

## House Finance

## HB21-1162 Management Of Plastic Products

## Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Brian Wagenaar  For  Self	<p data-bbox="565 506 1455 688">Hello, my name is Brian Wagenaar, I am a student studying environmental management at Western Colorado University in Gunnison, Colorado. I stand in support of the Plastic Pollution Reduction Act, and would like to emphasize a few of the deleterious impacts plastic pollution has on humans and animals alike.</p> <p data-bbox="565 779 1455 961">With the overabundance of plastic products, and the oftentimes improper disposal of these products, plastics have infiltrated every type of aquatic ecosystem, including our precious Colorado rivers and lakes. These plastics in many cases accumulate and reach the ocean, harming marine life and forming massive, swirling monuments to our plastic addiction.</p> <p data-bbox="565 1052 1455 1234">But plastics can harm humans too. Broken down microplastics can enter our bodies via inhalation or ingestion, acting as toxic contaminants and even changing our fundamental body chemistry. This same fate can befall wildlife too, in addition to their encounters with larger plastics that can strangle wild animals, leading to painful, slow deaths.</p> <p data-bbox="565 1325 1455 1394">And this problem is only anticipated to worsen, as we produce more plastics and our past plastics live on for hundreds of years.</p> <p data-bbox="565 1484 1455 1667">The materials in question, plastic bags and styrofoam containers, are nearly impossible to recycle, and as a student who collects and sorts recycling on my campus, I have seen both styrofoam and plastic bags contaminating our recycling stream locally. This hurts our other recycling efforts, already struggling in a difficult market.</p> <p data-bbox="565 1757 1455 1862">We must do better as a society to mitigate plastic pollution, and Colorado has the opportunity to join nine other states and many cities in banning single-use plastic bags, and four other states in banning styrofoam</p>

	<p>containers. Additionally, Colorado can restore the power of local communities to regulate their local waste streams as they see fit.</p> <p>This committee has the power to take the first step in preventing these everyday atrocities and health risks. By banning the worst, single-use plastic bags and styrofoam containers, first, we can take a huge step towards cleaning up our waterways and send a bold statement that rampant plastic pollution will not go unaddressed.</p> <p>Thank you.</p>
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Post Office Box 975  
100 Mikaela Way  
Avon, CO 81620

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March 29, 2021

RE: Support for House Bill 1162

Thank you Chairperson and members of the Committee.

My name is Sarah Smith Hymes. I am the Mayor for Avon, Colorado. I greatly appreciate the opportunity to provide comments on House Bill 1162 and I would like to start by expressing my strong support for this bill.

Avon is a Home Rule Municipality that adopted a plastic bag prohibition in May, 2018. During that adoption process we received public comments from businesses who said the customer convenience of plastic bags was *essential* and from citizens who felt we were infringing upon freedoms. We also heard considerably more comments from citizens urging Avon Town Council to adopt the plastic bag prohibition.

Avon has a City Market grocery store, a Walmart, and a variety of smaller retail stores. Based upon our discussions with our retailers, our plastic bag prohibition prevents over 4 million plastic bags a year from going to the Eagle County Land Fill. Over 4 Million plastic bags at year! We have experienced no decrease or negative impact to our businesses or their customers. We have also not seen any plastic bags in the Eagle River running through the Town of Avon since we adopted the plastic bag prohibition.

As a society, we do not need these single use plastic products. As Coloradoans, we know the right thing to do for our State is to prohibit unnecessary single-use plastics. The Town of Avon urges you to vote in favor of HB-1162.

Finally, I would like to add that Avon is a member of Colorado Communities for Climate Action, also known as CC4CA. The coalition and its 36 local government members support this bill for the same reasons I just discussed with respect to my own rural Colorado community.

Thank you for providing the opportunity to comment on HB-1162.

Sincerely,

A handwritten signature in blue ink that reads "Sarah Smith Hymes".

Sarah Smith Hymes  
Mayor, Town of Avon



Post Office Box 975  
100 Mikaela Way  
Avon, CO 81620

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Sarah Smith Hymes  
Mayor, Town of Avon

**COMMENTS OF  
PET INDUSTRY JOINT ADVISORY COUNCIL  
ON HB21-1162, A BILL CONCERNING THE MANAGEMENT OF PLASTIC  
PRODUCTS**

March 29, 2021

The Pet Industry Joint Advisory Council (PIJAC) appreciates the opportunity to offer our views and expertise on HB21-1162, a bill that would ban the distribution of single use plastic bags at point of sale.

As the advocacy voice of the responsible pet care community, PIJAC represents the interests and expertise of retailers, companion animal suppliers, manufacturers, distributors, pet owners and others involved in the many aspects of pet care throughout the state of Colorado and across the United States. Our association works to promote animal well-being and responsible pet ownership, foster environmental stewardship, and ensure the availability of healthy pets through our work at the state and federal levels—including the U.S. Department of Agriculture, U.S. Fish and Wildlife Service, and the Centers for Disease Control and Prevention. PIJAC routinely advocates on legislative and regulatory proposals to advance the public interest of protecting the environment, public health and the safety, health and availability of companion animals.

PIJAC does not take a position on the establishment of bans on the distribution of plastic bags at point of sale. There are situations, however, when a common and essential use is overlooked. Plastic bags are commonly used in pet stores for the transportation of live plants and animals such as aquarium fish and are the option that is the most ecologically friendly, cost effective, and the safest for the transported animal. Many of our members print information on [Habitatitude](#)®, a joint PIJAC/USFWS program to prevent invasive species, on the plastic bags that are used to transport aquarium plants and animals. Further, eliminating the use of plastic bags would necessitate the use of Tupperware type containers which contain more plastic and require a more involved manufacturing process, increasing greenhouse gas emissions.

Respectfully, PIJAC requests the committee amend the bill with a few minor changes to allow for the proper implementation of the exemptions set forth in HB21-1162. Specifically, we propose the following modifications to the language in *Section 25-17-503. Definitions – rules*, defining what is not a “carryout bag” to more properly reflect the practice of selling fish and other live items in a pet store. Below is our suggested change:

(IV) A BAG THAT A CUSTOMER **OR EMPLOYEE** USES INSIDE A STORE TO:  
(A) PACKAGE LOOSE OR BULK ITEMS, SUCH AS FRUITS, VEGETABLES, NUTS, GRAINS, CANDY, GREETING CARDS, SMALL HARDWARE ITEMS SUCH AS NAILS, BOLTS, OR SCREWS, **OR PET STORE ITEMS SUCH AS LIVE INSECTS, FISH, CRUSTACEANS, MOLLUSKS, OR OTHER AQUATIC ITEMS**;

The purpose of the requested amended language is grounded in the nature of the pet store business. First, pet stores sell live insects and live fish, in addition to live shrimp and live snails

all of which are currently delivered to the customer in a plastic bag due to the need to keep these items in water or to keep their dampness contained. Second, when a customer wishes to purchase these items, the store owner/employee, not the customer, retrieves the items from the bulk tank and places the item in the plastic bag. This is standard safety/hygiene practice and is in contrast to other retail environments wherein the customer would retrieve the items from the bulk bin and place the items in the bag. As currently written, HB21-1162 allows only the customer to pull out the items and place them in the plastic bags for transport to the customer's home. The suggested revision would more properly implement the exemption with regard to retail pet store operations<sup>1</sup>.

Thank you for the opportunity to comment on this proposed legislation, and we appreciate your consideration and attention to these concerns.

Sincerely,

Savonne Caughey  
Director of Government Affairs  
Pet Industry Joint Advisory Council

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<sup>1</sup> New York State included a similar exemption in its recent regulations to implement a plastic bag waste reduction law: <https://www.dec.ny.gov/chemical/117781.html>



March 25, 2021

House Finance Committee  
Colorado General Assembly

Dear Committee Members,

With regards to HB1162, we would like to recommend a few additions to the list of exemptions under the "carryout bag" definition. At least seven states<sup>i</sup> are currently considering similar legislation and the following recommendations are based on language proposed in those states.

Of most interest to us, would be adding language to accommodate aquatic plants, live fish, insects, mollusks, and crustaceans taken from retail establishments, mainly, of course, pet stores. Secondly, a lot of states are using "plastic bags sold in packages containing multiple plastic bags" to cover items like garbage bags and pet waste bags. Below is suggested language reflecting these changes.

*(B) "Carryout bag" does not include: (i) a bag made of paper when the paper has a basis weight of thirty pounds or less; (ii) a bag that a pharmacy provides to a customer purchasing prescription medication; (iii) a bag or other material that is used in the packaging of a product that is regulated as a drug, medical device, or dietary supplement by the Food and Drug Administration in the United States Department of Health and Human Services under the "Federal Food, Drug, and Cosmetic Act", 21 U.S.C. Sec. 301 et seq., as amended; (iv) a bag that a customer uses inside a store to: (a) package loose or bulk items, such as fruits, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws; (b) contain or wrap frozen foods, meat, seafood, fish, flowers, potted *or aquatic* plants, or other items that, if they were to come in contact with other items, could dampen or contaminate the other items; ~~(c) contain unwrapped prepared foods or bakery goods;~~ *or (d) to take live fish, insects, mollusks, or crustaceans away from a retail establishment;* (v) a laundry, dry cleaning, or garment bag; *(vi) plastic bags sold in packages containing multiple plastic bags.**

While it is outside our purview, the only other suggestion, again based on what we see in other states, would be language to cover ice and newspapers.

Thank you very much and we appreciate the committee's work on this issue.

Respectfully,

Scott Young

Director, Legislative and Regulatory Affairs

(202) 744-5190

[scott@animalpolicygroup.com](mailto:scott@animalpolicygroup.com)

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<sup>i</sup> GA SB104; HI SB249; KY HB260/SB58; MD HB314/SB223; NJ S864; NY A0185/S3230; RI H5358/S0037

March 29, 2021

Rep. Shannon Bird, Chair  
Rep. Marc Snyder, Vice Chair  
House Finance Committee  
Colorado General Assembly  
200 E Colfax Avenue  
Denver, CO 80203

RE: Opposition to HB21-1162

Chair Bird, Vice Chair Snyder, and members of the committee:

On behalf of the American Recyclable Plastic Bag Alliance (ARPBA), which represents America's plastic bag manufacturers and recyclers, I write to highlight concerns regarding HB21-1162 – legislation that would ban certain kinds of plastic bags statewide, create costly burdens for small businesses and consumers, and move American manufacturing jobs overseas—primarily due to its definition of a “reusable bag.”

While this bill is framed as a “plastic bag ban,” it does not ban plastic bags. Most reusable bags with stitched handles, like the ones available for \$1-2 at most checkout counters, are made from plastic like woven and nonwoven polypropylene, nylon, or polyester.

This bill's mandate that reusable bags have “stitched handles” limits flexibility for small businesses and forces consumers to use bags almost entirely made in Southeast Asia by companies based in some of the world's worst-polluting countries. Bags with “stitched handles” – such as cotton/canvas bags or the \$1-2 totes you can buy at the grocery store checkout – are almost always made overseas due to the decades-long offshoring of the U.S. textile industry.

Further, reusable plastic bags with stitched handles are not recyclable in the United States, both due to the plastic they are made from and the stitching mandated by this bill. As a result, consumers often dispose of these “preferred” reusable bags when they become soiled or otherwise contaminated, often well before they have been reused enough times to offset their environmental impact.

Lifecycle assessments have found that compared to a traditional, thin-gauge plastic retail bag, reusable bags with stitched handles require more reuses to offset the increased environmental effects associated with their production and transport. For example, [Recyc-Québec](#) (the recycling authority of Quebec) released a study in December 2017, which found that the overall lifecycle of the traditional, thin-gauge plastic retail bag—from its production to the end of its life—has far less environmental impact compared with other bags.

Unlike bags with stitched handles, plastic film bags of any thickness are 100% recyclable through the store takeback programs that ARPBA members pioneered. In Colorado, these bags can be recycled at many King Soopers, Safeway, Walmart, and Target stores. However, HB 1162, as drafted, would prohibit these U.S. manufacturers from providing their 100% recyclable, certified-reusable bags to retailers and small businesses.

Further complicating matters is the elimination of Colorado's uniformity statute which was designed to ensure there would be a single standard in the state. If the intent of this bill is to establish a carryout bag policy across Colorado, it makes little sense to grant municipalities the authority to establish a competing patchwork of local regulations on bags that burden small businesses.

Given the [well-documented nationwide shortage of both paper bags and reusable bags](#), there is a risk that a plastic bag ban in Colorado would exacerbate rising operating costs for restaurants, retail stores, and grocery stores at a time when many businesses – both large and small – are struggling to stay afloat. Further, implementing this costly

mandate on small businesses and consumers could represent a hurdle to a strong economic recovery as we emerge from the pandemic, given that the bag shortage is anticipated to [last for several years](#).

For many consumers who rely on public transit, work multiple jobs, or otherwise face challenges when it comes to bringing bags with them, HB 1162 would create significant new costs at checkout. Whether it's a \$10 cotton or canvas bag or a \$1-2 reusable plastic tote bag, like the kind commonly available at most large grocery and retail stores, these costs can add up quickly in the absence of affordable options for businesses and consumers.

Together, these nationwide bag shortages and the unintended consequences they can create for small businesses and consumers have led several other jurisdictions, including Maine, Washington, Oregon, and the cities of Baltimore and Philadelphia, to delay or suspend enforcement of their respective bans.

Importantly, ARPBA shares a commitment to improve sustainability in Colorado. For our members, sustainability is at the forefront of everything we do, which is a key reason our members are pioneers in the plastic film recycling field and committed to meeting standards for recycled content in their products.

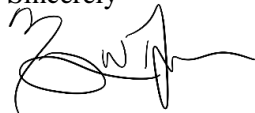
Mandating stitched handles does not necessarily make a bag more durable. California established the first statewide definition for a reusable plastic bag based on scientific testing: 2.25 mils in thickness and capable of 125 or more uses carrying 22 or more pounds over a distance of at least 175 feet. Reusable plastic film bags are allowed under statewide bag bans all over the country, including in California, Washington, Oregon, Maine, Delaware, and Connecticut.

Even as plastic bag bans have become more common in recent years, there is a lot of data out there that says it's not the right way to go. While many suggest that plastic retail bags are filling up landfills and the environment, this simply isn't true. [U.S. Environmental Protection Agency data](#) shows that all plastic "bags and sacks" combined make up 0.3% of the nation's municipal solid waste—plastic retail bags account for a tiny fraction of that amount. Additionally, two recent statewide litter studies, done in [New Jersey](#) and [Pennsylvania](#), found that branded plastic retail bags make up very small percentages of litter in each state: 0.8% and 0.7%, respectively.

Make no mistake: plastic bags do not belong in the environment and should always be disposed of properly, either through reuse or recycling at supermarket drop-off bins. However, blanket bans like HB 1162 miss the mark on sustainability by forcing consumers to use products that cannot be recycled and have greater environmental impacts. We respectfully urge this committee to reject the bill.

ARPBA and its members stand ready to work with you on solutions that protect the state's unique environment, increase recycling, and decrease litter and waste without placing burdens on residents and small businesses that undermine U.S. manufacturing. Thank you for your time and consideration.

Sincerely



Zachary Taylor  
Director

American Recyclable Plastic Bag Alliance

CC: Rep. Adrienne Benavidez  
Rep. Mary Bradfield  
Rep. Lindsey Daugherty  
Rep. Serena Gonzales-Gutierrez  
Rep. Matt Gray

Rep. Cathy Kipp  
Rep. Stephanie Luck  
Rep. Janice Rich  
Rep. Shane Sandridge

March 29, 2021

Chairwoman Shannon Bird  
200 E Colfax  
RM 307  
Denver, CO 80203

### **Comments on HB21-1162– Management of Plastic Products**

Chairwoman Bird and Members of the Committee:

Thank you for the opportunity to share our perspective from the Plastics Industry Association on HB21-1162. This legislation will increase costs for Coloradans and reduce the flexibility of Colorado businesses and consumers to select what materials and packaging work best for them. We respectfully ask that you vote NO on HB21-1162.

This order will increase costs for Colorado families, by forcing businesses to switch to more expensive alternatives like paper or compostables. To give an example, coated paper products, think of a paper plate you would use at a picnic, are typically 89% more expensive than plastic alternatives such as foam. This means for \$1 currently spent on foam, residents will have to spend \$1.89 for the same item in paper. Plastics are the most economical option because they are the most efficient material to produce. Alternatives can double costs for families, schools, and small businesses. This has been shown in study after study.

As an example of what an impact this could have on public entities, including schools, a recent study from the Independent Fiscal Office in Pennsylvania noted the price differentials for alternatives of products purchased by the state. Traditional clamshells used for quick takeaway food would increase from 6.9 cents to 20.1 cents (193%), trays 4.4 cents to 12.7 cents (185%), plates from 2 cents to 5.3 cents (161%), and bowls from 1.2 cents to 2.4 cents (100%).

Expanded polystyrene has proven to be an effective material to deliver food and maintain its integrity and quality during transport. Since the beginning of the pandemic, this material has been even more important to maintain increased sanitary conditions between food preparation and consumers. Furthermore, expanded polystyrene food packaging is necessary with an increased demand for delivery while indoor dining is restricted. The option for food delivery and takeout has allowed many businesses to remain operational and provide some sort of livelihood for these owners and employees.

Plastic bags are 100 percent recyclable, and over 90 percent of Americans reuse their plastic bags. These bags generate 80 percent less waste than paper bags and consume less than four percent of the water needed to make paper bags. Compared to paper bags, plastic bags generate only 50 percent of the greenhouse gas emissions. Additionally, they are easily recyclable at grocery stores.

Right now, is not the time to inconvenience consumers and burden businesses while the economy is in a fragile state and these products are providing impactful and cost-effective solutions.

Please reach out to us if you have any questions.

Best,



Shannon Crawford  
Director, State Government Affairs  
Plastics Industry Association

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0395.01 Jennifer Berman x3286

HOUSE BILL 21-1162

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A BILL FOR AN ACT

101 **CONCERNING THE MANAGEMENT OF PLASTIC PRODUCTS.**

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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 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.

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.

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.

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

2           **SECTION 1.** In Colorado Revised Statutes, **repeal** 25-17-104 as  
3 follows:

4           **25-17-104. Local government preemption.** ~~No unit of local~~



1 OF A PRODUCT THAT IS REGULATED AS A DRUG, MEDICAL DEVICE, OR  
2 DIETARY SUPPLEMENT BY THE FOOD AND DRUG ADMINISTRATION IN THE  
3 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER  
4 THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT", 21 U.S.C. SEC. 301 ET  
5 SEQ., AS AMENDED;

6 (IV) A BAG THAT A CUSTOMER OR EMPLOYEE USES INSIDE A STORE TO:

7 (A) PACKAGE LOOSE OR BULK ITEMS, SUCH AS FRUITS,  
8 VEGETABLES, NUTS, GRAINS, CANDY, GREETING CARDS, SMALL

9 HARDWARE ITEMS SUCH AS NAILS, BOLTS, OR SCREWS, OR PET STORE ITEMS  
SUCH AS LIVE INSECTS, FISH, CRUSTACEANS, MOLLUSKS, OR OTHER AQUATIC  
ITEMS;

10 (B) CONTAIN OR WRAP FROZEN FOODS, MEAT, SEAFOOD, FISH,  
11 FLOWERS, POTTED PLANTS, OR OTHER ITEMS THAT, IF THEY WERE TO COME  
12 IN CONTACT WITH OTHER ITEMS, COULD DAMPEN OR CONTAMINATE THE  
13 OTHER ITEMS; OR

14 (C) CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY GOODS;  
15 OR

16 (V) A LAUNDRY, DRY CLEANING, OR GARMENT BAG.

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

21 (3) "EXPANDED POLYSTYRENE" MEANS BLOWN POLYSTYRENE,  
22 COMMONLY KNOWN AS STYROFOAM™, AND ANY OTHER EXPANDED OR  
23 EXTRUDED FOAM CONSISTING OF THERMOPLASTIC PETROCHEMICAL  
24 MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY  
25 TECHNIQUES THAT MAY INCLUDE:

26 (a) FOR EXPANDABLE BEAD POLYSTYRENE, FUSION OF POLYMER  
27 SPHERES;

- 1 (b) INJECTION MOLDING;
- 2 (c) FOAM MOLDING; AND
- 3 (d) FOR EXTRUDED FOAM POLYSTYRENE, EXTRUSION BLOW
- 4 MOLDING.

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

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

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

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

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

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

24 (a) RECYCLED MATERIAL; OR

25 (b) OTHER POST-CONSUMER CONTENT.

26 (9) (a) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET  
27 FORTH IN SECTION 25-4-1602 (14) EXCEPT AS PROVIDED IN SUBSECTION

1 (9)(b) OF THIS SECTION.

2 (b) "RETAIL FOOD ESTABLISHMENT" INCLUDES A FARMERS'  
3 MARKET, ROADSIDE MARKET OR STAND, FESTIVAL, OR OTHER TEMPORARY  
4 FOOD VENDOR OR EVENT THAT INCLUDES TEMPORARY FOOD VENDORS.

5 (10) (a) "REUSABLE CARRYOUT BAG" MEANS A CARRYOUT BAG  
6 THAT IS DESIGNED AND MANUFACTURED FOR AT LEAST ONE HUNDRED  
7 TWENTY-FIVE USES, CAN CARRY AT LEAST TWENTY-TWO POUNDS OVER A  
8 DISTANCE OF ONE HUNDRED SEVENTY-FIVE FEET, HAS STITCHED HANDLES,  
9 AND IS MADE OF CLOTH, FIBER, OR OTHER FABRIC OR A RECYCLED  
10 MATERIAL SUCH AS POLYETHYLENE TEREPHTHALATE (PET).

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

16 (11) "RURAL SCHOOL" HAS THE MEANING SET FORTH IN SECTION  
17 23-3.9-101 (5).

18 (12) "SCHOOL" HAS THE MEANING SET FORTH IN SECTION  
19 23-3.9-101 (6).

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

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

27 (14) (a) "STORE" MEANS A GROCERY STORE, SUPERMARKET,

1 CONVENIENCE STORE, LIQUOR STORE, DRY CLEANER, PHARMACY, DRUG  
2 STORE, CLOTHING STORE, OR OTHER TYPE OF RETAIL ESTABLISHMENT AT  
3 WHICH CARRYOUT BAGS ARE TRADITIONALLY PROVIDED TO CUSTOMERS.

4 (b) "STORE" INCLUDES A FARMERS' MARKET, ROADSIDE MARKET  
5 OR STAND, FESTIVAL, OR OTHER TEMPORARY VENDOR OR EVENT THAT  
6 INCLUDES TEMPORARY VENDORS.

7 **25-17-504. Restrictions on use of single-use plastic carryout**  
8 **bag - inventory exception - repeal.** (1) SUBJECT TO SECTION 25-17-505  
9 (1), ON AND AFTER SEPTEMBER 1, 2022, A STORE OR RETAIL FOOD  
10 ESTABLISHMENT SHALL NOT PROVIDE A SINGLE-USE PLASTIC CARRYOUT  
11 BAG TO A CUSTOMER.

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

18 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1, 19  
2023.

20 **25-17-505. Carryout bag fee - disposition of money - repeal.**

21 (1) (a) ON AND AFTER SEPTEMBER 1, 2021, AND BEFORE SEPTEMBER 1,  
22 2022, A STORE MAY PROVIDE A CUSTOMER WITH ONE OR MORE RECYCLED  
23 PAPER CARRYOUT BAGS OR SINGLE-USE PLASTIC CARRYOUT BAGS AT THE  
24 POINT OF SALE ONLY IF THE CUSTOMER PAYS A CARRYOUT BAG FEE OF TEN  
25 CENTS PER RECYCLED PAPER CARRYOUT BAG OR SINGLE-USE PLASTIC  
26 CARRYOUT BAG, OR A HIGHER FEE IF A MUNICIPALITY OR COUNTY IN  
27 WHICH THE STORE IS LOCATED RAISES THE FEE AMOUNT BY ORDINANCE OR

1 RESOLUTION. FOR EACH CARRYOUT BAG FEE COLLECTED PURSUANT TO  
2 THIS SUBSECTION (1)(a), THE STORE SHALL:

3 (I) REMIT, IN ACCORDANCE WITH SUBSECTION (3)(d) OF THIS  
4 SECTION, SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH THE STORE  
5 IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO  
6 THE COUNTY WITHIN WHICH THE STORE IS LOCATED, WHICH MUNICIPALITY  
7 OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

8 (A) ITS ADMINISTRATIVE AND ENFORCEMENT COSTS INCURRED AS  
9 A RESULT OF THIS SECTION; AND

10 (B) FOR ANY RECYCLING, COMPOSTING, OR OTHER WASTE  
11 DIVERSION PROGRAMS AND RELATED OUTREACH AND EDUCATION  
12 ACTIVITIES; AND

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

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

19 (c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE SEPTEMBER 1, 20  
20 2022.

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

1 (I) REMIT, IN ACCORDANCE WITH SUBSECTION (3)(d) OF THIS  
2 SECTION, SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH THE STORE  
3 IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO  
4 THE COUNTY WITHIN WHICH THE STORE IS LOCATED, WHICH MUNICIPALITY  
5 OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

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

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

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

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

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

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

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

1           (a) FOR EACH CUSTOMER PROVIDED A CARRYOUT BAG FOR A FEE,  
2 PROVIDE ON THE CUSTOMER'S TRANSACTION RECEIPT A RECORD OF THE  
3 NUMBER OF CARRYOUT BAGS PROVIDED AS PART OF THE TRANSACTION  
4 AND THE TOTAL AMOUNT OF FEES CHARGED FOR THE CARRYOUT BAGS  
5 PROVIDED, ITEMIZED BY TYPE OF CARRYOUT BAG;

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

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

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

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

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

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

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

4 (B) THIS SUBSECTION (3)(d)(III) IS REPEALED, EFFECTIVE JULY 1, 5  
2022.

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

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

16 (I) JANUARY 1, 2023, IF THE SCHOOL IS A MIDDLE OR JUNIOR HIGH  
17 SCHOOL, A RURAL ELEMENTARY SCHOOL, OR A KINDERGARTEN THROUGH  
18 TWELFTH GRADE SCHOOL; OR

19 (II) JANUARY 1, 2024, IF THE SCHOOL IS A HIGH SCHOOL.

20 (2) IF A RETAIL FOOD ESTABLISHMENT PURCHASED EXPANDED  
21 POLYSTYRENE PRODUCTS BEFORE JANUARY 1, 2022, THE RETAIL FOOD  
22 ESTABLISHMENT MAY DISTRIBUTE ANY REMAINING INVENTORY OF THE  
23 EXPANDED POLYSTYRENE PRODUCTS THEN PURCHASED FOR USE AS  
24 CONTAINERS FOR READY-TO-EAT FOOD IN THIS STATE UNTIL THE  
25 INVENTORY IS DEPLETED.

26 **25-17-507. Enforcement - possible penalties.** (1) (a) EXCEPT AS  
27 PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, A LOCAL GOVERNMENT

1 MAY ENFORCE A VIOLATION OF THIS PART 5 AGAINST A STORE OR RETAIL  
2 FOOD ESTABLISHMENT THAT IS LOCATED WITHIN THE BOUNDARIES OF THE  
3 LOCAL GOVERNMENT IN THE MANNER THAT THE LOCAL GOVERNMENT  
4 CHOOSES.

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

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

12 (B) UP TO ONE THOUSAND DOLLARS FOR A THIRD OR SUBSEQUENT  
13 VIOLATION.

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

17 (2) FOR PURPOSES OF THIS SECTION, EACH RETAIL SALES  
18 TRANSACTION IN WHICH A VIOLATION OF THIS PART 5 IS COMMITTED,  
19 REGARDLESS OF WHETHER MULTIPLE VIOLATIONS OF THIS PART 5 ARE  
20 COMMITTED IN ONE RETAIL SALES TRANSACTION, CONSTITUTES A SINGLE  
21 VIOLATION OF THIS PART 5.

22 **25-17-508. Local government regulation - preemption.** ON AND  
23 AFTER JULY 1, 2023, A LOCAL GOVERNMENT MAY ENACT, IMPLEMENT, OR  
24 ENFORCE ANY ORDINANCE, RESOLUTION, RULE, OR CHARTER PROVISION  
25 THAT IS AS STRINGENT AS OR MORE STRINGENT THAN THIS PART 5.

26 **SECTION 3. Effective date.** This act takes effect upon passage;  
27 except that section 1 of this act takes effect July 1, 2023.

1           **SECTION 4. Safety clause.** The general assembly hereby finds,  
2 determines, and declares that this act is necessary for the immediate  
3 preservation of the public peace, health, or safety.



# American Forest & Paper Association

March 29, 2021

Representative Leslie Herod, Chair  
Representative Shannon Bird, Vice Chair  
House Committee on Finance  
Colorado General Assembly

## **RE: Letter to Oppose HB21-1162 – Management of Plastic Products**

Dear Chair Herod, Vice Chair Bird, and Members of the House Committee on Finance:

On behalf of the American Forest & Paper Association<sup>i</sup> (AF&PA), we appreciate the opportunity to share our perspective on legislation under consideration by the Committee on Energy and Environment: House Bill 21-1162 (HB21-1162) which would repeal a state-wide prohibition from local governments requiring or banning the use or sale of specific types of plastic materials or products and further, would impose a tax of no less than 10 cents per bag on all recyclable paper shopping bags beginning on September 1, 2022.

We believe that paper bags should be excluded from measures to ban or tax retail bags on grounds that they wrongfully penalize an environmentally friendly product that is highly recycled, recyclable, compostable and reusable. Paper and paper-based packaging, such as carryout bags, are commonly made with recycled content and serve as a sustainable bag option for Colorado consumers. Responding to consumer demands, many retailers have already voluntarily transitioned to paper. Consumers need a safe packaging option to protect their essential purchases from damage and contamination. Paper bags are a clean, hygienic and convenient choice to meet those needs while also being recyclable, reusable, and compostable.

Government imposed product taxes increase costs for consumers and can create distortions in the free flow of recoverable materials for reuse in new products. Taxes and fees burden hard-working citizens, increasing the cost of necessities and disproportionately impact those who are low-income. These consumers cannot afford to pay an additional tax on bags and need a packaging option to protect their food purchases from damage and contamination.

Moreover, Colorado currently has 96 home rule municipalities. HB21-1162 would allow all 96 to pass their own mandatory fees on paper bags. Overregulation at the hyper-local level is complicated and costly for businesses. Successful waste diversion hinges on consumer

understanding and the ease of compliance. Inconsistent laws and practices will create confusion not only for businesses, but also for their consumers as they cross city lines into other Colorado communities.

Paper recovery is an environmental success story, saving an average of 3.3 cubic yards of landfill space for each ton of paper recycled. Paper recovery has fostered a dynamic marketplace that allows recovered fiber to find its highest value end-use in manufacturing new products. That, in turn, helps to encourage more recycling.

Our industry achieves a consistently high recovery rate. Every year since 2009, the U.S. paper recovery for recycling rate has met or exceeded 63 percent. And in 2019, 66.2 percent of all paper consumed in the U.S. was recovered for recycling. Paper is the most recycled material in the U.S. today. According to the Environmental Protection Agency, more paper (by weight) is recovered for recycling from municipal solid waste streams than glass, plastic, and aluminum combined.

We encourage the state of Colorado to avoid measures that penalize paper and we stand ready to assist and offer our expertise as a resource as you continue the dialogue on this important issue. Please feel free to contact Erin Hall, Manager of Government Affairs for AF&PA at 360.888.5532 or [erin\\_hall@afandpa.org](mailto:erin_hall@afandpa.org) for further information.

Sincerely,

Elizabeth Bartheld  
Vice President, Government and Industry Affairs  
American Forest & Paper Association

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<sup>1</sup> The American Forest & Paper Association (AF&PA) serves to advance a sustainable U.S. pulp, paper, packaging, tissue and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative — Better Practices, Better Planet 2020.

In Colorado, the forest products industry employs over 6,000 individuals, with an annual payroll of more than \$280 million.