

Model Single-Use Plastic Reduction Act.

Purpose and Use of this Model Law

We have a single-use plastic problem. There isn't a place on earth that is untouched by plastic. This isn't surprising given that we produce over [400 million tons](#) of plastic waste each year. Much of this waste comes from single-use plastic items. These are items that we only use for a moment but will leave a legacy of pollution for generations to come.

What's more most of these items like bags, straws, and takeout containers aren't recyclable. That means that at best, these items are going to be buried in a landfill, burned in an incinerator, or scattered throughout the environment. But it doesn't need to be this way. Many single-use items aren't necessary because we have reusable alternatives.

The truth is we will never truly solve the plastic pollution crisis unless we address plastic production. One way we do that is by phasing out needless single-use plastic items like bags, straws, and takeout containers. By banning these items, we can lower demand for plastic, limit plastic pollution, and help create a culture of reuse.

This model legislation is a comprehensive single-use plastic reduction policy that can be adopted at the local, county, or state level. The model legislation does the following:

- (1) Bans Single-Use Plastic Bags. The legislation bans stores and restaurants from providing single-use plastic takeout bags to customers. Instead, customers can either bring their own reusable bags, or pay for a single-use paper bag.
- (2) Places A Fee on Single-Use Paper Bags. Under the bill, stores and restaurants can still give out single-use paper bags. However, they must charge at least \$0.10 for each bag. This fee is designed to encourage shoppers to bring their own reusable bag instead of using a single-use one. While paper is significantly more environmentally friendly than plastic, reusable bags are by far the best option.

- (3) Prohibits Stores Switching to Thicker Single-Use Plastic Bags. Not all single-use plastic bag bans are created equally. Some bans have glaring loopholes which stores have taken advantage of. You see, those laws had weak definitions for “single-use plastic bags” and “reusable bags.” Most of them set a thickness requirement for determining the difference between the two. This led to some stores switching to [thicker single-use plastic bags](#) and calling them reusable even though no one would ever reuse them. This model legislation has strong definitions that make sure all single-use plastic bags are banned.
- (4) Bans Polystyrene Foam Food Products. The model legislation also bans polystyrene foam food products like cups, plates, egg cartons, and takeout containers. This means that restaurants and other food service businesses won't be able to provide these products and instead will have to use more environmentally friendly alternatives. This is important because not only are polystyrene foam items [not recyclable](#), but most of them contain harmful toxic chemicals that can [leach into our food and drinks](#).
- (5) Creates a Straw-by-Request Policy. Under the bill restaurants and food service businesses won't be able to provide customers with single-use plastic straws unless the customer specifically requests one. This policy will drastically reduce the amount of needless single-use plastic straws while also leaving some [needed flexibility](#) for folks who still need straws.
- (6) Emphasizes Education and Outreach. To make sure the transition away from these single-use plastic items is as seamless and possible, the model legislation places an emphasis on education and outreach. The agency responsible for implementing the law will have to create an education and outreach program that helps businesses comply with the requirements of the law and helps educate consumers about the environmental harm associated with single-use plastics and the availability of more environmentally friendly alternatives.

Section 1: Definitions

- (a) "Carryout bag" means a bag that is provided by a store or food service business to a customer for the purpose of transporting groceries, prepared foods, or retail goods. "Carryout bag" shall not include:
- (1) a paper bag provided by a pharmacy to a customer purchasing a prescription medication;
 - (2) a non-handled bag used to protect items from damaging or contaminating other purchased items placed in a recycled paper bag or a reusable grocery bag;
 - (3) a bag used solely to contain live animals, such as fish or insects sold in a pet store or bait shop;
 - (4) a newspaper bag;
 - (5) a bag provided to contain an unwrapped food item; or
 - (6) a non-handled bag that is designed to be placed over articles of clothing on a hanger.
- (b) "Food service business" means a business that sells or provides food for consumption on or off the premises, and includes, but is not limited to, any restaurant, café, delicatessen, coffee shop, convenience store, grocery store, vending truck or cart, food truck, movie theater, or business or institutional cafeteria, including those operated by or on behalf of any governmental entity.
- (c) "Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or governmental entity.
- (d) "Plastic" means a synthetic material made from linking monomers through a chemical reaction to create an organic polymer chain that can be molded or extruded at high heat into various solid forms retaining their defined shapes during the life cycle and after disposal.
- (e) "Polystyrene foam" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

- (f) "Polystyrene foam food service product" means a product made, in whole or in part, of polystyrene foam that is used for selling or providing a food or beverage, and includes, but is not limited to, a food container, plate, hot or cold beverage cup, meat or vegetable tray, cutlery, or egg carton.
- (g) "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.
- (h) "Single-use paper bag" means a paper bag that is (i) 100 per cent recyclable; (ii) contains a minimum of 40 per cent postconsumer recycled materials, provided, however, that an 8 pound or smaller recycled paper bag shall contain a minimum of 20 per cent postconsumer recycled material; and (iii) displays the words "Recyclable" and "made from 40% post-consumer recycled content" or other applicable amount in a visible manner on the outside of the bag.
- (i) "Single-use plastic carryout bag", means a carryout bag made of plastic that is not a reusable carryout bag.
- (j) "Reusable carryout bag", a sewn bag with stitched handles that is (i) specifically designed and manufactured for at least 175 uses; (ii) can carry 25 pounds over a distance of 300 feet; and (iii) is made of cloth or other machine-washable fabric other than polyethylene or polyvinyl chloride.
- (k) "Retail establishment", a store or premises in which a person is engaged in the retail business of selling or providing merchandise, goods, groceries, prepared take-out food and beverages for consumption off-premises or the servicing of an item, directly to customers at such store or premises, including, but not limited to, grocery stores, department stores, pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including farmers markets and public markets;

A “retail establishment” shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable roadside stand used by a person from which to engage in such business directly with customers and business establishments without a storefront, including, but not limited to, a business delivering prepared foods or other food items, web-based or catalog business or delivery services used by a retail establishment; provided further, that a “retail establishment” shall include a non-profit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar type retail businesses, whether or not for profit when engaging in such activity.

Section 2: Single-Use Plastic Carryout Bag Ban

- (a) Beginning one year after the effective date of this act:
 - 1. No retail establishment or food service business shall provide or sell a single-use plastic carryout bag to a customer.

Section 3: Single-Use Paper Carryout Bag Requirements

- (a) Beginning one year after the effective date of this act:
 - (1) A retail establishment or food service business may only make available for purchase at the point of sale a reusable carryout bag, or a single-use paper carryout bag.
 - (2) A retail establishment or food service business may make available for purchase a reusable carryout bag, for a charge of not less than \$0.10.
 - (3) A retail establishment or food service business may make available for purchase a single-use paper carryout bag, for a charge of not less than \$0.10.
- (b) All moneys collected pursuant to this section shall be retained by the retail establishment or food service business.

Section 4: Polystyrene Foam Food Service Products

- (a) Beginning eighteen months after the effective date of this act:
 - (1) No person shall sell or offer for sale in the State any polystyrene foam food service products.
 - (2) No food service business shall provide or sell any food in a polystyrene foam food service product.
- (b) The following products shall be exempt from the provisions of subsection (a) of this section for a period of two years beginning 18 months after the effective date of this act:

- (1) Meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance; and
 - (2) Any food produce pre-packaged by the manufacturer with a polystyrene foam food service product.
 - (c) The Department may, upon written application by a person or food service business, waive the provisions of subsection (a) of this section for the person or food service business for a period not to exceed one year, if:
 - (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or
 - (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product.
- The department shall prescribe the form and manner of the application for a waiver pursuant to this subsection. The department may, upon written application, extend any waiver granted pursuant to this subsection for additional periods not to exceed one year.

Section 5: Single-Use Plastic Straw Upon Request

- (a) Beginning one year after the effective date of this act a food service business shall only provide a single-use plastic straw to a customer upon the request of the customer.
- (b) Nothing in this section shall be construed to prohibit a retail establishment from selling packages of single-use plastic straws to a customer, or from providing or selling a beverage pre-packaged by the manufacturer with a single-use plastic straw, including, but not limited to, a juice box.

Section 6: Rulemaking

- (a) The department shall adopt any rules and regulations as necessary to effectuate the provisions of this act.

Section 7: Violations

- (a) Any person or entity that violates a provision of this act or any rule or regulation adopted pursuant thereto, shall be subject to a warning for a first offense, up to \$1,000 for a second offense, and up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense.

- (b) Any penalty collected pursuant to this section shall be remitted to the Department.
- (c) The Department, a county, and a municipality shall have the authority to enforce the provisions of this act.

Section 8: Education and Outreach Program

- (a) No later than four months after the effective date of this act:
 - (1) The Department shall establish a program to assist businesses in complying with the provisions of this act, including, but not limited to, developing and publishing on its website guidance on compliance with the act, and establishing an online clearinghouse of vendors who provide environmentally sound alternative to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws; and
 - (2) The Department, in cooperation with local governments, environmental organizations, and the business community shall develop and implement a statewide public information and education program concerning the provisions of this act. The program shall include, but need not be limited to, educational materials, public service announcements, the distribution of free reusable carryout bags throughout the state, and information on the environmental harms associated with single-use plastic.

Section 9: Effective Date

- (a) This act shall take effect immediately.