

## CHAPTER 298

AN ACT concerning the provision, by food service businesses, of single-use utensils and condiments to customers, amending P.L.2002, c.128 and P.L.2020, c.117, and supplementing Title 13 of the Revised Statutes.

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

C.13:1E-99.134a Definitions.

1. As used in P.L.2025, c.298 (C.13:1E-99.134a et al.):

“Casual dining establishment” means any food service business that is not a full-service restaurant.

"Commissioner" means the Commissioner of Environmental Protection.

"Condiment" means packaged ketchup, mustard, mayonnaise, hot sauce, salt, pepper, or any other herb, spice, seasoning, sauce, sweetener, or substance that is used to give a special flavor to food.

"Department" means the Department of Environmental Protection.

"Food service business" means and includes a restaurant, café, food truck, vendor station, cafeteria, or any other facility or premises, or section or part thereof, including, but not limited to, a section or part of a grocery store, convenience store, hospital, school, sports arena, entertainment venue, or other similar facility or venue, where meals are prepared and served to customers for immediate consumption thereby on or off the premises, whether on a take-out, eat-in, drive-thru, or delivery basis. “Food service business” shall include both full-service restaurants and casual dining establishments.

“Full-service restaurant” means a food service business whose primary NAICS classification in accommodation and food services is 722511, or any successor classification code as designated by the NAICS.

“NAICS” means the North American Industry Classification System used by federal statistical agencies for classifying business establishments.

“Self-serve condiment station” means a dedicated appliance, fixture, or other similar system for the dispensing of condiments, which provides individual condiments for customer access, provided that such items are not bundled, packaged, or otherwise wrapped together. “Self-serve condiment station” shall include an open tray or other similar system from which more than one condiment may be taken at a time.

“Single-use portion cup” means a small container, with or without a lid, used for serving sauces and dressings, or similar accompaniments to food, that are necessary to prevent leakage, allergen cross-contamination, or spillage during on-site consumption, or take-out and delivery orders.

"Single-use utensils or condiments" means utensils or condiment packets or packages which are designed to be discarded, by the consumer, after a single use.

"Utensil" means an instrument, including, but not limited to, a knife, fork, chopstick, or spoon, which is commonly used by humans to eat meals served thereto by a food service business.

“Utensil dispenser” means a dedicated appliance for the dispensing of food utensils, which dispenses a single-use utensil at the push of a button, lever, or other similar method. With the exception of utensil dispensers located in sports arenas and entertainment centers, "utensil dispenser" shall not include an open tray or other similar system from which more than one single-use utensil may be taken at a time.

C.13:1E-99.134b Single-use utensils, condiments prohibited, full-service restaurants, parameters, exceptions.

2. a. Commencing on the effective date of P.L.2025, c.298 (C.13:1E-99.134a et al.):

(1) no full-service restaurant with on-site seating capacity for 10 or more customers operating in the State shall provide single-use utensils or condiments to any on-site consumption customer. The full-service restaurant shall provide its on-site customers with easy access to reusable, washable utensils for use thereby while consuming meals on the premises and shall require each customer using such utensils to return those utensils to the full-service restaurant, for the purposes of cleaning and reuse, upon completion of the customer's on-site meal. The provisions of this paragraph shall be applicable regardless of whether the customer's meal order is placed in person, over the phone, online, or using other available means or methods. The full-service restaurant may provide single-use utensils or condiments to take-out customers as authorized by paragraph (3) of this subsection;

(2) casual dining establishments operating in the State may only provide single-use utensils or condiments to a customer upon, and in accordance with, the express request of that customer. The request may be conveyed in person, over the phone, online, or by using a utensil dispenser or self-serve condiment station; and

(3) an online ordering application for any food service business may allow customers to request single-use utensils or condiments for take-out meals, so long as the default selection is "no utensils or condiments," and the food service business bears final responsibility for ensuring that no utensils or condiments are provided except upon request.

b. Any food service business that elects to supply customers with single-use utensils or condiments, upon request, as authorized by paragraphs (2) and (3) of subsection a. of this section:

(1) shall provide each customer with only those types and amounts of single-use utensils and condiments that have been expressly requested thereby; and

(2) beginning 12 months after the effective date of P.L.2025, c.298 (C.13:1E-99.134a et al.), shall not create, acquire, or provide customers with bundled packages that contain more than one type of single-use utensil or condiment, regardless of the nature of any customer request therefor.

c. Nothing in this section shall be deemed to:

(1) require a food service business to provide any single-use utensils or condiments to customers, upon their request, as authorized by paragraphs (2) and (3) of subsection a. of this section;

(2) prohibit a food service business from utilizing single-use portion cups when serving sauces, dressings, or similar accompaniments; or

(3) prohibit a food service business employee from offering single-use utensils or condiments to a customer if the food service business is authorized to provide single-use utensils or condiments pursuant to paragraphs (2) or (3) of subsection a. of this section.

d. The following entities shall be exempt from the provisions of this section:

(1) a public or nonpublic preschool, elementary, or secondary school within this State offering education in grades K through 12 or any combination thereof;

(2) a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); and

(3) a county or State correctional facility.

e. A food service business located in a food court shall be exempt from the provisions of this section for a period of two years beginning on the effective date of P.L.2025, c.298 (C.13:1E-99.134a et al.).

f. Any pre-packaged food item delivered to a food service business that includes a single-use utensil or condiment, which became attached to the item during the manufacturing process shall be exempt from the provisions of this section.

C.13:1E-99.134c Violation against single-use utensil, condiment prohibition, penalties, exceptions.

3. a. Any food service business that violates the provisions of section 2 of P.L.2025, c.298 (C.13:1E-99.134b) shall be subject to a warning for the first offense, a civil penalty of \$100 for the second offense, and a civil penalty of \$250 for the third and each subsequent offense. In the event a food service business is assessed a penalty for violating the provisions of section 2 of P.L.2025, c.298 (C.13:1E-99.134b), if that food service business does not commit a violation for a period of at least 12 months from the time the penalty was assessed, the subsequent penalty assessed for that food service business shall be considered a second offense. Each day on which a violation occurs shall constitute a separate and distinct offense.

b. A penalty imposed pursuant to this section shall be collected, by the commissioner, a municipality, or an entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.), in a summary proceeding commenced, pursuant to the provisions of the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), before a court of competent jurisdiction. The Superior Court and municipal courts shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), for the purposes of this section. Entities certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.) shall assume primary enforcement responsibility for violations of the provisions of section 2 of P.L.2025, c.298 (C.13:1E-99.134b).

c. Any moneys collected from penalties imposed pursuant to this section shall be deposited into the "Clean Communities Program Fund," established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217), except that a municipality or entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.) may retain 30 percent of any penalty it collects pursuant to this section .

d. Notwithstanding any provision of P.L.2025, c.298 (C.13:1E-99.134a et al.) to the contrary, a food service business shall be authorized to acquire, and to maintain on its premises, an adequate supply of non-bundled single-use utensils or condiments for the purposes of providing such single-use utensils or condiments to customers, upon request, in accordance with the provisions of paragraphs (2) and (3) of subsection a. of section 2 of P.L.2025, c.298 (C.13:1E-99.134b), and no food service business shall be subject to a penalty, pursuant to subsection a. of this section, for acquiring, possessing, or maintaining a supply of single-use utensils or condiments for the limited purposes authorized by this subsection.

C.13:1E-99.134d Education campaign, benefits of reducing single-use utensils, condiments.

4. The department shall develop a 180-day education campaign to educate citizens of the State on the financial and environmental benefits of reducing the amount of single-use utensils and condiments offered without necessity and to encourage responsible use by reminding individuals not to take more items than needed from a self-serve condiment station or utensil dispenser.

C.13:1E-99.134e Superseding State regulation of single-use utensils, condiments, over municipality, county.

5. a. A municipality or county shall not adopt any rule, regulation, code or ordinance concerning the regulation or prohibition of single-use utensils or condiments after the effective date of P.L.2025, c.298 (C.13:1E-99.134a et al.).

b. The provisions of P.L.2025, c.298 (C.13:1E-99.134a et al.) shall supersede and preempt any municipal or county rule, regulation, code, or ordinance concerning the provision of single-use utensils or condiments by food service businesses that was enacted prior to the effective date of P.L.2025, c.298 (C.13:1E-99.134a et al.).

6. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to read as follows:

C.13:1E-217 Clean Communities Program Fund.

5. The Clean Communities Program Fund is established as a non-lapsing, revolving fund in the Department of the Treasury. The Clean Communities Program Fund shall be administered by the Department of Environmental Protection and credited, in addition to any appropriations made thereto, with all user fees imposed pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216), penalties imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222), penalties imposed pursuant to P.L.2025, c.298 (C.13:1E-99.134a et al.), and any sums received as voluntary contributions from private sources. Interest received on moneys in the Clean Communities Program Fund shall be credited to the fund. Unless otherwise expressly provided by the specific appropriation thereof by the Legislature, which shall take the form of a discrete legislative appropriations act and shall not be included within the annual appropriations act, all available moneys in the Clean Communities Program Fund shall be appropriated annually solely for the following purposes and no others:

a. 10 percent of the estimated annual balance of the Clean Communities Program Fund shall be used for a State program of litter pickup and removal and of enforcement of litter-related laws and ordinances in State owned places and areas that are accessible to the public. Moneys in the fund may also be used by the State to abate graffiti;

b. 50 percent of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement, and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the housing units of a qualifying municipality bear to the total housing units in the State. Total housing units shall be determined using the most recent federal decennial population estimates for New Jersey and its municipalities, filed in the office of the Secretary of State. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

c. 30 percent of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement, and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the municipal road mileage of a qualifying municipality bears to the total municipal road mileage within the State. For the purposes of this subsection, "municipal road mileage" means that road mileage under the jurisdiction of

municipalities, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

d. 10 percent of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible counties for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement, and of enforcement of litter-related laws and ordinances. The amount of State aid due each county shall be solely calculated based on the proportion which the county road mileage of an eligible county bears to the total county road mileage within the State. For the purposes of this subsection, "county road mileage" means that road mileage under the jurisdiction of counties, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible county to abate graffiti;

e. No eligible municipality shall receive less than \$4,000 in State aid as apportioned pursuant to subsections b. and c. of this section. A municipality or county may use up to five percent of its State aid for administrative expenses;

f. Prior to the distribution of funds pursuant to subsections a. through d. of this section:

(1) \$375,000 of the estimated annual balance of the Clean Communities Program Fund shall be annually appropriated to the department and made available on July 1 of every year to the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior, of which up to \$75,000 shall be used exclusively to finance an annual Statewide television, radio, newspaper, and other media advertising campaign to promote antilittering and responsible solid waste handling behavior.

(2) \$500,000 of the estimated annual balance of the Clean Communities Program Fund shall be annually appropriated to the department and made available on July 1 of each year to the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for the Statewide public information and education program developed pursuant to subsection b. of section 8 of P.L.2020, c.117 (C.13:1E-99.133), including the redistribution of reusable bags.

The organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the date on which the contract period concludes, submit a report to the Governor and the Legislature concerning its activities during the contract period and any recommendations concerning improving the program. Every eligible municipality and county shall cooperate with the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing information concerning its program of litter pickup and removal.

No later than May 31, 2008, 25 percent of the estimated annual balance of the Clean Communities Program Fund shall be appropriated to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be used by the Department of Environmental Protection for direct recycling grants to counties and municipalities, up to a maximum appropriation of \$4,000,000.

g. As used in this section, "graffiti" means any inscription drawn, painted or otherwise made on a bridge, building, public transportation vehicle, rock, wall, sidewalk, street, or other exposed surface on public property.

The department may carry forward any unexpended balances in the Clean Communities Program Fund as of June 30 of each year.

7. Section 6 of P.L.2020, c.117 (C.13:1E-99.131) is amended to read as follows:

C.13:1E-99.131 Violations, penalties.

6. a. Any person or entity that violates a provision of P.L.2020, c.117 (C.13:1E-99.126 et al.), 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, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with P.L.2020, c.117 (C.13:1E-99.126 et al.).

b. Any penalty collected pursuant to this section shall be remitted to the State Treasurer for deposit in the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217), except that a municipality or entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.) may retain 30 percent of any penalty it collects pursuant to subsection a. of this section.

c. The Department of Environmental Protection, a municipality, and any entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.) shall have the authority to enforce the provisions of P.L.2020, c.117 (C.13:1E-99.126 et al.). Those entities may institute a civil action for injunctive relief to enforce P.L.2020, c.117 (C.13:1E-99.126 et al.) and to prohibit and prevent a violation thereof, and the court may proceed in the action in a summary manner. Entities certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.) shall assume primary enforcement responsibility for violations of the provisions of P.L.2020, c.117 (C.13:1E-99.126 et al.).

8. This act shall take effect on the first day of the seventh month next following the date of enactment.

Approved January 20, 2026.