

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0269.01 Jennifer Berman x3286

HOUSE BILL 20-1163

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

23 (a) FOR EXPANDABLE-BEAD POLYSTYRENE, FUSION OF POLYMER
24 SPHERES;

25 (b) INJECTION MOLDING;

26 (c) FOAM MOLDING; AND

27 (d) FOR EXTRUDED FOAM POLYSTYRENE, EXTRUSION-BLOW

1 MOLDING.

2 (6) (a) "EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT" MEANS
3 A PRODUCT MADE OF EXPANDED POLYSTYRENE THAT IS:

4 (I) USED FOR SELLING OR PROVIDING FOOD OR BEVERAGES;

5 (II) INTENDED FOR A SINGLE USE FOR EATING OR DRINKING;

6 (III) NEITHER INTENDED NOR SUITABLE FOR MULTIPLE REUSES;

7 AND

8 (IV) GENERALLY RECOGNIZED BY THE PUBLIC AS AN ITEM TO BE
9 DISCARDED AFTER ONE USE.

10 (b) "EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT" INCLUDES
11 FOOD CONTAINERS, PLATES, HOT AND COLD BEVERAGE CUPS, TRAYS, AND
12 CARTONS FOR EGGS OR OTHER FOOD ITEMS.

13 (c) "EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT" DOES NOT
14 INCLUDE:

15 (I) EXPANDED POLYSTYRENE PACKAGING FOR FOOD OR
16 BEVERAGES THAT WERE PACKAGED OUTSIDE OF THIS STATE BEFORE AN
17 IN-STATE STORE OR RETAIL FOOD ESTABLISHMENT RECEIVED THE
18 PACKAGED FOOD OR BEVERAGE;

19 (II) A PRODUCT MADE OF EXPANDED POLYSTYRENE THAT IS USED
20 TO PACKAGE RAW, UNCOOKED, OR BUTCHERED MEAT, FISH, OR SEAFOOD;
21 OR

22 (III) A NONFOAM POLYSTYRENE FOOD SERVICE PRODUCT.

23 (7) (a) "FOOD" MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE
24 SUBSTANCE OR INGREDIENT USED OR INTENDED FOR USE OR FOR SALE IN
25 WHOLE OR IN PART FOR HUMAN CONSUMPTION.

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

1 (8) "PLASTIC" MEANS A SYNTHETIC MATERIAL MADE FROM
2 LINKING MONOMERS THROUGH A CHEMICAL REACTION TO CREATE A
3 POLYMER CHAIN THAT CAN BE MOLDED OR EXTRUDED AT HIGH HEAT INTO
4 VARIOUS SOLID FORMS THAT RETAIN THEIR DEFINED SHAPES DURING THEIR
5 LIFE CYCLE AND AFTER DISPOSAL, INCLUDING MATERIAL DERIVED FROM
6 EITHER PETROLEUM OR A BIOLOGICALLY BASED POLYMER, SUCH AS CORN
7 OR OTHER PLANT SOURCES.

8 (9) "POINT OF SALE" MEANS A CHECK-OUT STAND, CASH REGISTER,
9 OR OTHER POINT AT WHICH THE SALES TRANSACTION OCCURS IN A STORE
10 OR 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 (10) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET
14 FORTH IN SECTION 25-4-1602 (14).

15 (11) "REUSABLE CARRYOUT BAG" MEANS A CARRYOUT BAG THAT
16 IS DESIGNED AND MANUFACTURED FOR AT LEAST ONE HUNDRED
17 TWENTY-FIVE USES, CAN CARRY AT LEAST TWENTY-TWO POUNDS, HAS
18 STITCHED HANDLES, AND IS MADE OF:

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

20 (b) POLYPROPYLENE.

21 (12) (a) "SINGLE-USE PLASTIC CARRYOUT BAG" MEANS A
22 CARRYOUT BAG THAT IS A SINGLE-USE PRODUCT MADE OF PLASTIC.

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

25 (13) (a) "SINGLE-USE PLASTIC STIRRER" MEANS A DEVICE THAT IS:

26 (I) USED TO MIX BEVERAGES;

27 (II) MADE PREDOMINANTLY OF PLASTIC; AND

1 (III) A SINGLE-USE PRODUCT.

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

5 (14) "SINGLE-USE PLASTIC STRAW" MEANS A TUBE MADE OF
6 PLASTIC THAT IS:

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

9 (b) A SINGLE-USE PRODUCT.

10 (15) "SINGLE-USE PRODUCT" MEANS A PRODUCT THAT IS:

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

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

14 (b) A SINGLE-USE PLASTIC CARRYOUT BAG, A SINGLE-USE PLASTIC
15 STRAW, A SINGLE-USE PLASTIC STIRRER, OR AN EXPANDED POLYSTYRENE
16 FOOD SERVICE PRODUCT.

17 (16) "STORE" MEANS A GROCERY STORE, SUPERMARKET,
18 CONVENIENCE STORE, LIQUOR STORE, DRY CLEANER, PHARMACY, DRUG
19 STORE, CLOTHING STORE, OR OTHER TYPE OF RETAIL ESTABLISHMENT AT
20 WHICH CARRYOUT BAGS ARE TRADITIONALLY PROVIDED TO CUSTOMERS.

21 **25-17-503. Restrictions on use of single-use products -**
22 **inventory exception - enforcement - penalties - repeal.** (1) ON AND
23 AFTER JULY 1, 2021, AN OWNER, OPERATOR, EMPLOYEE, CONTRACTOR, OR
24 AGENT OF A STORE OR RETAIL FOOD ESTABLISHMENT SHALL NOT PROVIDE
25 THE FOLLOWING SINGLE-USE PRODUCTS TO A CUSTOMER:

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

27 (b) A SINGLE-USE PLASTIC STRAW UNLESS THE SINGLE-USE PLASTIC

1 STRAW IS PROVIDED TO THE CUSTOMER UPON REQUEST; HOWEVER, IT IS
2 PREFERABLE THAT A PAPER STRAW BE PROVIDED INSTEAD. THE
3 PROHIBITION SET FORTH IN THIS SUBSECTION (1)(b) DOES NOT APPLY TO
4 ANY STORE OR RETAIL FOOD ESTABLISHMENT LOCATED WITHIN:

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

7 (II) AN INDEPENDENT LIVING FACILITY THAT PROVIDES
8 ASSISTANCE TO ITS SENIORS IN THE PERFORMANCE OF THEIR DAILY LIVING
9 ACTIVITIES.

10 (c) A SINGLE-USE PLASTIC STIRRER; OR

11 (d) AN EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT; EXCEPT
12 THAT THIS PROHIBITION DOES NOT APPLY TO A PERSON THAT STORES OR
13 PACKAGES FOOD OR A BEVERAGE IN AN EXPANDED POLYSTYRENE FOOD
14 SERVICE PRODUCT FOR DISTRIBUTION OUTSIDE OF THIS STATE.

15 (2) (a) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, AN
16 OWNER, OPERATOR, EMPLOYEE, CONTRACTOR, OR AGENT OF A STORE OR
17 RETAIL FOOD ESTABLISHMENT MAY PROVIDE A SINGLE-USE PRODUCT TO
18 A CUSTOMER ON OR BEFORE DECEMBER 31, 2021, IF THE SINGLE-USE
19 PRODUCT WAS PART OF THE STORE'S OR RETAIL FOOD ESTABLISHMENT'S
20 INVENTORY BEFORE JULY 1, 2021.

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

22 (3) (a) THE EXECUTIVE DIRECTOR, ON THE EXECUTIVE DIRECTOR'S
23 OWN MOTION OR UPON A COMPLAINT FILED WITH THE EXECUTIVE
24 DIRECTOR BY ANY PERSON, MAY INVESTIGATE AN ALLEGED VIOLATION OF
25 THIS SECTION. IF THE EXECUTIVE DIRECTOR FINDS THAT AN OWNER OR
26 OPERATOR OF A STORE OR RETAIL FOOD ESTABLISHMENT HAS VIOLATED
27 THIS SECTION OR HAS ALLOWED AN EMPLOYEE, CONTRACTOR, OR AGENT

1 OF THE STORE OR RETAIL FOOD ESTABLISHMENT TO VIOLATE THIS SECTION,
2 THE EXECUTIVE DIRECTOR MAY ISSUE AN ORDER REQUIRING THAT THE
3 OWNER OR OPERATOR COMPLY WITH, OR REQUIRE OTHERS TO COMPLY
4 WITH, THIS SECTION AND MAY REQUEST THAT THE ATTORNEY GENERAL
5 SEEK AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION TO
6 ENJOIN THE OWNER OR OPERATOR FROM ACTING OR ALLOWING ANOTHER
7 TO ACT IN A MANNER THAT VIOLATES THIS SECTION.

8 (b) (I) IF THE EXECUTIVE DIRECTOR HAS KNOWLEDGE THAT AN
9 OWNER OR OPERATOR HAS VIOLATED THIS SECTION MORE THAN ONCE OR
10 HAS ALLOWED EMPLOYEES, CONTRACTORS, OR AGENTS OF THE STORE OR
11 RETAIL FOOD ESTABLISHMENT TO VIOLATE THIS SECTION MORE THAN
12 ONCE, THE EXECUTIVE DIRECTOR MAY INCLUDE WITH AN ORDER ISSUED
13 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION A CIVIL PENALTY
14 ASSESSMENT AGAINST THE OWNER OR OPERATOR IN THE FOLLOWING
15 AMOUNT:

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

17 (B) ONE HUNDRED DOLLARS FOR A THIRD OR SUBSEQUENT
18 VIOLATION.

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

25 **25-17-504. Recyclable paper carryout bags - charge.** (1) ON
26 OR AFTER JULY 1, 2021, AN OWNER, OPERATOR, EMPLOYEE, CONTRACTOR,
27 OR AGENT OF A STORE MAY PROVIDE A CUSTOMER WITH ONE OR MORE

1 RECYCLABLE PAPER CARRYOUT BAGS AT THE POINT OF SALE IF THE
2 CUSTOMER PAYS A CHARGE OF NOT LESS THAN TEN CENTS PER
3 RECYCLABLE PAPER CARRYOUT BAG.

4 (2) UNLESS OTHERWISE REQUIRED BY A LOCAL GOVERNMENT'S
5 ORDINANCE OR RESOLUTION REGARDING THE PROVISION OF RECYCLABLE
6 PAPER CARRYOUT BAGS IN THE JURISDICTION IN WHICH A STORE OR RETAIL
7 FOOD ESTABLISHMENT IS LOCATED, THE STORE OR RETAIL FOOD
8 ESTABLISHMENT SHALL RETAIN ANY MONEY COLLECTED PURSUANT TO
9 THIS SECTION.

10 **25-17-505. Local government regulation no less stringent -**
11 **preemption.** ON AND AFTER JULY 1, 2021, A LOCAL GOVERNMENT SHALL
12 NOT ENACT ANY ORDINANCE, RESOLUTION, RULE, OR CHARTER PROVISION
13 REGARDING THE USE OF SINGLE-USE PRODUCTS THAT IS LESS STRINGENT
14 THAN THIS PART 5. IF A LOCAL GOVERNMENT ENACTED AN ORDINANCE,
15 RESOLUTION, RULE, OR CHARTER PROVISION BEFORE JULY 1, 2021, THAT
16 IS LESS STRINGENT THAN THIS PART 5, THE ORDINANCE, RESOLUTION,
17 RULE, OR CHARTER PROVISION IS PREEMPTED BY THIS SECTION.

18 **25-17-506. Rules.** THE COMMISSION MAY ADOPT RULES AS
19 NECESSARY TO IMPLEMENT THIS PART 5.

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

1 November 2020 and, in such case, will take effect on the date of the
2 official declaration of the vote thereon by the governor.