

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 21-0395.01 Jennifer Berman x3286

HOUSE BILL 21-1162

HOUSE SPONSORSHIP

Valdez A. and Cutter, Amabile, Bernett, Hooton, Kipp, Sirota, Woodrow, Bacon, Bird, Boesenecker, Caraveo, Duran, Froelich, Jackson, Jodeh, Kennedy, Lontine, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Tipper, Titone

SENATE SPONSORSHIP

Gonzales and Garcia,

House Committees

Energy & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE MANAGEMENT OF PLASTIC PRODUCTS, AND, IN
102 CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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, local governments are prohibited from requiring or banning the use or sale of specific types of plastic materials or products. **Section 1** repeals the prohibition on July 1, 2023.

Section 2 prohibits stores and retail food establishments, on and after September 1, 2022, from providing single-use plastic carryout bags to customers. The prohibition does not apply to inventory purchased

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.*

HOUSE
3rd Reading Unamended
May 5, 2021

HOUSE
Amended 2nd Reading
May 4, 2021

before September 1, 2022, and used on or before March 31, 2023, which may be supplied to a customer at the point of sale for a 10-cent fee.

Between September 1, 2021, and September 1, 2022, a store may furnish a recycled paper carryout bag or a single-use plastic carryout bag to a customer at the point of sale if the customer pays a fee of 10 cents per bag or a higher fee adopted by the municipality or county in which the store is located.

On and after September 1, 2022, a store may furnish only a recycled paper carryout bag to a customer at the point of sale at a fee of 10 cents per bag or a higher fee imposed by the municipality or county in which the store is located.

A store is required to remit, on a quarterly basis beginning January 1, 2022, 60% of the carryout bag fee revenues to the municipality or county within which the store is located and may retain the remaining 40% of the carryout bag fee revenues. A municipality or county may use its portion of the carryout bag fee revenues to pay for its administrative and enforcement costs and any recycling, composting, or other waste diversion programs or related outreach or education activities.

The carryout bag fee does not apply to a customer that provides evidence to the store that the customer is a participant in a federal or state food assistance program.

Section 2 also prohibits a retail food establishment, on and after January 1, 2022, from distributing an expanded polystyrene product for use as a container for ready-to-eat food in this state. The prohibition does not apply to retail food establishments located within certain schools until January 1, 2023; except that the prohibition does not apply to a high school until January 1, 2024.

Retail food establishments that purchase expanded polystyrene products before January 1, 2022, may continue to use the products until their supply is depleted.

Section 2 also authorizes a local government to enforce against a violation of section 2 and expressly authorizes a county to impose a civil penalty against a store or retail food establishment of \$500 for a second violation or \$1,000 for a third or subsequent violation.

On and after July 1, 2023, a local government may enact, implement, or enforce an ordinance, resolution, rule, or charter provision that is as stringent as or more stringent than the requirements set forth in the bill.

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

2

3

SECTION 1. In Colorado Revised Statutes, **add** part 5 to article

1 17 of title 25 as follows:

2

PART 5

3

MANAGEMENT OF PLASTIC PRODUCTS

4

25-17-501. Short title. THE SHORT TITLE OF THIS PART 5 IS THE
5 "PLASTIC POLLUTION REDUCTION ACT".

6

25-17-502. Legislative declaration. THE GENERAL ASSEMBLY
7 FINDS, DETERMINES, AND DECLARES THAT LIMITING THE USE OF
8 SINGLE-USE PLASTIC CARRYOUT BAGS AND EXPANDED POLYSTYRENE
9 PRODUCTS WILL MITIGATE THE HARMFUL EFFECTS ON OUR STATE'S
10 NATURAL RESOURCES AND OUR ENVIRONMENT THAT RESULT FROM
11 DISPOSING OF THESE PRODUCTS IN OUR LANDFILLS.

12

25-17-503. Definitions - rules. AS USED IN THIS PART 5, UNLESS
13 THE CONTEXT OTHERWISE REQUIRES:

14

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

18

(b) "CARRYOUT BAG" DOES NOT INCLUDE:

19

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

21

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

23



24

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

25

(A) PACKAGE LOOSE OR BULK ITEMS, SUCH AS FRUITS,
26 VEGETABLES, NUTS, GRAINS, CANDY, OR GREETING CARDS; NAILS, BOLTS,
27 SCREWS, OR OTHER SMALL HARDWARE ITEMS; LIVE INSECTS, FISH,

1 CRUSTACEANS, MOLLUSKS, OR OTHER SMALL SPECIES; AND BULK SEED,
2 BULK LIVESTOCK FEED, OR BULK PET FEED;

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

7 (C) CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY GOODS;
8 OR

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

10 (2) "CONTAINER" MEANS A RECEPTACLE UPON WHICH OR INSIDE
11 WHICH FOOD MAY BE PLACED FOR CONSUMPTION, WHETHER OR NOT THE
12 RECEPTACLE CAN BE FULLY CLOSED. "CONTAINER" INCLUDES HINGED
13 FOOD CONTAINERS, PLATES, BOWLS, CUPS, AND TRAYS.

14 (3) "EXPANDED POLYSTYRENE" MEANS BLOWN POLYSTYRENE,
15 COMMONLY KNOWN AS STYROFOAM™, AND ANY OTHER EXPANDED OR
16 EXTRUDED FOAM CONSISTING OF THERMOPLASTIC PETROCHEMICAL
17 MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY
18 TECHNIQUES THAT MAY INCLUDE:

19 (a) FOR EXPANDABLE BEAD POLYSTYRENE, FUSION OF POLYMER
20 SPHERES;

21 (b) INJECTION MOLDING;

22 (c) FOAM MOLDING; AND

23 (d) FOR EXTRUDED FOAM POLYSTYRENE, EXTRUSION BLOW
24 MOLDING.

25 (4) (a) "FOOD" MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE
26 SUBSTANCE, ICE, BEVERAGE, OR INGREDIENT USED OR INTENDED FOR USE
27 OR FOR SALE, IN WHOLE OR IN PART, FOR HUMAN CONSUMPTION.

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

3 (5) "PLASTIC" MEANS A SYNTHETIC MATERIAL MADE FROM
4 LINKING MONOMERS THROUGH A CHEMICAL REACTION TO CREATE A
5 POLYMER CHAIN THAT CAN BE MOLDED OR EXTRUDED AT HIGH HEAT INTO
6 VARIOUS SOLID FORMS THAT RETAIN THEIR DEFINED SHAPES DURING THEIR
7 LIFE CYCLE AND AFTER DISPOSAL.

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

13 (7) "READY-TO-EAT FOOD" MEANS FOOD THAT IS COOKED OR
14 OTHERWISE PREPARED IN ADVANCE FOR IMMEDIATE CONSUMPTION.

15 (8) "RECYCLED PAPER CARRYOUT BAG" MEANS A CARRYOUT BAG
16 MADE FROM ONE HUNDRED PERCENT:

17 (a) RECYCLED MATERIAL; OR

18 (b) OTHER POST-CONSUMER CONTENT.

19 (9) (a) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET
20 FORTH IN SECTION 25-4-1602 (14) EXCEPT AS PROVIDED IN SUBSECTION
21 (9)(b) OF THIS SECTION.

22 (b) "RETAIL FOOD ESTABLISHMENT" DOES NOT INCLUDE FARMERS
23 MARKETS AND ROADSIDE MARKETS AS DESCRIBED IN SECTION 25-4-1602
24 (14)(j).

25 (10) (a) "REUSABLE CARRYOUT BAG" MEANS A CARRYOUT BAG
26 THAT IS DESIGNED AND MANUFACTURED FOR AT LEAST ONE HUNDRED
27 TWENTY-FIVE USES, CAN CARRY AT LEAST TWENTY-TWO POUNDS OVER A

1 DISTANCE OF ONE HUNDRED SEVENTY-FIVE FEET, HAS STITCHED HANDLES,
2 AND IS MADE OF CLOTH, FIBER, OR OTHER FABRIC OR A RECYCLED
3 MATERIAL SUCH AS POLYETHYLENE TEREPHTHALATE (PET).

4 (b) "REUSABLE CARRYOUT BAG" DOES NOT INCLUDE BAGS MADE
5 OF BIOLOGICALLY BASED POLYMERS SUCH AS CORN OR OTHER PLANT
6 SOURCES; EXCEPT THAT A CARRYOUT BAG MADE OF HEMP IS A REUSABLE
7 CARRYOUT BAG IF IT IS DESIGNED AND MANUFACTURED IN ACCORDANCE
8 WITH SUBSECTION (10)(a) OF THIS SECTION.

9 (11) "RURAL SCHOOL" HAS THE MEANING SET FORTH IN SECTION
10 23-3.9-101 (5).

11 (12) "SCHOOL" HAS THE MEANING SET FORTH IN SECTION
12 23-3.9-101 (6).

13 (13) (a) "SINGLE-USE PLASTIC CARRYOUT BAG" MEANS A
14 CARRYOUT BAG THAT IS A SINGLE-USE PLASTIC PRODUCT MADE
15 PREDOMINANTLY OF PLASTIC DERIVED FROM NATURAL GAS, PETROLEUM,
16 OR A BIOLOGICALLY BASED SOURCE, SUCH AS CORN OR OTHER PLANT
17 SOURCES, AND THAT IS PROVIDED TO A CUSTOMER AT THE POINT OF SALE.

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

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

24 (b) "STORE" INCLUDES A FARMERS' MARKET, ROADSIDE MARKET
25 OR STAND, FESTIVAL, OR OTHER TEMPORARY VENDOR OR EVENT THAT
26 INCLUDES TEMPORARY VENDORS.

27 **25-17-504. Restrictions on use of single-use plastic carryout**

1 **bag - inventory exception - repeal.** (1) SUBJECT TO SECTION 25-17-505
2 (1), ON AND AFTER SEPTEMBER 1, 2022, A STORE OR RETAIL FOOD
3 ESTABLISHMENT SHALL NOT PROVIDE A SINGLE-USE PLASTIC CARRYOUT
4 BAG TO A CUSTOMER; EXCEPT THAT A RETAIL FOOD ESTABLISHMENT NEED
5 NOT COMPLY WITH THIS SECTION IF THE RETAIL FOOD ESTABLISHMENT:

6 (a) PREPARES OR SERVES FOOD IN INDIVIDUAL PORTIONS FOR
7 IMMEDIATE ON- OR OFF-PREMISES CONSUMPTION; AND

8 (b) IS NOT A GROCERY STORE OR CONVENIENCE STORE.

9 (2) (a) SUBJECT TO THE CARRYOUT BAG FEE APPLIED TO
10 SINGLE-USE PLASTIC CARRYOUT BAGS IN SECTION 25-17-505, A STORE OR
11 RETAIL FOOD ESTABLISHMENT MAY PROVIDE A SINGLE-USE PLASTIC
12 CARRYOUT BAG TO A CUSTOMER ON OR BEFORE MARCH 31, 2023, IF THE
13 SINGLE-USE PLASTIC CARRYOUT BAG WAS PART OF THE STORE'S OR RETAIL
14 FOOD ESTABLISHMENT'S INVENTORY BEFORE SEPTEMBER 1, 2022.

15 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
16 2023.

17 **25-17-505. Carryout bag fee - disposition of money - repeal.**

18 (1) (a) ON AND AFTER SEPTEMBER 1, 2021, AND BEFORE SEPTEMBER 1,
19 2022, A STORE MAY PROVIDE A CUSTOMER WITH ONE OR MORE RECYCLED
20 PAPER CARRYOUT BAGS OR SINGLE-USE PLASTIC CARRYOUT BAGS AT THE
21 POINT OF SALE ONLY IF THE CUSTOMER PAYS A CARRYOUT BAG FEE OF TEN
22 CENTS PER RECYCLED PAPER CARRYOUT BAG OR SINGLE-USE PLASTIC
23 CARRYOUT BAG, OR A HIGHER FEE IF A MUNICIPALITY OR COUNTY IN
24 WHICH THE STORE IS LOCATED RAISES THE FEE AMOUNT BY ORDINANCE OR
25 RESOLUTION. FOR EACH CARRYOUT BAG FEE COLLECTED PURSUANT TO
26 THIS SUBSECTION (1)(a), THE STORE SHALL:

27 (I) REMIT, IN ACCORDANCE WITH SUBSECTION (3)(d) OF THIS

1 SECTION, SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH THE STORE
2 IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO
3 THE COUNTY WITHIN WHICH THE STORE IS LOCATED, WHICH MUNICIPALITY
4 OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

5 (A) ITS ADMINISTRATIVE AND ENFORCEMENT COSTS INCURRED AS
6 A RESULT OF THIS SECTION; AND

7 (B) FOR ANY RECYCLING, COMPOSTING, OR OTHER WASTE
8 DIVERSION PROGRAMS AND RELATED OUTREACH AND EDUCATION
9 ACTIVITIES; AND

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

12 (b) THE CARRYOUT BAG FEE SET FORTH IN SUBSECTION (1)(a) OF
13 THIS SECTION DOES NOT APPLY TO A CUSTOMER THAT PROVIDES EVIDENCE
14 TO THE STORE THAT THE CUSTOMER IS A PARTICIPANT IN A FEDERAL OR
15 STATE FOOD ASSISTANCE PROGRAM.

16 (c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE SEPTEMBER 1,
17 2022.

18 (2) (a) ON AND AFTER SEPTEMBER 1, 2022, A STORE MAY PROVIDE
19 A CUSTOMER WITH ONE OR MORE RECYCLED PAPER CARRYOUT BAGS AT
20 THE POINT OF SALE ONLY IF THE CUSTOMER PAYS A CARRYOUT BAG FEE OF
21 TEN CENTS PER RECYCLED PAPER CARRYOUT BAG, OR A HIGHER FEE IF A
22 MUNICIPALITY OR COUNTY IN WHICH THE STORE IS LOCATED RAISES THE
23 FEE AMOUNT BY ORDINANCE OR RESOLUTION. FOR EACH CARRYOUT BAG
24 FEE COLLECTED PURSUANT TO THIS SUBSECTION (2), THE STORE SHALL:

25 (I) REMIT, IN ACCORDANCE WITH SUBSECTION (3)(d) OF THIS
26 SECTION, SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH THE STORE
27 IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO

1 THE COUNTY WITHIN WHICH THE STORE IS LOCATED, WHICH MUNICIPALITY
2 OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

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

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

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

10 (b) THE CARRYOUT BAG FEE SET FORTH IN SUBSECTION (2)(a) OF
11 THIS SECTION DOES NOT APPLY TO A CUSTOMER THAT PROVIDES EVIDENCE
12 TO THE STORE THAT THE CUSTOMER IS A PARTICIPANT IN A FEDERAL OR
13 STATE FOOD ASSISTANCE PROGRAM.

14 (c) (I) BEGINNING SEPTEMBER 1, 2022, AND ENDING MARCH 31,
15 2023, A STORE MAY PROVIDE A CUSTOMER WITH A SINGLE-USE PLASTIC
16 CARRYOUT BAG AT THE POINT OF SALE FOR THE CARRYOUT BAG FEE
17 DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION ONLY IF THE
18 SINGLE-USE PLASTIC CARRYOUT BAG IS WITHIN THE STORE'S REMAINING
19 INVENTORY PURSUANT TO SECTION 25-17-504 (2)(a). THE STORE SHALL
20 REMIT THE FEE COLLECTED PURSUANT TO THIS SUBSECTION (2)(c) IN
21 ACCORDANCE WITH SUBSECTION (2)(a) OF THIS SECTION.

22 (II) THIS SUBSECTION (2)(c) IS REPEALED, EFFECTIVE JULY 1, 2023.

23 (3) IN PROVIDING CARRYOUT BAGS FOR A FEE PURSUANT TO THIS
24 SECTION, A STORE SHALL:

25 (a) FOR EACH CUSTOMER PROVIDED A CARRYOUT BAG FOR A FEE,
26 PROVIDE ON THE CUSTOMER'S TRANSACTION RECEIPT A RECORD OF THE
27 NUMBER OF CARRYOUT BAGS PROVIDED AS PART OF THE TRANSACTION

1 AND THE TOTAL AMOUNT OF FEES CHARGED FOR THE CARRYOUT BAGS
2 PROVIDED, ITEMIZED BY TYPE OF CARRYOUT BAG;

3 (b) NOT REFUND TO THE CUSTOMER ANY PORTION OF THE
4 CARRYOUT BAG FEE, EITHER DIRECTLY OR INDIRECTLY, OR ADVERTISE OR
5 OTHERWISE CONVEY TO CUSTOMERS THAT ANY PORTION OF THE
6 CARRYOUT BAG FEE WILL BE REFUNDED;

7 (c) CONSPICUOUSLY DISPLAY A SIGN IN A LOCATION INSIDE OR
8 OUTSIDE THE STORE, WHICH SIGN ALERTS CUSTOMERS ABOUT THE
9 CARRYOUT BAG FEE; AND

10 (d) (I) ON A QUARTERLY BASIS STARTING JANUARY 1, 2022, REMIT
11 FROM THE TOTAL AMOUNT OF CARRYOUT BAG FEES COLLECTED IN THE
12 PREVIOUS QUARTER THE AMOUNT THAT IS OWED TO THE MUNICIPALITY OR
13 COUNTY:

14 (A) TO THE FINANCE DEPARTMENT OR DIVISION OR EQUIVALENT
15 AGENCY OF THE MUNICIPALITY WITHIN WHICH THE STORE IS LOCATED; OR

16 (B) IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO THE
17 FINANCE DEPARTMENT OR DIVISION OR EQUIVALENT AGENCY OF THE
18 COUNTY WITHIN WHICH THE STORE IS LOCATED.

19 (II) A STORE NEED NOT REMIT CARRYOUT BAG FEES COLLECTED IN
20 ANY QUARTER IN WHICH THE COLLECTED FEES TOTAL LESS THAN TWENTY
21 DOLLARS. THE STORE SHALL RETAIN THOSE COLLECTED FEES UNTIL THE
22 STORE HAS MORE THAN TWENTY DOLLARS WORTH OF COLLECTED FEES TO
23 REMIT AND SHALL REMIT THOSE FEES AS PART OF THE NEXT QUARTERLY
24 REMITTANCE.

25 (III) (A) THE REMITTANCE MADE ON JANUARY 1, 2022, PURSUANT
26 TO SUBSECTION (3)(d)(I) OF THIS SECTION MUST INCLUDE ANY FEES
27 COLLECTED DURING THE MONTH OF SEPTEMBER 2021.

1 (B) THIS SUBSECTION (3)(d)(III) IS REPEALED, EFFECTIVE JULY 1,
2 2022.

3 **25-17-506. Prohibition on use of expanded polystyrene food**
4 **containers.** (1) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (1)(b) AND (2)
5 OF THIS SECTION, EFFECTIVE JANUARY 1, 2022, A RETAIL FOOD
6 ESTABLISHMENT SHALL NOT DISTRIBUTE AN EXPANDED POLYSTYRENE
7 PRODUCT FOR USE AS A CONTAINER FOR READY-TO-EAT FOOD IN THIS
8 STATE.

9 (b) A RETAIL FOOD ESTABLISHMENT LOCATED WITHIN A
10 KINDERGARTEN THROUGH TWELFTH GRADE, MIDDLE, JUNIOR HIGH, OR
11 HIGH SCHOOL OR A RURAL SCHOOL NEED NOT COMPLY WITH SUBSECTION
12 (1)(a) OF THIS SECTION UNTIL:

13 (I) JANUARY 1, 2024, IF THE SCHOOL IS A MIDDLE OR JUNIOR HIGH
14 SCHOOL, A RURAL ELEMENTARY SCHOOL, OR A KINDERGARTEN THROUGH
15 TWELFTH GRADE SCHOOL; OR

16 (II) JANUARY 1, 2025, IF THE SCHOOL IS A HIGH SCHOOL.

17 (2) IF A RETAIL FOOD ESTABLISHMENT THAT IS NOT LOCATED
18 WITHIN A SCHOOL PURCHASED EXPANDED POLYSTYRENE PRODUCTS
19 BEFORE JANUARY 1, 2022, THE RETAIL FOOD ESTABLISHMENT MAY
20 DISTRIBUTE ANY REMAINING INVENTORY OF THE EXPANDED POLYSTYRENE
21 PRODUCTS THEN PURCHASED FOR USE AS CONTAINERS FOR READY-TO-EAT
22 FOOD IN THIS STATE UNTIL THE INVENTORY IS DEPLETED. A RETAIL FOOD
23 ESTABLISHMENT LOCATED WITHIN A SCHOOL MAY DISTRIBUTE ANY
24 REMAINING INVENTORY OF THE EXPANDED POLYSTYRENE PRODUCTS THAT
25 IT PURCHASED BEFORE ITS COMPLIANCE WITH THIS SECTION IS REQUIRED
26 UNDER SUBSECTION (1)(b) OF THIS SECTION FOR A PERIOD OF THREE
27 MONTHS AFTER ITS COMPLIANCE WITH THIS SECTION IS REQUIRED.

1 **25-17-507. Enforcement - possible penalties.** (1) (a) EXCEPT AS
2 PROVIDED IN SUBSECTIONS (1)(b) AND (1)(c) OF THIS SECTION, A LOCAL
3 GOVERNMENT MAY ENFORCE A VIOLATION OF THIS PART 5 AGAINST A
4 STORE OR RETAIL FOOD ESTABLISHMENT THAT IS LOCATED WITHIN THE
5 BOUNDARIES OF THE LOCAL GOVERNMENT IN THE MANNER THAT THE
6 LOCAL GOVERNMENT CHOOSES.

7 (b) (I) A COUNTY THAT CHOOSES TO ENFORCE A VIOLATION OF THIS
8 PART 5 AGAINST A STORE OR RETAIL FOOD ESTABLISHMENT LOCATED
9 WITHIN THE UNINCORPORATED BOUNDARIES OF THE COUNTY MAY SEEK
10 INJUNCTIVE RELIEF AGAINST THE STORE OR RETAIL FOOD ESTABLISHMENT
11 OR MAY ASSESS THE FOLLOWING CIVIL PENALTIES AGAINST THE STORE OR
12 RETAIL FOOD ESTABLISHMENT:

13 (A) UP TO FIVE HUNDRED DOLLARS FOR A SECOND VIOLATION; OR

14 (B) UP TO ONE THOUSAND DOLLARS FOR A THIRD OR SUBSEQUENT
15 VIOLATION.

16 (II) A COUNTY THAT CHOOSES TO ENFORCE A VIOLATION OF THIS
17 PART 5 MAY BOTH SEEK INJUNCTIVE RELIEF AND IMPOSE A CIVIL PENALTY
18 IN ACCORDANCE WITH THIS SUBSECTION (1)(b).

19 (c) A LOCAL GOVERNMENT SHALL NOT ENFORCE A VIOLATION OF
20 THIS PART 5 AGAINST A RETAIL FOOD ESTABLISHMENT LOCATED WITHIN A
21 SCHOOL.

22 (2) FOR PURPOSES OF THIS SECTION, EACH RETAIL SALES
23 TRANSACTION IN WHICH A VIOLATION OF THIS PART 5 IS COMMITTED,
24 REGARDLESS OF WHETHER MULTIPLE VIOLATIONS OF THIS PART 5 ARE
25 COMMITTED IN ONE RETAIL SALES TRANSACTION, CONSTITUTES A SINGLE
26 VIOLATION OF THIS PART 5.

27 **25-17-508. Exemption for medical products.** NOTHING IN THIS

1 PART 5 PROHIBITS OR LIMITS THE USE OF ANY MATERIAL USED IN THE
2 PACKAGING OF A PRODUCT THAT IS REGULATED AS A DRUG, MEDICAL
3 DEVICE, OR DIETARY SUPPLEMENT BY THE FOOD AND DRUG
4 ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF HEALTH AND
5 HUMAN SERVICES UNDER THE "FEDERAL FOOD, DRUG, AND COSMETIC
6 ACT", 21 U.S.C. SEC. 321 ET SEQ., AS AMENDED, OR ANY EQUIPMENT AND
7 MATERIALS USED TO MANUFACTURE SUCH PRODUCTS.

8 **SECTION 2. Appropriation.** For the 2021-22 state fiscal year,
9 \$51,838 is appropriated to the department of corrections for use by
10 institutions. This appropriation is from the general fund. To implement
11 this act, the department may use this appropriation for operating expenses
12 related to the food service subprogram.

13 **SECTION 3. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.