

**LD 1532****An Act To Eliminate Single-use Plastic Carry-out Bags**

House draft: April 19, 2019

Bill page: <http://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280073133>  
Bill text: [http://www.mainelegislature.org/legis/bills/bills\\_129th/billtexts/HP111501.asp](http://www.mainelegislature.org/legis/bills/bills_129th/billtexts/HP111501.asp)

*[bracketed italicized numbers refer to external-law-reference footnotes on last page]*

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 38 MRSA §1605, first ¶**, as repealed and replaced by PL 1991, c. 475, §1, *[1]* is amended to read:

As provided in section 1611, a retailer may use plastic bags to bag products other than at the point of ~~retail~~-sale only if the retailer:

**Sec. 2. 38 MRSA §1611** is enacted to read:

*[since all this text is new, the underlining in the original has been removed for readability]*

**§1611. Plastic bag reduction**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Plastic" means an organic or petroleum derivative synthetic or a semisynthetic organic solid that is moldable, and to which additives or other substances may have been added. "Plastic" does not include natural polymers that have not been chemically modified.
- B. "Point of sale" means a check-out stand, cash register or other point of departure from a retail establishment.
- C. "Post-consumer recycled material" means a recycled material that if not recycled would otherwise have been destined for solid waste disposal, having completed its intended end use and product life cycle. "Post-consumer recycled material" does not include materials and by-products generated from, and commonly reused in, an original manufacturing and fabrication process.
- D. "Recycled paper bag" means a paper bag that:
  - (1) Is 100% recyclable; and
  - (2) Contains at least 20% post-consumer recycled material if it has a capacity to hold at least 8 pounds,
- E. "Restaurant" means an establishment that sells prepared food directly to the consumer.
- F. "Retail establishment" means a store, a restaurant or a temporary business.
- G. "Reusable bag" means a bag with handles that:

- (1) Is designed and manufactured to withstand 75 repeated uses;
  - (2) Is machine washable or made from a material that can be cleaned and disinfected regularly;
  - (3) If made from plastic is at least 4 mils thick; and
  - (4) Has the capability of carrying a minimum of 18 pounds.
- H. "Single-use carry-out bag" means a bag that is made of plastic, paper or other material provided by a retail establishment at the point of sale for the purpose of transporting merchandise away from the retail establishment and that is not a recycled paper bag or a reusable bag.
- I. "Store" means a retail store that engages in the retail sale of merchandise, including food, goods, products and clothing. "Store" includes grocery stores primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish and poultry and convenience stores engaged in the sale of a limited line of goods, including milk, bread, soda and snack foods, and prepared foods intended to be consumed off the premises.
- J. "Temporary business" means a seasonal or nonpermanent retail establishment such as a farmers' market or fair that sells merchandise including food, goods, products or clothing.

**2. Prohibition; exemptions.** This subsection governs the use of single-use carry-out bags.

- A. Except as otherwise provided in this subsection, beginning April 22, 2020, a retail establishment may not provide a single-use carry-out bag to a customer at the point of sale or otherwise make single-use carry-out bags available to customers.
- B. The prohibition in paragraph A does not apply to:
- (1) Bags provided by a pharmacy to a customer for transporting a prescription medication away from the store;
  - (2) Bags without handles used to protect items from being damaged or from damaging or contaminating other purchased items placed in a recycled paper bag or a reusable bag;
  - (3) Bags used by customers inside a retail establishment to package loose items, such as fruits, vegetables, nuts, coffee, grains, bakery goods, candy, greeting cards or small hardware items; to contain or wrap frozen foods, meats or fish; or to contain or wrap flowers or potted plants;
  - (4) Laundry, dry cleaning or garment bags, including bags provided by a hotel to guests to contain wet or dirty clothing or bags provided to protect large garments like suits, jackets or dresses;
  - (5) Newspaper bags;
  - (6) Bags sold in packages containing multiple bags intended to contain garbage, pet waste or yard waste;
  - (7) Bags used to contain live animals, such as fish or insects sold in pet stores;

- (8) Bags used for vehicle tires;
- (9) Bags used to transport chemical pesticides, drain cleaning chemicals or other caustic chemicals sold at a retail establishment;
- (10) Bags used by a hunger relief organization such as a food pantry or soup kitchen to distribute food directly to the consumer at no charge;
- (11) Bags that customers bring to the retail establishment for their own use or for carrying away from the retail establishment goods that are not placed in a bag provided by the retail establishment.

**3. Recycled paper bag fees; exemptions.** This subsection governs fees assessed on recycled paper bags.

A. Beginning April 22, 2020 a retail establishment may use a recycled paper bag to bag products at the point of sale as long as the retail establishment charges a fee of at least 5¢ per bag.

- (1) All amounts collected pursuant to this paragraph are retained by the retail establishment and may be used for any lawful purpose.
- (2) A retail establishment may not rebate or otherwise reimburse a customer any portion of the fee charged pursuant to this paragraph;
- (3) A retail establishment that sells a recycled paper bag to bag products at the point of sale may not charge for the bag if a customer uses an electronic benefits transfer card or a payment card or voucher issued by the State for the federal supplemental nutrition program under Title 22, section 3104 or the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966 to pay for the customer's products.

B. The requirement to charge a fee under paragraph A does not apply to:

- (1) Stores at which less than 2% of retail sales are attributed to the sale of food and that have less than 10,000 square feet of retail area;
- (2) Restaurants; or
- (3) Hunger relief organizations engaged in distributing food directly to consumers at no charge.

A retail establishment exempt from charging a fee under this paragraph may charge a fee for a recycled paper bag.

**4. Violations.** A retail establishment that is not in compliance with this section is subject to civil penalties under section 349. [2]

**5. Preemption.** To ensure maximum effectiveness through uniform statewide application, the State intends to occupy the whole field of regulation of single-use carry-out bags at retail establishments.

## Summary

This bill prohibits a retail establishment from using single-use carry-out bags to bag products at the point of sale or otherwise make single-use carry-out bags available to customers, with exemptions for certain types and uses of plastic and paper bags. Retail establishments may provide recyclable paper bags to bag products at the point of sale for at least 5¢ per bag, with exceptions to the fee requirement for certain types of retail establishments. The prohibition is effective April 22, 2020.

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### References to existing law

[1]

Title 38: WATERS AND NAVIGATION

Chapter 16: SALE OF CONSUMER PRODUCTS AFFECTING THE ENVIRONMENT

<http://www.mainelegislature.org/legis/statutes/38/title38sec1605.html>

#### **§1605. Plastic bags; recycling**

A retailer may use plastic bags to bag products at the point of retail sale only if the retailer:  
[1991, c. 475, §1 (RPR).]

**1. Location.** Locates inside the store or within 20 feet of the main entrance to the store a receptacle for collecting any used plastic bags; and  
[ 1991, c. 475, §1 (NEW) .]

**2. Recycles.** Ensures that the plastic bags collected are recycled or delivered to a person engaged in recycling plastics.  
[ 1991, c. 475, §1 (NEW) .]

[2]

Title 38: WATERS AND NAVIGATION

Chapter 2: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subchapter 1: ORGANIZATION AND POWERS

<http://www.mainelegislature.org/legis/statutes/38/title38sec349.html>

#### **§349. Penalties**

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**2. Civil penalties.** Except as otherwise specifically provided, a person who violates a law administered by the department, including, without limitation, a violation of the terms or conditions of an order, rule, license, permit, approval or decision of the board or commissioner, or who disposes of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose, in violation of Title 17, section 2264-A, is subject to a civil penalty, payable to the State, of not less than \$100 and not more than \$10,000 for each day of that violation or, if the violation relates to hazardous waste, of not more than \$25,000 for each day of the violation. This penalty is recoverable in a civil action.  
[ RR 2009, c. 2, §116 (COR) .]