

ASSEMBLY, No. 3267

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 12, 2018

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Co-Sponsored by:

Assemblyman Conaway

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 introduced.



(Sponsorship Updated As Of: 5/25/2018)

1 AN ACT concerning the use of single-use carryout bags in stores
2 and supplementing Titles 13 and 54 of the Revised Statutes.

3

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

6

7 1. a. Beginning June 1, 2019, each operator shall impose a
8 \$0.05 fee on the customer for each single-use carryout bag that is
9 provided as a carryout bag to the customer, except that the operator
10 shall not charge the fee on any customer who:

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

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

19 b. Each operator shall indicate the total number of single-use
20 carryout bags provided to a customer, and the total fee charged
21 pursuant to subsection a. of this section, on the sales or other receipt
22 given to the customer.

23 c. Each operator shall retain \$0.01 of the fee collected pursuant
24 to subsection a. of this section, and remit the remaining \$0.04 to the
25 director in a manner prescribed by the director. Each operator shall
26 be personally liable for the fees imposed, collected, or required to
27 be collected. Any operator shall have the same right in respect to
28 collecting the fee from a customer as if the fee were a part of the
29 sales price of the product sold and payable at the same time.

30 d. The director may use up to one percent of the revenues
31 collected pursuant to subsection c. of this section to defray the costs
32 of administration and collection of the fees. The director shall
33 deposit the remainder of the revenues into the “Healthy Schools and
34 Community Lead Abatement Fund” established pursuant to section
35 3 of P.L. , c. (C.) (pending before the Legislature as this
36 bill).

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

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

43 g. This section shall supersede and preempt all municipal and
44 county rules, regulations, codes, and ordinances concerning the
45 regulation or prohibition of carryout bags or fees charged therefor.

46 h. As used in this section:

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

1 “Chain” means a business with 10 or more locations in the State
2 or nationally and doing business under the same trade name or
3 under common ownership or control, or as franchised outlets of a
4 parent business.

5 “Director” means the Director of the Division of Taxation in the
6 Department of the Treasury.

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

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.

21

22 2. a. Within 90 days after the effective date of this act, the
23 Department of Environmental Protection shall establish a public
24 information program which addresses the effects of single-use
25 carryout bags on the environment, and encourages consumers to use
26 reusable carryout bags for retail shopping. The public information
27 program shall include information on the fee charged for single-use
28 carryout bags pursuant to section 1 of P.L. , c. (C.)
29 (pending before the Legislature as this bill).

30 b. For the purposes of this section:

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

33 “Chain” means a business with 10 or more locations in the State
34 or nationally and doing business under the same trade name or
35 under common ownership or control, or as franchised outlets of a
36 parent business.

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

42 “Single-use carryout bag” means any carryout bag that is not a
43 reusable carryout bag.

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

1 part of a chain, and that provides carryout bags to its customers as a
2 result of the sale of a product. A “chain” is any business with 10 or
3 more locations in the State or nationally and doing business under
4 the same trade name or under common ownership or control, or as
5 franchised outlets of a parent business. “Single-use carryout bag” is
6 defined as any bag that is not a reusable carryout bag, and would
7 include single-use compostable and non-compostable plastic bags
8 and paper bags.

9 Under the bill, each store operator would be required to indicate
10 the total number of single-use carryout bags provided to a customer
11 and the total fee charged for the bags on the sales or other receipt
12 given to the customer. Store operators would retain \$0.01 of the fee
13 collected, and pay the remaining \$0.04 to the Director of the
14 Division of Taxation, in a manner prescribed by the director. The
15 director could use up to one percent of the revenues collected to
16 defray the cost of administration of the bill. The director would
17 deposit the remaining revenues into the “Healthy Schools and
18 Community Lead Abatement Fund” established in the bill. Moneys
19 in the fund would be used by the Department of Environmental
20 Protection (DEP), in consultation with the Department of
21 Education, the Department of Community Affairs, and the
22 Department of Health, for lead abatement in schools and
23 communities, including: removal and replacement of water
24 fountains, plumbing, and pipes that contain lead; stripping lead
25 paint from schools and residential dwellings; and other lead
26 abatement programs.

27 The bill also would require the DEP to establish a public
28 information program which addresses the harmful environmental
29 effects caused by single-use carryout bags, and encourages
30 consumers to use reusable carryout bags for retail shopping. The
31 public information program would include information on the fee
32 charged for single-use carryout bags pursuant to the bill.

33 Finally, the bill would supersede and preempt all municipal and
34 county rules, regulations, codes, and ordinances concerning the
35 regulation or prohibition of carryout bags or fees charged for those
36 bags.