

SENATE, No. 238

STATE OF NEW JERSEY
214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

SYNOPSIS

“Plastic Carryout Bag and Film Plastic Recycling Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning plastic bags, and supplementing Title 13 of the
2 Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Plastic
8 Carryout Bag and Film Plastic Recycling Act.”

9

10 2. The Legislature finds and declares that:

11 a. It is the public policy of the State of New Jersey to reduce
12 environmental pollution, to reduce the toxicity of waste materials in
13 the solid waste stream directed to solid waste facilities, and to
14 maximize the removal of plastic carryout bags and film plastic from
15 the waste stream in order to recycle them;

16 b. Plastic carryout bags and film plastic do not biodegrade,
17 which means that such bags and film plastic ultimately break down
18 into smaller pieces that enter the ecosystem. These pieces of plastic
19 cause illness, injury and death to animal and marine life by
20 entangling them or contaminating their food supplies. The
21 production of plastic bags and film plastic worldwide has
22 significant environmental impacts each year, including the use of
23 over 12 million barrels of oil, and the deaths of thousands of marine
24 animals through ingestion and entanglement;

25 c. Each year, an estimated 500 billion to 1 trillion plastic bags
26 are used worldwide, which is over one million bags per minute, and
27 of which billions of bags end up as litter each year; and

28 d. Most plastic bags do not biodegrade which means that the
29 bags break down into smaller and smaller toxic bits that
30 contaminate soil and waterways and enter into the food web when
31 animals accidentally ingest those materials.

32 The Legislature therefore determines that the State should
33 require:

34 a. The owners or operators of supermarkets and retail
35 establishments to establish an in-store recycling program that
36 provides an opportunity for customers to purchase a reusable bag
37 and to return clean plastic bags to that store for recycling;

38 b. Each plastic bag provided by a supermarket or retail
39 establishment to include specified information printed or displayed
40 on the bag, and the placement of a plastic bag collection bin in each
41 store that is visible and easily accessible to the consumer; and

42 c. All plastic bags collected by supermarkets or retail
43 establishments to be collected, transported, and recycled in a
44 manner that does not conflict with county recycling plans.

45

46 3. As used in this act:

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1 "Chain of stores" means five or more stores located within this
2 State that are engaged in the same general field of business and (1)
3 conduct business under the same business name; or (2) operate
4 under a common ownership or management pursuant to a franchise
5 agreement with the same franchisor.

6 "Consumer" means any person who purchases a product from a
7 store that is placed in a plastic bag at the time of sale.

8 "Department" means the Department of Environmental
9 Protection.

10 "Film plastic" means uncontaminated, non-rigid film plastic used
11 for packaging products that is composed of plastic resins including,
12 but are not limited to, newspaper bags, dry cleaning bags and
13 shrink-wrap.

14 "Food service establishment" means (1) a restaurant, the
15 principal activity of which consists of preparing for consumption
16 within the restaurant a meal or food to be eaten on the premises; or
17 (2) a restaurant with less than 10% in annual retail sales of meals or
18 food prepared and ready to be eaten for consumption off the
19 premises of the restaurant.

20 "Manufacturer" means any person that manufactures plastic bags
21 that are sold or distributed within this State or that imports plastic
22 bags into the United States for sale or distribution within this State.

23 "Owner or operator" means a person in control of, or having
24 daily responsibility for, the daily operation of a store, which may
25 include, but is not limited to, the owner of the store.

26 "Plastic bag" means a carryout bag that is composed primarily of
27 thermoplastic synthetic polymeric material, which is provided by a
28 store to a customer at the point of sale.

29 "Reusable bag" means: (1) a bag made of cloth or other machine
30 washable fabric that has handles; or (2) a durable plastic bag with
31 handles that is at least 2.25 mils thick and is specifically designed
32 and manufactured for multiple reuse.

33 "Store" means a retail or wholesale establishment, other than a
34 food service establishment, that sells products and provides plastic
35 bags to consumers in which to place these products and (1) has over
36 5,000 square feet of retail or wholesale space; or (2) is one of a
37 chain of stores.

38

39 4. a. The owner or operator of a store shall establish an in-
40 store recycling program pursuant to this act that provides an
41 opportunity for a customer of the store to purchase a reusable bag
42 and return to the store clean plastic bags.

43 b. The owner or operator of a retail establishment that does not
44 have over 5,000 square feet of retail or wholesale space, and that
45 provides plastic bags to customers at the point of sale, may adopt an
46 in-store recycling program pursuant to this act.

1 5. An in-store recycling program provided by the owner or
2 operator of a store shall include the following:

3 a. A plastic bag provided by the store shall have printed or
4 displayed on the bag, in a manner visible to a consumer, the words
5 "PLEASE REUSE OR RETURN THIS PLASTIC BAG TO A
6 PARTICIPATING STORE FOR RECYCLING" using letters at
7 least one-half inch in height, or a similar message encouraging the
8 reuse or recycling of plastic bags that is not less than one inch in
9 height and uses letters at least one-quarter inch in height.

10 The owner or operator of a store shall be allowed to use its
11 existing stock of plastic bags for six months following the effective
12 date of this act, and may apply to the department for a waiver,
13 based on economic hardship, to extend this temporary exemption
14 for an additional six month period.

15 b. A plastic bag and film plastic collection bin shall be placed
16 at each store and shall be visible, easily accessible to the consumer,
17 and clearly marked that the collection bin is available for the
18 purpose of collecting and recycling plastic bags and film plastic.

19 c. All plastic bags and film plastic collected by the store that
20 are uncontaminated by foreign material shall not be disposed of as
21 solid waste.

22 d. All plastic bags and film plastic collected by the store shall
23 be collected, transported, and recycled in a manner that does not
24 conflict with the relevant county's district recycling plan adopted
25 pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13).

26

27 6. a. The owner or operator of the store shall maintain records
28 describing the collection, transport, and recycling of plastic bags
29 and film plastic collected for a minimum of three years and shall
30 make the records available to the department or the relevant district
31 recycling coordinator, upon request, to demonstrate compliance
32 with the provisions of this act.

33 b. The owner or operator of the store shall make reusable bags
34 available to customers within the store, which may be purchased
35 and used in lieu of using a plastic bag or paper bag. The provisions
36 of this subsection shall not be applicable to a retail establishment
37 specified pursuant to subsection b. of section 4 of this act.

38

39 7. a. Each manufacturer shall make arrangements with the
40 owner or operator of a store, upon the owner or operator's request,
41 for the collection, transport, and recycling of all plastic bags and
42 film plastic collected consistent with the provisions of subsection d.
43 of section 5 of this act. These arrangements may include contracts
44 or other agreements with third parties.

45 b. Each manufacturer shall develop educational materials to
46 encourage the reducing, reusing, and recycling of plastic bags and

1 shall make those materials available to stores required to comply
2 with the provisions of this act.

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4 8. a. Unless otherwise expressly provided by this act, the
5 governing body of a county, municipality, or other public agency
6 shall not adopt, implement, or enforce an ordinance, resolution, rule
7 or regulation to do any of the following:

8 (1) Require the owner or operator of a store that is in
9 compliance with the provisions of this act to collect, transport, or
10 recycle plastic bags; or

11 (2) Impose a plastic bag fee upon the owner or operator of a
12 store that is in compliance with the provisions of this act.

13 b. The provisions of subsection a. of this section shall not be
14 construed to prohibit the adoption, implementation, or enforcement
15 of any local ordinance, resolution, rule or regulation governing
16 curbside or drop off recycling programs operated by, or pursuant to
17 a contract with, a county, municipality, or other public agency,
18 including any action relating to fees for these programs.

19

20 9. a. Any person who violates the provisions of this act shall
21 be subject to a penalty of not less than \$500 nor more than \$1,000
22 for each offense, to be collected in a civil action by a summary
23 proceeding under the "Penalty Enforcement Law of 1999,"
24 P.L.1999, c.274 (C.2A:58-10 et seq.), or in any case before a court
25 of competent jurisdiction wherein injunctive relief has been
26 requested. The Superior Court and the municipal court shall have
27 jurisdiction to enforce the provisions of the "Penalty Enforcement
28 Law of 1999" in connection with this act.

29 If the violation is of a continuing nature, each day during which
30 it continues constitutes an additional, separate, and distinct offense.

31 b. The department may institute a civil action for injunctive
32 relief to enforce this act and to prohibit and prevent a violation of
33 this act, and the court may proceed in the action in a summary
34 manner.

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36 10. The department shall adopt, pursuant to the "Administrative
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
38 regulations as are necessary to effectuate the purposes of this act.

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40 11. This act shall take effect July 1, 2008.

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STATEMENT

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45 This bill requires retailers to establish in-store recycling
46 programs that provide opportunities for customers to return clean
47 plastic carryout bags.

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1 The bill requires the owner or operator of every retail store to
2 establish an in-store recycling program that provides an opportunity
3 for customers to purchase a reusable bag and return clean plastic
4 bags to that store. The bill requires a plastic bag provided by a
5 store to have specified information printed or displayed on the bag,
6 and requires the placement of a plastic bag collection bin in each
7 store that is visible and easily accessible to the consumer. All
8 plastic bags collected by the store must be collected, transported,
9 and recycled in a manner that does not conflict with the relevant
10 county district recycling plan.

11 The bill requires every manufacturer of plastic bags to develop
12 educational materials to encourage the reducing, reusing, and
13 recycling of plastic bags and to make the materials available to
14 stores.