

[First Reprint]

ASSEMBLY, No. 3671

STATE OF NEW JERSEY
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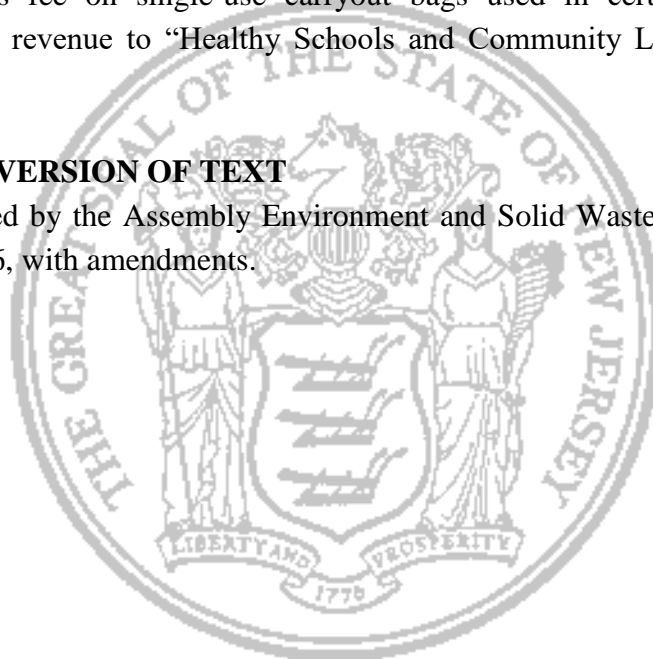
Assemblywomen Muoio and Jasey

SYNOPSIS

Establishes fee on single-use carryout bags used in certain stores and dedicates fee revenue to “Healthy Schools and Community Lead Abatement Fund.”

CURRENT VERSION OF TEXT

As reported by the Assembly Environment and Solid Waste Committee on May 19, 2016, with amendments.



(Sponsorship Updated As Of: 12/21/2017)

1 AN ACT concerning the use of ¹**[non-compostable plastic]** single-
2 use carryout¹ bags in stores and supplementing Titles 13 and 54
3 of the Revised Statutes.

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

7
8 1. a. ¹**[(1)]**¹ Beginning June 1, 2017, each operator shall
9 impose a \$0.05 fee on the customer for each ¹**[non-compostable**
10 **plastic]** single-use carryout¹ bag that is provided as a carryout bag
11 to the customer ¹, except that the operator shall not charge the fee
12 on any customer who:

13 (1) is 65 years of age or older; or

14 (2) is enrolled as a participant in the Supplemental Nutrition
15 Assistance Program, established pursuant to the federal “Food and
16 Nutrition Act of 2008” (7 U.S.C. s.2011 et seq.), the Special
17 Supplemental Nutrition Program for Women, Infants and Children,
18 established pursuant to the federal “Child Nutrition Act of 1966”
19 (42 U.S.C. s.1771 et seq.), or the Work First New Jersey program,
20 established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.)¹ .

21 ¹**[(2)]** Beginning June 1, 2019, each operator shall impose a \$0.10
22 fee on the customer for each non-compostable plastic bag that is
23 provided as a carryout bag to the customer.

24 (3) Beginning June 1, 2021 and ending December 31, 2024,
25 each operator shall impose a \$0.15 fee on the customer for each
26 non-compostable plastic bag that is provided as a carryout bag to
27 the customer.¹

28 b. Each operator shall indicate the total number of ¹**[non-**
29 **compostable plastic]** single-use carryout¹ bags provided to a
30 customer, and the total fee charged pursuant to subsection a. of this
31 section, on the sales or other receipt given to the customer.

32 c. Each operator shall ¹**[remit all fees]** retain \$0.01 of the fee¹
33 collected pursuant to subsection a. of this section ¹, and remit the
34 remaining \$0.04¹ to the director in a manner prescribed by the
35 director. Each operator shall be personally liable for the fees
36 imposed, collected, or required to be collected. Any operator shall
37 have the same right in respect to collecting the fee from a customer
38 as if the fee were a part of the sales price of the product sold and
39 payable at the same time.

40 d. The director may use up to one percent of the revenues
41 collected pursuant to subsection c. of this section to defray the costs
42 of administration and collection of the fees. The director shall
43 deposit the remainder of the revenues into the “Healthy Schools and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN committee amendments adopted May 19, 2016.

1 Community Lead Abatement Fund” established pursuant to section
2 3 of P.L. , c. (C.) (pending before the Legislature as this
3 bill).

4 e. The fee imposed pursuant to this section shall be governed
5 by the provisions of the State Uniform Tax Procedure Law,
6 R.S.54:48-1 et seq.

7 f. The director shall adopt, pursuant to the “Administrative
8 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
9 regulations necessary for the implementation of this act.

10 g. ¹This section shall supersede and preempt all municipal and
11 county rules, regulations, codes, and ordinances concerning the
12 regulation or prohibition of carryout bags or fees charged therefor.

13 h.¹ As used in this section:

14 “Carryout bag” means a bag provided by a store at the point of
15 sale for customers to carry their goods out of the store.

16 “Chain” means a business with ¹~~20~~ 10¹ or more locations ¹in
17 the State or¹ nationally and doing business under the same trade
18 name or under common ownership or control, or as franchised
19 outlets of a parent business.

20 ¹~~“Compostable plastic bag”~~ means a plastic carryout bag that
21 meets the current American Society for Testing and Materials
22 International standard (ASTM) D6400 for compostable plastic, as
23 that standard may be amended from time to time. ~~”~~¹

24 “Director” means the Director of the Division of Taxation in the
25 Department of the Treasury.

26 ¹~~“Non-compostable plastic bag”~~ means a plastic bag that does
27 not meet the definition of compostable plastic bag. ~~”~~¹

28 “Operator” means a person in control of, or having responsibility
29 for, the daily operation of a store, which may include, but need not
30 be limited to, the owner of the store.

31 ¹“Reusable carryout bag” means a bag made of cloth or other
32 machine washable fabric that has handles, a non-woven
33 polypropylene bag that has handles, or a durable plastic bag that has
34 handles and is at least 2.25 mils thick, and which is specifically
35 designed and manufactured for multiple reuse.

36 “Single-use carryout bag” means any carryout bag that is not a
37 reusable carryout bag.¹

38 “Store” means a drug store, supermarket, or retail establishment
39 that has over 2,000 square feet of retail space or is part of a chain,
40 and that provides carryout bags to its customers as a result of the
41 sale of a product.

42
43 ¹~~2. a.~~ Beginning January 1, 2025, each operator of a store shall:

44 (1) discontinue providing non-compostable plastic bags as
45 carryout bags to customers; and

46 (2) provide as carryout bags to customers recyclable paper bags,
47 compostable plastic bags, or reusable bags.

1 b. A person who violates this section shall be liable to a civil
2 penalty of up to \$250 for a first offense, up to \$500 for a second
3 offense, and up to \$1,000 for a third or subsequent offense, to be
4 collected in a summary proceeding pursuant to the “Penalty
5 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
6 If the violation is of a continuing nature, each day during which it
7 continues shall constitute a separate and distinct offense. The
8 municipal court and the Superior Court shall have jurisdiction to
9 enforce the “Penalty Enforcement Law of 1999.” All penalties
10 collected pursuant to this subsection shall be deposited into the
11 “Healthy Schools and Community Lead Abatement Fund”
12 established pursuant to section 3 of P.L. , c. (C.)
13 (pending before the Legislature as this bill).

14 c. As used in this section:

15 “Carryout bag” means a bag provided by a store at the point of
16 sale for customers to carry their goods out of the store.

17 “Chain” means a business with 20 or more locations nationally
18 and doing business under the same trade name or under common
19 ownership or control, or as franchised outlets of a parent business.

20 “Compostable plastic bag” means a plastic carryout bag that
21 meets the current American Society for Testing and Materials
22 International standard (ASTM) D6400 for compostable plastic, as
23 that standard may be amended from time to time.

24 “Non-compostable plastic bag” means a plastic bag that does not
25 meet the definition of compostable plastic bag and that is not a
26 reusable bag.

27 “Operator” means a person in control of, or having responsibility
28 for, the daily operation of a store, which may include, but need not
29 be limited to, the owner of the store.

30 “Recyclable paper bag” means a paper bag that contains no old
31 growth fiber, is 100 percent recyclable overall, and contains a
32 minimum of 40 percent post-consumer recycled content, and
33 displays the words “reusable” and “recyclable” on the bag.

34 “Reusable bag” means a bag made of cloth or other machine
35 washable fabric that has handles, or a durable plastic bag that has
36 handles and is at least 2.25 mils thick, and is specifically designed
37 and manufactured for multiple reuse.

38 “Store” means a drug store, supermarket, or retail establishment
39 that has over 2,000 square feet of retail space or is part of a chain,
40 and that provides carryout bags to its customers as a result of the
41 sale of a product.】¹

42

43 ¹2. a. Within 90 days after the effective date of this act, the
44 Department of Environmental Protection shall establish a public
45 information program which addresses the effects of single-use
46 carryout bags on the environment, and encourages consumers to use
47 reusable carryout bags for retail shopping. The public information
48 program shall include information on the fee charged for single-use

1 carryout bags pursuant to section 1 of P.L. , c. (C.)
2 (pending before the Legislature as this bill).

3 b. For the purposes of this section:

4 “Carryout bag” means a bag provided by a store at the point of
5 sale for customers to carry their goods out of the store.

6 “Chain” means a business with 10 or more locations in the State
7 or nationally and doing business under the same trade name or
8 under common ownership or control, or as franchised outlets of a
9 parent business.

10 “Reusable carryout bag” means a bag made of cloth or other
11 machine washable fabric that has handles, a non-woven
12 polypropylene bag that has handles, or a durable plastic bag that has
13 handles and is at least 2.25 mils thick, and which is specifically
14 designed and manufactured for multiple reuse.

15 “Single-use carryout bag” means any carryout bag that is not a
16 reusable carryout bag.

17 “Store” means a drug store, supermarket, or retail establishment
18 that has over 2,000 square feet of retail space or is part of a chain,
19 and that provides carryout bags to its customers as a result of the
20 sale of a product.¹

21

22 3. a. There is established in the Department of Environmental
23 Protection a nonlapsing fund to be known as the “Healthy Schools
24 and Community Lead Abatement Fund.”

25 b. The fund shall be credited with:

26 (1) the fees collected by the director pursuant to section 1 of
27 P.L. , c. (C.) (pending before the Legislature as this
28 bill);

29 (2) ¹the penalties collected pursuant to subsection b. of section
30 2 of P.L. , c. (C.) (pending before the Legislature as this
31 bill);

32 (3) ¹all interest or other investment income earned and received
33 on investment of the moneys in the fund; and

34 ¹[(4)] (3) ¹any other monies that may be made available, or
35 appropriated, to the department for the purposes of the fund.

36 c. Moneys in the fund shall be used by the ¹department
37 Department of Environmental Protection¹ , in consultation with the
38 Department of Education, the Department of Community Affairs,
39 and the Department of Health, solely for lead abatement in schools
40 and communities, including: removal and replacement of water
41 fountains, plumbing, and pipes that contain lead; stripping lead
42 paint from schools and residential dwellings; and other lead
43 abatement programs, as established by the department in
44 consultation with the Department of Education, the Department of
45 Community Affairs, and the Department of Health.

46 ¹d. The department shall develop guidelines to prioritize the
47 disbursement of monies from the fund and shall post these
48 guidelines on its Internet website.

A3671 [1R] SPENCER, VAINIERI HUTTLE

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1 e. The department shall submit annually to the Governor and,
2 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
3 Legislature a report detailing the lead abatement activities
4 undertaken and the funds disbursed pursuant to this section.¹

5

6 4. This act shall take effect immediately.