

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0869.01 Clare Haffner x6137

SENATE BILL 26-146

SENATE SPONSORSHIP

Cutter,

HOUSE SPONSORSHIP

Froelich,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING RESTRICTING THE DISTRIBUTION OF SINGLE-USE FOOD**
102 **SERVICEWARE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, the "Plastic Pollution Reduction Act" includes restrictions on the use and distribution of single-use plastic carryout bags and expanded polystyrene food containers.

The bill expands the "Plastic Pollution Reduction Act" by prohibiting, on and after January 1, 2027, a retail food establishment or third-party food delivery service from providing single-use food

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

serviceware to a customer unless the customer requests single-use food serviceware or confirms that the customer wants single-use food serviceware when offered. The bill specifies certain exceptions.

The department of public health and environment (department) is required to, on or before January 1, 2027, establish a page on the department's public website that includes a description of the requirements set forth in the bill and the existing enforcement mechanism included in the "Plastic Pollution Reduction Act".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend 25-17-502** as
3 follows:

4 **25-17-502. Legislative declaration.**

5 (1) The general assembly finds, determines, and declares that
6 limiting the use of single-use plastic carryout bags and expanded
7 polystyrene products will mitigate the harmful effects on our state's
8 natural resources and our environment that result from disposing of these
9 products in our landfills.

10 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

11 (a) CUSTOMERS ARE INCREASINGLY FRUSTRATED WITH THE
12 AMOUNT OF SINGLE-USE ITEMS THEY RECEIVE WITH FOOD-SERVICE
13 ORDERS;

14 (b) MOST SINGLE-USE PLASTIC ITEMS, INCLUDING CONDIMENT
15 PACKAGES AND UTENSILS, ARE NOT RECYCLABLE OR COMPOSTABLE, YET
16 THEY ARE COMMONLY PLACED IN RECYCLING AND COMPOST STREAMS,
17 BECOMING CONTAMINANTS AND CREATING FINANCIAL HARDSHIP FOR
18 COLORADO RECYCLING AND COMPOSTING BUSINESSES. THIS CONFUSION
19 AND CONTAMINATION IS EXACERBATED WHEN RETAIL FOOD
20 ESTABLISHMENTS PROVIDE A MIXTURE OF RECYCLABLE, CERTIFIED
21 COMPOSTABLE, NONCOMPOSTABLE, AND NONRECYCLABLE SINGLE-USE

1 PRODUCTS TO CUSTOMERS.

2 (c) A STATEWIDE REQUIREMENT FOR RETAIL FOOD
3 ESTABLISHMENTS TO ASK BEFORE PROVIDING SINGLE-USE FOOD
4 SERVICEWARE, INCLUDING SINGLE-USE CONDIMENTS, WILL REDUCE THE
5 AMOUNT OF UNWANTED ITEMS PROVIDED TO CUSTOMERS, REDUCE PLASTIC
6 WASTE, AND SAVE FOOD RETAILERS HUNDREDS OR THOUSANDS OF
7 DOLLARS PER YEAR;

8 (d) ADOPTING A STATEWIDE "ASK FIRST FOR SINGLE-USE ITEMS"
9 POLICY WILL CREATE A MORE CONSISTENT FRAMEWORK FOR RETAIL FOOD
10 ESTABLISHMENTS THAT CAN DRIVE BEHAVIOR CHANGE ACROSS
11 COLORADO;

12 (e) ENCOURAGING THE USE OF DURABLE GOODS RATHER THAN
13 SINGLE-USE PLASTIC ITEMS WOULD DRAMATICALLY REDUCE PLASTIC
14 POLLUTION AND LEAD TO LONG-TERM BEHAVIOR CHANGE; AND

15 (f) MANY SINGLE-USE PLASTIC ITEMS CONTAIN TOXIC ADDITIVES
16 SUCH AS PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS, EVEN
17 THOUGH HOUSE BILL 22-1345, ENACTED IN 2022, AND SENATE BILL
18 24-081, ENACTED IN 2024, PROHIBIT THE INTENTIONAL INCLUSION OF
19 PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS, WHICH ARE
20 WIDELY RECOGNIZED AS ENVIRONMENTAL TOXICANTS HARMFUL TO
21 HUMAN HEALTH.

22 (3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

23 (a) THE IMPACTS OF SINGLE-USE PLASTIC ITEMS CONSTITUTE AN
24 ENVIRONMENTAL JUSTICE ISSUE THAT DISPROPORTIONATELY BURDENS
25 COMMUNITIES IDENTIFIED AS DISPROPORTIONATELY IMPACTED
26 COMMUNITIES, AS DEFINED IN SECTION 24-4-109 AND ENACTED THROUGH
27 THE "ENVIRONMENTAL JUSTICE ACT", AS ENACTED IN 2021 BY HOUSE

1 BILL 21-1266. THESE COMMUNITIES INCLUDE THOSE WITH HIGHER
2 PROPORTIONS OF LOW-INCOME HOUSEHOLDS, COMMUNITIES OF COLOR,
3 AND THOSE EXPERIENCING CUMULATIVE ENVIRONMENTAL AND
4 SOCIOECONOMIC STRESSORS, AS WELL AS COMMUNITIES WITH A HISTORY
5 OF ENVIRONMENTAL RACISM AND SYSTEMIC DISINVESTMENT.

6 (b) EMISSIONS AND POLLUTION ASSOCIATED WITH SINGLE-USE
7 PLASTIC ITEMS OCCUR ACROSS THE FULL LIFE CYCLE OF PLASTIC
8 PRODUCTION AND DISPOSAL, INCLUDING AT EXTRACTION SITES, REFINING
9 FACILITIES, PETROCHEMICAL MANUFACTURING PLANTS, PRODUCT
10 MANUFACTURING FACILITIES, AND LANDFILLS. THESE CUMULATIVE
11 IMPACTS CONTRIBUTE TO PERSISTENT DISPARITIES IN AIR QUALITY, WATER
12 CONTAMINATION, AND SOIL DEGRADATION IN DISPROPORTIONATELY
13 IMPACTED COMMUNITIES.

14 **SECTION 2.** In Colorado Revised Statutes, 25-17-503, **amend**
15 (9)(b) and (14)(c); and **add** (2.5), (4.5), (11.3), (11.5), (13.3), (13.5),
16 (14)(d), (15), and (16) as follows:

17 **25-17-503. Definitions.**

18 As used in this part 5, unless the context otherwise requires:

19 (2.5) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
20 AND ENVIRONMENT CREATED IN SECTION 25-1-102.

21 (4.5) "HOTEL" MEANS AN ESTABLISHMENT THAT HAS SLEEPING
22 ROOMS FOR THE ACCOMMODATION OF GUESTS AND RESTAURANT
23 FACILITIES.

24 (9) (b) ~~"Retail food establishment" does not include farmers~~
25 ~~markets and roadside markets as described in section 25-4-1602 (14)(j).~~
26 FOR THE PURPOSES OF SECTION 25-17-510, "RETAIL FOOD
27 ESTABLISHMENT" INCLUDES:

1 (I) FARMERS' MARKETS AND ROADSIDE MARKETS; AND
2 (II) A HOME, COMMERCIAL, PRIVATE, OR PUBLIC KITCHEN IN WHICH
3 A PERSON PRODUCES FOOD PRODUCTS SOLD DIRECTLY TO CONSUMERS
4 PURSUANT TO THE "COLORADO COTTAGE FOODS ACT", SECTION
5 25-4-1614.

6 (11.3) (a) "SINGLE-USE CONDIMENT" MEANS A
7 FACTORY-PACKAGED CONDIMENT, SUCH AS A RELISH, SPICE, SAUCE,
8 CONFECTION, OR SEASONING, THAT:

9 (I) DOES NOT REQUIRE ADDITIONAL PREPARATION;

10 (II) IS INTENDED FOR USE ON FOOD; AND

11 (III) IS INTENDED FOR A SINGLE USE.

12 (b) "SINGLE-USE CONDIMENT" INCLUDES KETCHUP, MUSTARD,
13 MAYONNAISE, CREAMER, BUTTER, SOY SAUCE, HOT SAUCE, SALSA, SYRUP,
14 JAM, JELLY, SUGAR, SALT, PEPPER, SWEETENER, OR CHILI PEPPER.

15 (11.5) (a) "SINGLE-USE FOOD SERVICEWARE" MEANS AN ITEM THAT
16 A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD DELIVERY SERVICE
17 PROVIDES TO A CUSTOMER TO ASSIST THE CUSTOMER IN CONSUMING FOOD
18 THAT THE RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD DELIVERY
19 SERVICE PROVIDES TO THE CUSTOMER, WHICH ITEM IS DESIGNED TO BE
20 USED ONCE AND THEN DISCARDED.

21 (b) "SINGLE-USE FOOD SERVICEWARE" INCLUDES A UTENSIL,
22 NAPKIN, SINGLE-USE CONDIMENT, STRAW, STIRRER, LID, CUP SLEEVE, SPILL
23 PLUG, SPLASH STICK, TRAY, COCKTAIL STICK, OR PAIR OF CHOPSTICKS.

24 (c) "SINGLE-USE FOOD SERVICEWARE" DOES NOT INCLUDE
25 PACKAGING, SUCH AS A BOWL, CUP, LID, OR CLAMSHELL CONTAINER, THAT
26 IS NECESSARY TO CONTAIN FOOD AT THE TIME THE FOOD IS PROVIDED TO
27 A CUSTOMER THROUGH A DELIVERY ORDER.

1 (13.3) "SPECIAL EVENT" MEANS AN ORGANIZED EVENT OR
2 CELEBRATION FOR WHICH A RETAIL FOOD ESTABLISHMENT PREPARES,
3 SERVES, OR OTHERWISE PROVIDES FOOD FOR HUMAN CONSUMPTION.

4 (13.5) "SPILL PLUG" OR "SPLASH STICK" MEANS A PIECE OF PLASTIC
5 THAT IS INSERTED INTO A BEVERAGE LID TO PREVENT SPILLS.

6 (14) (c) "Store" does not include a small store, EXCEPT AS
7 PROVIDED IN SUBSECTION (14)(d) OF THIS SECTION.

8 (d) FOR THE PURPOSES OF SECTION 25-17-510, FOR A RETAIL FOOD
9 ESTABLISHMENT THAT IS ALSO A STORE, "STORE" INCLUDES A SMALL
10 STORE.

11 (15) "THIRD-PARTY FOOD DELIVERY SERVICE" MEANS A COMPANY
12 OR WEBSITE, MOBILE APPLICATION, OR OTHER INTERNET SERVICE THAT
13 OFFERS OR ARRANGES FOR THE SALE AND DELIVERY OR CARRYOUT OF
14 PREPARED FOOD OR BEVERAGES FROM A RETAIL FOOD ESTABLISHMENT.

15 (16) "THIRD-PARTY FOOD DELIVERY SERVICE PLATFORM" OR
16 "PLATFORM" MEANS A THIRD-PARTY FOOD DELIVERY SERVICE'S ONLINE OR
17 MOBILE PLATFORM ON WHICH A CUSTOMER CAN VIEW AND ORDER
18 AVAILABLE PRODUCTS.

19 **SECTION 3.** In Colorado Revised Statutes, **add** 25-17-510 as
20 follows:

21 **25-17-510. Single-use food serviceware - exemptions -**
22 **department responsibilities - definition.**

23 (1) ON AND AFTER JANUARY 1, 2027:

24 (a) WHEN A CUSTOMER ORDERS FOOD FROM A RETAIL FOOD
25 ESTABLISHMENT OR THROUGH A THIRD-PARTY FOOD DELIVERY SERVICE
26 PLATFORM FOR DELIVERY OR CARRYOUT, THE RETAIL FOOD
27 ESTABLISHMENT OR THIRD-PARTY FOOD DELIVERY SERVICE SHALL NOT

1 PROVIDE THE CUSTOMER WITH SINGLE-USE FOOD SERVICEWARE UNLESS
2 THE CUSTOMER:

3 (I) REQUESTS SINGLE-USE FOOD SERVICEWARE; OR

4 (II) CONFIRMS THAT THE CUSTOMER WANTS SINGLE-USE FOOD
5 SERVICEWARE AFTER BEING ASKED IF THEY WOULD LIKE SINGLE-USE FOOD
6 SERVICEWARE BY AN EMPLOYEE OF THE RETAIL FOOD ESTABLISHMENT OR
7 THROUGH THE THIRD-PARTY FOOD DELIVERY SERVICE PLATFORM;

8 (b) A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD
9 DELIVERY SERVICE SHALL NOT CREATE, ACQUIRE, OR PROVIDE A
10 CUSTOMER WITH A BUNDLED PACKAGE THAT CONTAINS MORE THAN ONE
11 TYPE OF SINGLE-USE FOOD SERVICEWARE ITEM; ==

12 (c) A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD
13 DELIVERY SERVICE SHALL PROVIDE ONLY THE SINGLE-USE FOOD
14 SERVICEWARE ITEMS REQUESTED OR CONFIRMED BY A CUSTOMER; AND

15 (d) A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD
16 DELIVERY SERVICE SHALL ENABLE A CUSTOMER THAT USES A THIRD-PARTY
17 FOOD DELIVERY SERVICE PLATFORM TO SELECT THE SINGLE-USE FOOD
18 SERVICEWARE OFFERED BY THE RETAIL FOOD ESTABLISHMENT THAT THE
19 CUSTOMER WANTS INCLUDED WITH THE CUSTOMER'S FOOD ORDER.

20 (2) A THIRD-PARTY FOOD DELIVERY SERVICE IS IN COMPLIANCE
21 WITH THIS SECTION IF:

22 (a) THE DEFAULT OF THE THIRD-PARTY FOOD DELIVERY SERVICE'S
23 PLATFORM IS NOT TO PROVIDE SINGLE-USE FOOD SERVICEWARE;

24 (b) THE THIRD-PARTY FOOD DELIVERY SERVICE PROVIDES A RETAIL
25 FOOD ESTABLISHMENT WITH THE OPTION TO ALLOW A CUSTOMER TO
26 CLEARLY INDICATE WHICH SINGLE-USE FOOD SERVICEWARE THE
27 CUSTOMER WANTS IN THE ONLINE ORDERING PROCESS; AND

1 (c) THE THIRD-PARTY FOOD DELIVERY SERVICE'S PLATFORM
2 CLEARLY COMMUNICATES TO THE RETAIL FOOD ESTABLISHMENT
3 FULFILLING THE ORDER WHICH SINGLE-USE FOOD SERVICEWARE ITEMS, IF
4 ANY, THE CUSTOMER REQUESTED. A THIRD-PARTY FOOD DELIVERY
5 SERVICE IS NOT LIABLE FOR A RETAIL FOOD ESTABLISHMENT'S FAILURE TO
6 FOLLOW A CUSTOMER'S REQUEST IF THE THIRD-PARTY FOOD DELIVERY
7 SERVICE ACCURATELY COMMUNICATED THE CUSTOMER'S REQUEST TO THE
8 RETAIL FOOD ESTABLISHMENT.

9 (3) SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION DO NOT APPLY
10 TO THE FOLLOWING, THOUGH ALL FOOD ESTABLISHMENTS ARE
11 ENCOURAGED TO COMPLY WITH SUBSECTIONS (1)(a) AND (1)(b) OF THIS
12 SECTION:

13 (a) SINGLE-USE FOOD SERVICEWARE PROVIDED AT A SELF-SERVICE
14 STATION LOCATED WITHIN A RETAIL FOOD ESTABLISHMENT OR AT A
15 SPECIAL EVENT. A RETAIL FOOD ESTABLISHMENT OR SPECIAL EVENT WITH
16 A SELF-SERVICE STATION IS ENCOURAGED TO OFFER BULK CONDIMENT
17 DISPENSERS AT THE SELF-SERVICE STATION, PROVIDE ONLY SINGLE-USE
18 FOOD SERVICEWARE THAT IS LIKELY TO BE NECESSARY FOR THE FOOD
19 SERVED, AND NOT BUNDLE SINGLE-USE FOOD SERVICEWARE.

20 (b) MEALS PROVIDED AS PART OF A SOCIAL SERVICE PROGRAM
21 DIRECTED AT SERVING ONE OR MORE VULNERABLE POPULATIONS, SUCH AS
22 SCHOOLCHILDREN IN INCOME-ELIGIBLE HOUSEHOLDS, INDIVIDUALS
23 EXPERIENCING HOMELESSNESS, OR ELDERLY INDIVIDUALS;

24 (c) A RETAIL FOOD ESTABLISHMENT LOCATED WITHIN A PUBLIC
25 AIRPORT;

26 (d) MEALS PROVIDED TO GUESTS STAYING AT A HOTEL, LODGING
27 HOUSE, OR ROOMING HOUSE; _____

1 (e) SINGLE-USE FOOD SERVICEWARE INTENDED TO PREVENT SPILLS
2 THAT IS PROVIDED BY A RETAIL FOOD ESTABLISHMENT AT A
3 DRIVE-THROUGH OR FOR CARRYOUT FOR A CUSTOMER'S TRANSPORT OF
4 FOOD FOR OFF-SITE CONSUMPTION OR PROVIDED FOR DELIVERY OF FOOD
5 BY A RETAIL FOOD ESTABLISHMENT OR A THIRD-PARTY FOOD DELIVERY
6 SERVICE;

7 (f) MEALS PROVIDED TO PATIENTS OR RESIDENTS OF A HEALTH
8 FACILITY LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT TO
9 SECTION 25-1.5-103 OR CERTIFIED BY THE STATE DEPARTMENT PURSUANT
10 TO SECTION 25.5-5-412, INCLUDING HOSPITALS, LONG-TERM CARE
11 FACILITIES, HOSPICE INPATIENT FACILITIES, AND ASSISTED LIVING
12 RESIDENCES; OR

13 (g) SCHOOL CAFETERIAS.

14 (4) NOTHING IN THIS SECTION:

15 (a) AUTHORIZES THE DISTRIBUTION OF SINGLE-USE PLASTIC
16 CARRYOUT BAGS OR EXPANDED POLYSTYRENE PRODUCTS IN A MANNER
17 THAT VIOLATES THIS PART 5; OR

18 (b) PROHIBITS AN EMPLOYEE OF A RETAIL FOOD ESTABLISHMENT
19 OR THIRD-PARTY FOOD DELIVERY SERVICE FROM OFFERING A CUSTOMER
20 SINGLE-USE FOOD SERVICEWARE.

21 (5) ON OR BEFORE JANUARY 1, 2027, THE DEPARTMENT SHALL
22 ESTABLISH A PAGE ON THE DEPARTMENT'S PUBLIC WEBSITE THAT
23 INCLUDES A DESCRIPTION OF THE REQUIREMENTS OF THIS SECTION AND
24 THE ENFORCEMENT MECHANISM SET FORTH IN SECTION 25-17-507.

25 (6) AS USED IN THIS SECTION, "BULK CONDIMENT DISPENSER"
26 MEANS A REFILLABLE, SELF-SERVICE CONTAINER OR APPARATUS DESIGNED
27 TO HOLD AND DISPENSE TO A CUSTOMER, ON AN AS-NEEDED BASIS,

1 CONDIMENTS SUCH AS SAUCES, SPICES, OR SEASONINGS.

2 **SECTION 4. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2026 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.