

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 20-0269.01 Jennifer Berman x3286

HOUSE BILL 20-1163

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING THE MANAGEMENT OF SINGLE-USE PRODUCTS.**

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>.)

The bill prohibits stores and retail food establishments, on and after July 1, 2021, from providing single-use plastic carryout bags, single-use plastic stirrers, single-use plastic straws, and expanded polystyrene food service products (collectively "single-use products") to customers at the point of sale. The executive director of the department of public health and environment is authorized to enforce the prohibition. The prohibition does not apply to inventory purchased before July 1, 2021, and used on or before December 31, 2021.

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

A store or retail food establishment, on or after July 1, 2021, may furnish recyclable paper carryout bags to a customer at a charge of at least 10 cents per customer, which amount the store or establishment may retain in full, unless a local government's ordinance or resolution prohibits the store or establishment from retaining the full charge.

A local government, on or after July 1, 2021, is preempted from enacting an ordinance, resolution, rule, or charter provision that is less stringent than the statewide prohibition.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 5 to article
3 17 of title 25 as follows:

4 **PART 5**

5 **MANAGEMENT OF SINGLE-USE PRODUCTS**

6 **25-17-501. Legislative declaration.** THE GENERAL ASSEMBLY
7 FINDS, DETERMINES, AND DECLARES THAT LIMITING THE USE OF
8 SINGLE-USE PRODUCTS WILL MITIGATE THE HARMFUL EFFECTS ON OUR
9 STATE'S NATURAL RESOURCES AND OUR ENVIRONMENT THAT RESULT
10 FROM DISPOSING OF THESE PRODUCTS IN OUR LANDFILLS.

11 **25-17-502. Definitions.** AS USED IN THIS PART 5, UNLESS THE
12 CONTEXT OTHERWISE REQUIRES:

13 (1) (a) "CARRYOUT BAG" MEANS A BAG THAT IS FURNISHED TO A
14 CUSTOMER AT A STORE OR RETAIL FOOD ESTABLISHMENT AT THE POINT OF
15 SALE FOR USE BY THE CUSTOMER TO TRANSPORT OR CARRY PURCHASED
16 ITEMS.

17 (b) "CARRYOUT BAG" DOES NOT INCLUDE:

18 (I) A BAG MADE OF PAPER WHEN THE PAPER HAS A BASIS WEIGHT
19 OF THIRTY POUNDS OR LESS;

20 (II) A BAG THAT A PHARMACY PROVIDES TO A CUSTOMER
21 PURCHASING PRESCRIPTION MEDICATION;

1 (III) A BAG THAT A CUSTOMER USES INSIDE A STORE TO:

2 (A) PACKAGE LOOSE OR BULK ITEMS, SUCH AS FRUITS,
3 VEGETABLES, NUTS, GRAINS, CANDY, GREETING CARDS, OR SMALL
4 HARDWARE ITEMS SUCH AS NAILS, BOLTS, OR SCREWS;

5 (B) CONTAIN OR WRAP FROZEN FOODS, MEAT, SEAFOOD, FISH,
6 FLOWERS, POTTED PLANTS, OR OTHER ITEMS THAT, IF THEY WERE TO COME
7 IN CONTACT WITH OTHER ITEMS, COULD DAMPEN OR CONTAMINATE THE
8 OTHER ITEMS; OR

9 (C) CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY GOODS;
10 OR

11 (IV) A LAUNDRY, DRY CLEANING, OR GARMENT BAG.

12 (2) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE
13 COMMISSION CREATED IN SECTION 25-15-302.

14 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
15 AND ENVIRONMENT CREATED IN SECTION 25-1-102.

16 (4) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
17 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

18 [REDACTED]

19 (5) (a) "FOOD" MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE
20 SUBSTANCE OR INGREDIENT USED OR INTENDED FOR USE OR FOR SALE IN
21 WHOLE OR IN PART FOR HUMAN CONSUMPTION.

22 (b) "FOOD" DOES NOT INCLUDE A DRUG, AS THAT TERM IS DEFINED
23 IN SECTION 25-5-402 (9).

24 (6) "PLASTIC" MEANS A SYNTHETIC MATERIAL MADE FROM
25 LINKING MONOMERS THROUGH A CHEMICAL REACTION TO CREATE A
26 POLYMER CHAIN THAT CAN BE MOLDED OR EXTRUDED AT HIGH HEAT INTO
27 VARIOUS SOLID FORMS THAT RETAIN THEIR DEFINED SHAPES DURING THEIR

1 **LIFE CYCLE AND AFTER DISPOSAL.**

2 (7) "POINT OF SALE" MEANS A CHECK-OUT STAND, CASH REGISTER,
3 OR OTHER POINT AT WHICH THE SALES TRANSACTION OCCURS IN A STORE
4 OR RETAIL FOOD ESTABLISHMENT OR, FOR PRODUCTS THAT ARE ORDERED
5 REMOTELY FROM A STORE OR RETAIL FOOD ESTABLISHMENT AND
6 DELIVERED, THE LOCATION WHERE THE PRODUCTS ARE DELIVERED.

7 (8) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET FORTH
8 IN SECTION 25-4-1602 (14).

9 (9) "REUSABLE CARRYOUT BAG" MEANS A CARRYOUT BAG THAT
10 IS DESIGNED AND MANUFACTURED FOR AT LEAST ONE HUNDRED
11 TWENTY-FIVE USES, CAN CARRY AT LEAST TWENTY-TWO **POUNDS OVER A**
12 **DISTANCE OF ONE HUNDRED SEVENTY-FIVE FEET**, HAS STITCHED HANDLES,
13 AND IS MADE OF:

14 (a) CLOTH OR MACHINE-WASHABLE FABRIC; OR

15 (b) POLYPROPYLENE.

16 (10) (a) "SINGLE-USE PLASTIC CARRYOUT BAG" MEANS A
17 CARRYOUT BAG THAT IS A SINGLE-USE PRODUCT MADE OF **FILM** PLASTIC.

18 (b) "SINGLE-USE PLASTIC CARRYOUT BAG" DOES NOT INCLUDE A
19 REUSABLE CARRYOUT BAG.

20 (11) (a) "SINGLE-USE PLASTIC STIRRER" MEANS A DEVICE THAT IS:

21 (I) USED TO MIX BEVERAGES;

22 (II) MADE PREDOMINANTLY OF PLASTIC; AND

23 (III) A SINGLE-USE PRODUCT.

24 (b) "SINGLE-USE PLASTIC STIRRER" INCLUDES A PLASTIC STOPPER
25 THAT MAY BE PLACED INTO THE SIPPING HOLE OF A BEVERAGE LID TO
26 PREVENT LEAKS OR SPILLS.

27 (12) "SINGLE-USE PLASTIC STRAW" MEANS A TUBE MADE OF

1 PLASTIC THAT IS:

2 (a) USED TO TRANSFER LIQUID FROM A CONTAINER TO THE MOUTH
3 OF A PERSON DRINKING THE LIQUID; AND

4 (b) A SINGLE-USE PRODUCT.

5 (13) "SINGLE-USE PRODUCT" MEANS A PRODUCT THAT IS:

6 (a) (I) NEITHER INTENDED NOR SUITABLE FOR MULTIPLE USES; OR

7 (II) GENERALLY RECOGNIZED BY THE PUBLIC AS AN ITEM TO BE
8 DISCARDED AFTER ONE USE; AND

9 (b) A SINGLE-USE PLASTIC CARRYOUT BAG, A SINGLE-USE PLASTIC
10 STRAW, OR A SINGLE-USE PLASTIC STIRRER.

11 (14) "STORE" MEANS A GROCERY STORE, SUPERMARKET,
12 CONVENIENCE STORE, LIQUOR STORE, DRY CLEANER, PHARMACY, DRUG
13 STORE, CLOTHING STORE, OR OTHER TYPE OF RETAIL ESTABLISHMENT AT
14 WHICH CARRYOUT BAGS ARE TRADITIONALLY PROVIDED TO CUSTOMERS.

15 **25-17-503. Restrictions on use of single-use products -**
16 **inventory exception - enforcement - penalties - repeal.** (1) ON AND
17 AFTER JULY 1, 2022, AN OWNER, OPERATOR, EMPLOYEE, CONTRACTOR, OR
18 AGENT OF A STORE OR RETAIL FOOD ESTABLISHMENT SHALL NOT PROVIDE
19 THE FOLLOWING SINGLE-USE PRODUCTS TO A CUSTOMER:

20 (a) A SINGLE-USE PLASTIC CARRYOUT BAG;

21 (b) A SINGLE-USE PLASTIC STRAW UNLESS THE SINGLE-USE PLASTIC
22 STRAW IS PROVIDED TO THE CUSTOMER UPON REQUEST OF THE CUSTOMER;

23 HOWEVER, IT IS PREFERABLE THAT A PAPER STRAW BE PROVIDED INSTEAD.

24 THE PROHIBITION SET FORTH IN THIS SUBSECTION (1)(b) DOES NOT APPLY
25 TO ANY STORE OR RETAIL FOOD ESTABLISHMENT LOCATED WITHIN:

26 (I) A HOSPITAL OR OTHER HEALTH CARE FACILITY REQUIRED TO
27 OBTAIN A LICENSE PURSUANT TO SECTION 25-3-101 (1); OR

1 (II) AN INDEPENDENT LIVING FACILITY THAT PROVIDES
2 ASSISTANCE TO ITS SENIORS IN THE PERFORMANCE OF THEIR DAILY LIVING
3 ACTIVITIES.

4 (c) A SINGLE-USE PLASTIC STIRRER.

5

6 (2) (a) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, AN
7 OWNER, OPERATOR, EMPLOYEE, CONTRACTOR, OR AGENT OF A STORE OR
8 RETAIL FOOD ESTABLISHMENT MAY PROVIDE A SINGLE-USE PRODUCT TO
9 A CUSTOMER ON OR BEFORE DECEMBER 31, 2022, IF THE SINGLE-USE
10 PRODUCT WAS PART OF THE STORE'S OR RETAIL FOOD ESTABLISHMENT'S
11 INVENTORY BEFORE JULY 1, 2022.

12 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2023.

13 (3) (a) THE EXECUTIVE DIRECTOR, ON THE EXECUTIVE DIRECTOR'S
14 OWN MOTION OR UPON A COMPLAINT FILED WITH THE EXECUTIVE
15 DIRECTOR BY ANY PERSON, MAY INVESTIGATE AN ALLEGED VIOLATION OF
16 THIS SECTION. IF THE EXECUTIVE DIRECTOR FINDS THAT AN OWNER OR
17 OPERATOR OF A STORE OR RETAIL FOOD ESTABLISHMENT HAS VIOLATED
18 THIS SECTION OR HAS ALLOWED AN EMPLOYEE, CONTRACTOR, OR AGENT
19 OF THE STORE OR RETAIL FOOD ESTABLISHMENT TO VIOLATE THIS SECTION,
20 THE EXECUTIVE DIRECTOR MAY ISSUE AN ORDER REQUIRING THAT THE
21 OWNER OR OPERATOR COMPLY WITH, OR REQUIRE OTHERS TO COMPLY
22 WITH, THIS SECTION AND MAY REQUEST THAT THE ATTORNEY GENERAL
23 SEEK AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION TO
24 ENJOIN THE OWNER OR OPERATOR FROM ACTING OR ALLOWING ANOTHER
25 TO ACT IN A MANNER THAT VIOLATES THIS SECTION.

26 (b) (I) IF THE EXECUTIVE DIRECTOR HAS KNOWLEDGE THAT AN
27 OWNER OR OPERATOR HAS VIOLATED THIS SECTION MORE THAN ONCE OR

1 HAS ALLOWED EMPLOYEES, CONTRACTORS, OR AGENTS OF THE STORE OR
2 RETAIL FOOD ESTABLISHMENT TO VIOLATE THIS SECTION MORE THAN
3 ONCE, THE EXECUTIVE DIRECTOR MAY INCLUDE WITH AN ORDER ISSUED
4 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION A CIVIL PENALTY
5 ASSESSMENT AGAINST THE OWNER OR OPERATOR IN THE FOLLOWING
6 AMOUNT:

7 (A) TWENTY-FIVE DOLLARS FOR A SECOND VIOLATION; OR

8 (B) ONE HUNDRED DOLLARS FOR A THIRD OR SUBSEQUENT
9 VIOLATION.

10 (II) AN OWNER OR OPERATOR AGAINST WHOM THE EXECUTIVE
11 DIRECTOR HAS ASSESSED A CIVIL PENALTY PURSUANT TO SUBSECTION
12 (3)(b)(I) OF THIS SECTION MAY REQUEST A HEARING ON THE MATTER
13 WITHIN FOURTEEN DAYS AFTER THE DATE OF THE ORDER. IF A HEARING IS
14 REQUESTED, THE EXECUTIVE DIRECTOR SHALL HOLD A HEARING ON THE
15 MATTER IN ACCORDANCE WITH SECTION 24-4-105.

16 **25-17-504. Bag charge - disposition of money - repeal.**

17 (1) (a) ON AND AFTER JULY 1, 2021, AN OWNER, OPERATOR, EMPLOYEE,
18 CONTRACTOR, OR AGENT OF A STORE MAY PROVIDE A CUSTOMER WITH ONE
19 OR MORE RECYCLABLE PAPER CARRYOUT BAGS OR SINGLE-USE PLASTIC
20 CARRYOUT BAGS AT THE POINT OF SALE IF THE CUSTOMER PAYS A CHARGE
21 OF TEN CENTS PER RECYCLABLE PAPER CARRYOUT BAG OR SINGLE-USE
22 PLASTIC CARRYOUT BAG, OR A HIGHER CHARGE IF A MUNICIPALITY OR
23 COUNTY RAISES THE CHARGE BY ORDINANCE OR RESOLUTION. FOR EACH
24 BAG CHARGE PURSUANT TO THIS SUBSECTION (1)(a), THE STORE SHALL:

25 (I) REMIT SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH
26 THE STORE IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A
27 MUNICIPALITY, TO THE COUNTY WITHIN WHICH THE STORE IS LOCATED,

1 WHICH MUNICIPALITY OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

2 (A) ITS ADMINISTRATIVE COSTS INCURRED AS A RESULT OF THIS
3 SECTION; AND

4 (B) FOR ANY RECYCLING, COMPOSTING, OR OTHER WASTE
5 DIVERSION PROGRAMS AND RELATED OUTREACH AND EDUCATION
6 ACTIVITIES; AND

7 (II) RETAIN FORTY PERCENT, WHICH PORTION OF THE FEE DOES NOT
8 COUNT AS REVENUE FOR THE PURPOSE OF CALCULATING SALES TAX.

9 (b) THE BAG CHARGE SET FORTH IN SUBSECTION (1)(a) OF THIS
10 SECTION DOES NOT APPLY TO A CUSTOMER THAT PROVIDES EVIDENCE TO
11 THE STORE THAT THE CUSTOMER IS A PARTICIPANT IN A FEDERAL OR STATE
12 FOOD ASSISTANCE PROGRAM.

13 (c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 2022.

14 (2) (a) ON AND AFTER JULY 1, 2022, AN OWNER, OPERATOR,
15 EMPLOYEE, CONTRACTOR, OR AGENT OF A STORE MAY PROVIDE A
16 CUSTOMER WITH ONE OR MORE RECYCLABLE PAPER CARRYOUT BAGS AT
17 THE POINT OF SALE IF THE CUSTOMER PAYS A CHARGE OF TEN CENTS PER
18 RECYCLABLE PAPER CARRYOUT BAG, OR A HIGHER CHARGE IF A
19 MUNICIPALITY OR COUNTY RAISES THE CHARGE BY ORDINANCE OR
20 RESOLUTION. FOR EACH BAG CHARGE PURSUANT TO THIS SUBSECTION (2),
21 THE STORE SHALL:

22 (I) REMIT SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH
23 THE STORE IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A
24 MUNICIPALITY, TO THE COUNTY WITHIN WHICH THE STORE IS LOCATED,
25 WHICH MUNICIPALITY OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

26 (A) ITS ADMINISTRATIVE COSTS INCURRED AS A RESULT OF THIS
27 SECTION; AND

1 (B) FOR ANY RECYCLING, COMPOSTING, OR OTHER WASTE
2 DIVERSION PROGRAMS AND RELATED OUTREACH AND EDUCATION
3 ACTIVITIES; AND

4 (II) RETAIN FORTY PERCENT, WHICH PORTION OF THE FEE DOES NOT
5 COUNT AS REVENUE FOR THE PURPOSE OF CALCULATING SALES TAX.

6 (b) THE BAG CHARGE SET FORTH IN SUBSECTION (2)(a) OF THIS
7 SECTION DOES NOT APPLY TO A CUSTOMER THAT PROVIDES EVIDENCE TO
8 THE STORE THAT THE CUSTOMER IS A PARTICIPANT IN A FEDERAL OR STATE
9 FOOD ASSISTANCE PROGRAM.

10 (c) (I) ON AND AFTER JULY 1, 2022, AND THROUGH DECEMBER 31,
11 2022, AN OWNER, OPERATOR, EMPLOYEE, CONTRACTOR, OR AGENT OF A
12 STORE MAY PROVIDE A CUSTOMER WITH A SINGLE-USE PLASTIC CARRYOUT
13 BAG AT THE POINT OF SALE FOR THE CHARGE DESCRIBED IN SUBSECTION
14 (2)(a) OF THIS SECTION ONLY IF THE SINGLE-USE PLASTIC CARRYOUT BAG
15 IS WITHIN THE STORE'S REMAINING INVENTORY PURSUANT TO SECTION
16 25-17-503 (2)(a). THE STORE SHALL REMIT THE CHARGE COLLECTED IN
17 ACCORDANCE WITH SUBSECTION (2)(a) OF THIS SECTION.

18 (II) THIS SUBSECTION (2)(c) IS REPEALED, EFFECTIVE JANUARY 1, 2023.

19 (3) A STORE THAT PROVIDES CARRYOUT BAGS FOR A CHARGE
20 PURSUANT TO THIS SECTION SHALL:

21 (a) FOR EACH CUSTOMER PROVIDED A CARRYOUT BAG FOR A FEE,
22 PROVIDE ON THE CUSTOMER'S TRANSACTION RECEIPT, A RECORD OF THE
23 NUMBER OF CARRYOUT BAGS PROVIDED AS PART OF THE TRANSACTION
24 AND THE TOTAL AMOUNT OF FEES CHARGED FOR THE CARRYOUT BAGS
25 PROVIDED, ITEMIZED BY TYPE OF CARRYOUT BAG;

26 (b) NOT REFUND TO THE CUSTOMER ANY PORTION OF THE
27 CARRYOUT BAG CHARGE, EITHER DIRECTLY OR INDIRECTLY, OR ADVERTISE

1 OR OTHERWISE CONVEY TO CUSTOMERS THAT ANY PORTION OF THE
2 CARRYOUT BAG CHARGE WILL BE REFUNDED; AND

3 (c) CONSPICUOUSLY DISPLAY A SIGN IN A LOCATION INSIDE OR
4 OUTSIDE THE STORE, WHICH SIGN ALERTS CUSTOMERS ABOUT THE
5 CARRYOUT BAG CHARGE.

6 **25-17-505. Local government regulation no less stringent -**
7 **preemption.** ON AND AFTER JULY 1, 2022, A LOCAL GOVERNMENT SHALL
8 NOT ENACT ANY ORDINANCE, RESOLUTION, RULE, OR CHARTER PROVISION
9 REGARDING THE USE OF SINGLE-USE PRODUCTS THAT IS LESS STRINGENT
10 THAN THIS PART 5. IF A LOCAL GOVERNMENT ENACTED AN ORDINANCE,
11 RESOLUTION, RULE, OR CHARTER PROVISION BEFORE JULY 1, 2022, THAT
12 IS LESS STRINGENT THAN THIS PART 5, THE ORDINANCE, RESOLUTION,
13 RULE, OR CHARTER PROVISION IS PREEMPTED BY THIS SECTION.

14 **25-17-506. Rules.** THE COMMISSION MAY ADOPT RULES AS
15 NECESSARY TO IMPLEMENT THIS PART 5.

16 **SECTION 2. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2020 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.