Stephanie Soder, Archaeologist

Dylan Tepper

Jonathan Patterson

Rony Baltazar-Lopez, Delaware Department of State

Lincoln Willis

David Saveikis, DNREC

John Weber, Surfrider Foundation

Adam Schlachter, DNREC

Ellen Valentino, MAPDA

Zachary Taylor, American Recyclable Plastic Bag Alliance

Brian Moran, Surfrider Foundation Delaware Chapter

Coralie Pryde, LWVDE

Lauren Weaver, Bethany-Fenwick Area Chamber of Commerce

Jenevieve Worley

Tre Sullivan

Dee Durham, Plastic Free Delaware

Lisa Borin Ogden, DNREC

Leslie Reese, DNREC

Cheryl Siskin, Plastic-Free Delaware

Ray Bivens, DNREC

Julia Haas

Dawn Hopkins

Julie Miro Wenger, DE Food Industry Council

Greg Patterson, DNREC

Shawn Garvin, DNREC

Carrie Cole

Mary Davis, NDA

Sherri Evans-Stanton, Sierra Club Delaware Chapter

Shweta Arya, Delaware Interfaith Power and Light

Carol Arnott-Robbins, NEWS4Women

Joseph Fitzgerald

John Weber, Surfrider Foundation

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