

# SENATE, No. 864

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 14, 2020

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Prohibits provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products; limits provision of single-use plastic straws; appropriates moneys from Clean Communities Program Fund for public education.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning single-use plastic carryout bags, single-use  
2 paper carryout bags, polystyrene foam food service products, and  
3 single-use plastic straws, supplementing Title 13 of the Revised  
4 Statutes, and amending P.L.2002, c.128.

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

8  
9 1. (New section) The Legislature finds and declares that, since  
10 1950, global annual production of plastics has increased from two  
11 million tons to over 381 million tons; that approximately one third  
12 of all plastics produced are single-use plastics, which are plastics  
13 designed to be used only once and then thrown away; and that an  
14 estimated 100 billion single-use plastic carryout bags and 25 billion  
15 styrofoam plastic coffee cups are thrown away in the United States  
16 each year.

17 The Legislature further finds that, in 2017, only 8.4 percent of  
18 plastics in the United States were recycled; that most single-use  
19 plastics are disposed of in landfills, are incinerated, or become litter  
20 in waterways and oceans; that plastics released in the environment  
21 do not biodegrade, but instead break down into smaller pieces,  
22 known as microplastics, which accumulate in the natural  
23 environment and are eaten by fish and other marine life; and that  
24 microplastic pollution moves through natural food webs and  
25 accumulates in fish and shellfish tissues, which means microplastics  
26 and associated pollutants can move into the food chain.

27 The Legislature further finds that approximately eight million  
28 tons of plastic end up in the oceans annually; that, without action,  
29 scientists estimate that by 2050 the mass of plastic pollution in the  
30 ocean will exceed the mass of fish; that currently, there is a  
31 collection of litter in the North Atlantic Ocean, known as the Great  
32 Pacific Garbage Patch, that is 7.7 million square miles and is  
33 composed primarily of plastics; that one study found plastics in the  
34 gut of every sea turtle examined and in 90 percent of seabirds  
35 examined; and that plastics have been known to cause death or  
36 reproductive failure in sea turtles, birds, and other organisms that  
37 ingest plastic.

38 The Legislature further finds that, as plastics break down through  
39 photodegradation, they release harmful chemicals such as bisphenol  
40 A (BPA) into the environment that have been linked to health  
41 problems in humans; that these chemicals enter the food chain when  
42 consumed by marine life; and that single-use plastic waste creates  
43 visual pollution, degrades water quality, and impacts the tourism,  
44 fishing, and shipping industries, all of which are major contributors  
45 to the New Jersey economy.

46 The Legislature therefore determines that it is no longer  
47 conscionable to permit the unfettered use and disposal of single-use

**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.

1 plastics in the State; that New Jersey must do its part to minimize  
2 plastic pollution in the ocean, and to ensure that future generations  
3 have a clean and healthy environment to live, work, and recreate in;  
4 that banning or limiting the use of single-use plastic carryout bags,  
5 polystyrene foam food service products, and single-use plastic  
6 straws is a significant step in this effort, as these items are among  
7 the most significant sources of beach and ocean pollution; that New  
8 Jersey joins several other states and hundreds of municipalities  
9 across the country in banning or limiting the use of single-use  
10 plastics; and that such bans and limitations have drastically lowered  
11 consumer consumption of single-use plastics.

12 The Legislature further finds that single-use paper carryout bags  
13 use as much or more energy and resources to manufacture and  
14 transport than single-use plastic carryout bags and contribute to  
15 harmful air emissions. Consequently, the Legislature further  
16 determines that it is in the public interest to prohibit grocery stores  
17 from providing single-use paper carryout bags.

18

19 2. (New section) As used in P.L. , c. (C. )(pending  
20 before the Legislature as this bill):

21 “Carryout bag” means a bag that is provided by a store or food  
22 service business to a customer for the purpose of transporting  
23 groceries, prepared foods, or retail goods. “Carryout bag” shall not  
24 include:

25 (1) a bag used solely to contain or wrap uncooked meat, fish, or  
26 poultry;

27 (2) a bag used solely to package loose items such as fruits,  
28 vegetables, nuts, coffee, grains, baked goods, candy, greeting cards,  
29 flowers, or small hardware items;

30 (3) a bag used solely to contain live animals, such as fish or  
31 insects sold in a pet store;

32 (4) a bag used solely to contain food sliced or prepared to order,  
33 including soup or hot food;

34 (5) a laundry, dry cleaning, or garment bag;

35 (6) a bag provided by a pharmacy to carry prescription drugs;

36 (7) a newspaper bag; and

37 (8) any similar bag, as determined by the department pursuant to  
38 rule, regulation, or guidance.

39 “Department” means the Department of Environmental  
40 Protection.

41 “Food service business” means a business that sells or provides  
42 food for consumption on or off the premises, and includes, but is  
43 not limited to, any restaurant, café, delicatessen, coffee shop,  
44 convenience store, grocery store, vending truck or cart, food truck,  
45 movie theater, or business or institutional cafeteria, including those  
46 operated by or on behalf of any governmental entity.

47 “Grocery store” means a self-service retail establishment that  
48 occupies at least 4,500 square feet and that primarily sells a full-line

1 of household foodstuffs for off-site consumption, including, but not  
2 limited to, fresh produce, meat, poultry, fish, deli products, dairy  
3 products, canned foods, dry foods, beverages, baked foods, or  
4 prepared foods.

5 “Person” means any individual, corporation, company,  
6 association, society, firm, partnership, joint stock company, or  
7 governmental entity.

8 “Plastic” means a synthetic material made from linking  
9 monomers through a chemical reaction to create an organic polymer  
10 chain that can be molded or extruded at high heat into various solid  
11 forms retaining their defined shapes during the life cycle and after  
12 disposal.

13 “Polystyrene foam” means blown polystyrene and expanded and  
14 extruded foams that are thermoplastic petrochemical materials  
15 utilizing a styrene monomer and processed by a number of  
16 techniques, including, but not limited to, fusion of polymer spheres  
17 (expandable bead polystyrene), injection molding, foam molding,  
18 and extrusion-blow molding (extruded foam polystyrene).

19 “Polystyrene foam food service product” means a product made,  
20 in whole or in part, of polystyrene foam that is used for selling or  
21 providing a food or beverage, and includes, but is not limited to, a  
22 food container, plate, hot or cold beverage cup, meat or vegetable  
23 tray, cutlery, or egg carton.

24 “Reusable carryout bag” means a carryout bag that: (1) is made  
25 of polypropylene, PET nonwoven fabric, nylon, cloth, or other  
26 machine washable fabric; (2) has stitched handles; and (3) is  
27 designed and manufactured for multiple reuse.

28 “Single-use paper carryout bag” means a carryout bag made of  
29 paper that is not a reusable carryout bag.

30 “Single-use plastic carryout bag” means a carryout bag made of  
31 plastic that is not a reusable carryout bag.

32 “Store” means any grocery store, convenience store, liquor store,  
33 pharmacy, drug store, or other retail establishment.

34

35 3. (New section) a. Beginning two years after the effective  
36 date of P.L. , c. (C. )(pending before the Legislature as this  
37 bill):

38 (1) no store or food service business shall provide or sell a  
39 single-use plastic carryout bag to a customer; and

40 (2) no grocery store shall provide or sell a single-use paper  
41 carryout bag to a customer.

42 b. A municipality or county shall not adopt any rule,  
43 regulation, code, or ordinance concerning the regulation or  
44 prohibition of single-use plastic carryout bags or single-use paper  
45 carryout bags after the effective date of  
46 P.L. , c. (C. )(pending before the Legislature as this bill).

47 c. Beginning two years after the effective date of P.L. , c.  
48 (C. )(pending before the Legislature as this bill), this section

1 shall supersede and preempt any municipal or county rule,  
2 regulation, code, or ordinance concerning the regulation or  
3 prohibition of single-use plastic carryout bags or single-use paper  
4 carryout bags that was enacted prior to the effective date of  
5 P.L. , c. (C. )(pending before the Legislature as this bill).

6  
7 4. (New section) a. Beginning two years after the effective  
8 date of P.L. , c. (C. )(pending before the Legislature as this  
9 bill), no person shall sell or offer for sale in the State any  
10 polystyrene foam food service product.

11 b. Beginning two years after the effective date of  
12 P.L. , c. (C. )(pending before the Legislature as this bill), no  
13 food service business shall provide or sell any food in a polystyrene  
14 foam food service product.

15 c. The following products shall be exempt from the provisions  
16 of subsections a. and b. of this section for a period of two years  
17 beginning two years after the effective date of P.L. , c. (C. )  
18 (pending before the Legislature as this bill):

19 (1) disposable, long-handled polystyrene foam soda spoons  
20 when required and used for thick drinks;

21 (2) portion cups of two ounces or less, if used for hot foods or  
22 foods requiring lids;

23 (3) meat and fish trays for raw or butchered meat, including  
24 poultry, or fish that is sold from a refrigerator or similar retail  
25 appliance;

26 (4) any food product pre-packaged by the manufacturer with a  
27 polystyrene foam food service product; and

28 (5) any other polystyrene foam food service product as  
29 determined necessary by the department.

30 d. The department may extend any exemption provided for in  
31 subsection c. of this section for additional periods not to exceed one  
32 year upon a written determination that there is no cost-effective and  
33 readily available alternative for the item. An exemption shall  
34 expire after one year unless the department extends the exemption  
35 pursuant to this subsection.

36 e. The department may, upon written application by a person or  
37 food service business, waive the provisions of subsection a. or b. of  
38 this section for the person or food service business for a period not  
39 to exceed one year, if:

40 (1) there is no feasible and commercially available alternative  
41 for a specific polystyrene foam food service product; or

42 (2) the person or food service business has less than \$500,000 in  
43 gross annual income and there is no reasonably affordable,  
44 commercially-available alternative to the polystyrene foam food  
45 service product.

46 The department shall prescribe the form and manner of the  
47 application for a waiver pursuant to this subsection. The  
48 department may, upon written application, extend any waiver

1 granted pursuant to this section for additional periods not to exceed  
2 one year.

3 f. A municipality or county shall not adopt any rule,  
4 regulation, code, or ordinance concerning the regulation or  
5 prohibition of polystyrene foam food service products after the  
6 effective date of P.L. , c. (C. )(pending before the  
7 Legislature as this bill).

8 g. Beginning two years after the effective date of P.L. , c.  
9 (C. )(pending before the Legislature as this bill), this section  
10 shall supersede and preempt any municipal or county rule,  
11 regulation, code, or ordinance concerning the regulation or  
12 prohibition of polystyrene foam food service products that was  
13 enacted prior to the effective date of P.L. , c. (C. )(pending  
14 before the Legislature as this bill).

15  
16 5. (New section) a. Beginning one year after the effective  
17 date of P.L. , c. (C. )(pending before the Legislature as this  
18 bill), a food service business shall only provide a single-use plastic  
19 straw to a customer upon the request of the customer.

20 b. A food service business shall maintain an adequate supply of  
21 single-use plastic straws to provide at the request of customers  
22 pursuant to subsection a. of this section.

23 c. Nothing in this section shall be construed to prohibit a store  
24 from selling packages of single-use plastic straws to customers, or  
25 from providing or selling a beverage pre-packaged by the  
26 manufacturer with a single-use plastic straw, including, but not  
27 limited to, a juice box.

28 d. Notwithstanding the provisions of subsection c. of section 6  
29 of P.L. , c. (C. )(pending before the Legislature as this bill),  
30 the Department of Health shall enforce the provisions of this  
31 section. The Department of Health may adopt, pursuant to the  
32 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
33 seq.), any rules and regulations necessary to effectuate the  
34 provisions of this section.

35 e. No later than four years after the effective date of  
36 P.L. , c. (C. )(pending before the Legislature as this bill), the  
37 Department of Health shall prepare and submit to the Plastics  
38 Advisory Council a written report evaluating the compliance of  
39 food service businesses with the requirements of this section.

40 f. A municipality or county shall not adopt any rule,  
41 regulation, code, or ordinance concerning the regulation or  
42 prohibition of single-use plastic straws after the effective date of  
43 P.L. , c. (C. )(pending before the Legislature as this bill).

44 g. Beginning one year after the effective date of P.L. , c.  
45 (C. )(pending before the Legislature as this bill), this section  
46 shall supersede and preempt any municipal or county rule,  
47 regulation, code, or ordinance concerning the regulation or  
48 prohibition of single-use plastic straws that was enacted prior to the

1 effective date of P.L. , c. (C. )(pending before the  
2 Legislature as this bill).

3  
4 6. (New section) a. Any person or entity that violates a  
5 provision of P.L. , c. (C. )(pending before the Legislature as  
6 this bill), or any rule or regulation adopted pursuant thereto, shall be  
7 subject to a warning for a first offense, up to \$1,000 for a second  
8 offense, and up to \$5,000 for a third or subsequent offense, to be  
9 collected in a civil action by a summary proceeding under the  
10 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10  
11 et seq.), or in any case before a court of competent jurisdiction  
12 wherein injunctive relief has been requested. If the violation is of a  
13 continuing nature, each day during which it continues shall  
14 constitute an additional, separate, and distinct offense. The  
15 Superior Court and the municipal court shall have jurisdiction to  
16 enforce the provisions of the “Penalty Enforcement Law of 1999” in  
17 connection with P.L. , c. (C. )(pending before the  
18 Legislature as this bill).

19 b. Any penalty collected pursuant to this section shall be  
20 remitted to the State Treasurer for deposit in the Clean  
21 Communities Program Fund established pursuant to section 5 of  
22 P.L.2002, c.128 (C.13:1E-217), except that a municipality or entity  
23 certified pursuant to the “County Environmental Health Act,”  
24 P.L.1977, c.443 (C.26:3a2-21 et seq.) may retain 30 percent of any  
25 penalty it collects pursuant to subsection a. of this section.

26 c. The Department of Environmental Protection, a  
27 municipality, and any entity certified pursuant to the “County  
28 Environmental Health Act,” P.L.1977, c.443 (C.26:3a2-21 et seq.)  
29 shall have the authority to enforce the provisions of P.L. , c.  
30 (C. )(pending before the Legislature as this bill). Those entities  
31 may institute a civil action for injunctive relief to enforce P.L. , c.  
32 (C. )(pending before the Legislature as this bill) and to prohibit  
33 and prevent a violation thereof, and the court may proceed in the  
34 action in a summary manner.

35  
36 7. (New section) a. There is established in the Department of  
37 Environmental Protection the Plastics Advisory Council. The  
38 council shall monitor the implementation of  
39 P.L. , c. (C. )(pending before the Legislature as this bill),  
40 and evaluate its effectiveness in reducing single-use plastics and  
41 plastic waste in the State.

42 b. The council shall consist of 15 members as follows:

43 (1) the Commissioner of Environmental Protection, who shall  
44 serve ex officio, or the commissioner’s designee;

45 (2) the Commissioner of Health, who shall serve ex officio, or  
46 the commissioner’s designee;

47 (3) the following members appointed by the Governor:

- 1 (a) two members of the academic community with expertise on  
2 the issues of single-use plastics and plastic waste;
  - 3 (b) four members representing the environmental community;
  - 4 (c) four members representing stores and food service  
5 businesses in the State;
  - 6 (d) one member representing the polystyrene foam industry;
  - 7 (e) one member representing the recycling industry; and
  - 8 (f) one member representing local governments.
- 9 c. All appointments to the council shall be made no later than  
10 90 days after the effective date of P.L. , c. (C. )(pending  
11 before the Legislature as this bill). The term of office of each  
12 public member shall be three years. Each member shall serve until  
13 a successor has been appointed and qualified, and vacancies shall be  
14 filled in the same manner as the original appointments for the  
15 remainder of the unexpired term. A member is eligible for  
16 reappointment to the council. The members of the council shall  
17 serve without compensation, but shall be eligible for necessary and  
18 reasonable expenses incurred in the performance of their official  
19 duties within the limits of funds appropriated or otherwise made  
20 available for the council's purposes.
- 21 d. The council shall organize as soon as practicable following  
22 the appointment of its members and shall select a chairperson and a  
23 vice-chairperson from among its members, as well as a secretary  
24 who need not be a member of the council. A majority of the  
25 membership of the council shall constitute a quorum for the  
26 transaction of council business. The council may meet and hold  
27 hearings at the place or places it designates.
- 28 e. No later than one year after the effective date of P.L. , c.  
29 (C. )(pending before the Legislature as this bill), and each year  
30 thereafter, the council shall prepare and submit a written report to  
31 the Governor, the Legislature pursuant to section 2 of  
32 P.L.1991, c.164 (C.52:14-19.1), and the respective chairpersons of  
33 the Senate Environment and Energy Committee and the Assembly  
34 Environment and Solid Waste Committee, or their successors,  
35 evaluating the implementation and effectiveness of P.L. , c.  
36 (C. )(pending before the Legislature as this bill), and making  
37 any recommendations for legislative or administrative action to  
38 improve the implementation or effectiveness of P.L. , c.  
39 (C. )(pending before the Legislature as this bill).
- 40 f. (1) The council shall also study the environmental and  
41 public health impacts of single-use plastics and micro-plastics;  
42 healthy and environmentally-friendly alternatives to single-use  
43 plastics; strategies and policies to increase the recyclability of  
44 plastics and reduce the amount of plastic entering the environment;  
45 the technological feasibility of increasing recycled content of  
46 consumer plastics and expanding the types of plastics that may be  
47 manufactured from recycled material; and ways to enhance the  
48 development and expansion of markets of post-consumer recycled



1 plastic, including State and local purchasing and procurement  
2 practices.

3 (2) No later than two years after the effective date of P.L. , c.  
4 (C. )(pending before the Legislature as this bill), the council  
5 shall submit a written report to the Governor, the Legislature  
6 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the  
7 respective chairpersons of the Senate Environment and Energy  
8 Committee and the Assembly Environment and Solid Waste  
9 Committee, or their successors. The written report shall summarize  
10 the analysis conducted pursuant to paragraph (1) of this subsection  
11 and recommend ways to reduce the use of plastics and the amount  
12 of plastic entering the environment, and increase the rate of  
13 recycling of plastics.

14

15 8. (New section) No later than six months after the effective  
16 date of P.L. , c. (C. )(pending before the Legislature as this  
17 bill):

18 a. the Department of State, in consultation with the Department  
19 of Environmental Protection, shall establish a program to assist  
20 businesses in complying with the provisions of P.L. , c.  
21 (C. )(pending before the Legislature as this bill), including, but  
22 not limited to, developing and publishing on its Internet website  
23 guidance on compliance with the act, and establishing an online  
24 clearinghouse of vendors who provide environmentally sound  
25 alternatives to single-use plastic carryout bags, single-use paper  
26 carryout bags, polystyrene foam food service products, and single-  
27 use plastic straws; and

28 b. the organization under contract with the Department of  
29 Environmental Protection pursuant to section 6 of P.L.2002, c.128  
30 (C.13:1E-218) shall, in cooperation with local governments and the  
31 business community, develop and implement a Statewide public  
32 information and education program concerning the provisions of  
33 P.L. , c. (C. )(pending before the Legislature as this bill).  
34 The program shall include, but need not be limited to, educational  
35 programs, public service announcements, and the distribution of  
36 free reusable carryout bags throughout the State.

37

38 9. (New section) The department shall adopt, pursuant to the  
39 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
40 seq.), any rules and regulations necessary to effectuate the  
41 provisions of P.L. , c. (C. )(pending before the Legislature  
42 as this bill).

43

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

46 5. The Clean Communities Program Fund is established as a  
47 nonlapsing, revolving fund in the Department of the Treasury. The  
48 Clean Communities Program Fund shall be administered by the

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

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

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

34 c. 30 **[%]** percent of the estimated annual balance of the Clean  
35 Communities Program Fund shall be distributed as State aid to  
36 eligible municipalities with total housing units of 200 or more for  
37 programs of litter pickup and removal, including establishing an  
38 "Adopt-A-Highway" program, of public education and information  
39 relating to litter abatement and of enforcement of litter-related laws  
40 and ordinances. The amount of State aid due each municipality  
41 shall be solely calculated based on the proportion which the  
42 municipal road mileage of a qualifying municipality bears to the  
43 total municipal road mileage within the State. For the purposes of  
44 this subsection, "municipal road mileage" means that road mileage  
45 under the jurisdiction of municipalities, as determined by the  
46 Department of Transportation. Moneys in the fund may also be  
47 used by an eligible municipality to abate graffiti;

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

14 e. No eligible municipality shall receive less than \$4,000 in  
15 State aid as apportioned pursuant to subsections b. and c. of this  
16 section. A municipality or county may use up to **[5%]** five percent  
17 of its State aid for administrative expenses;

18 f. Prior to the distribution of funds pursuant to subsections a.  
19 through d. of this section **[,]** :

20 (1) \$375,000 of the estimated annual balance of the Clean  
21 Communities Program Fund shall be annually appropriated to the  
22 department and made available on July 1 of every year to the  
23 organization under contract with the department pursuant to section  
24 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public  
25 information and education program concerning antilittering  
26 activities and other aspects of responsible solid waste handling  
27 behavior, of which up to \$75,000 shall be used exclusively to  
28 finance an annual Statewide television, radio, newspaper and other  
29 media advertising campaign to promote antilittering and responsible  
30 solid waste handling behavior.

31 (2) in each of the first three years after the effective date of  
32 P.L. , c. (C. )(pending before the Legislature as this bill),  
33 \$500,000 of the estimated annual balance of the Clean Communities  
34 Program Fund shall be appropriated to the department and made  
35 available on July 1 of each year to the organization under contract  
36 with the department pursuant to section 6 of P.L.2002, c.128  
37 (C.13:1E-218) for the Statewide public information and education  
38 program developed pursuant to subsection b. of section of section 8  
39 of P.L. , c. (C. )(pending before the Legislature as this bill).

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

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

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

12 The department may carry forward any unexpended balances in  
13 the Clean Communities Program Fund as of June 30 of each year.  
14 (cf: P.L.2007, c.311, s.15)

15

16 11. This act shall take effect immediately.

17

18

19

#### STATEMENT

20

21 This bill would prohibit the provision or sale of single-use plastic  
22 carryout bags, single-use paper carryout bags, and polystyrene foam  
23 food service products, and limit the provision of single-use plastic  
24 straws.

25 Specifically, beginning two years after the effective date of the  
26 bill, a store or food service business would be prohibited from  
27 providing or selling a single-use plastic carryout bag to a customer,  
28 and a grocery store would be prohibited from providing or selling a  
29 single-use paper carryout bag to customer. The prohibitions in the  
30 bill would not apply to: (1) a bag used solely to contain or wrap  
31 uncooked meat, fish, or poultry; (2) a bag used solely to package  
32 loose items such as fruits, vegetables, nuts, coffee, grains, baked  
33 goods, candy, greeting cards, flowers, or small hardware items; (3)  
34 a bag used solely to contain live animals, such as fish or insects  
35 sold in a pet store; (4) a bag used solely to contain food sliced or  
36 prepared to order, including soup or hot food; (5) a laundry, dry  
37 cleaning, or garment bag; (6) a bag provided by a pharmacy to  
38 carry prescription drugs; (7) a newspaper bag; and (8) any similar  
39 bag, as determined by the Department of Environmental Protection  
40 (DEP). The prohibitions would also not apply to a reusable  
41 carryout bag, which is a bag that is made of polypropylene, PET  
42 nonwoven fabric, nylon, cloth, or other machine washable fabric;  
43 has stitched handles; and is designed and manufactured for multiple  
44 reuse.

45 Beginning two years after the effective date of the bill, a person  
46 would be prohibited from selling or offering for sale in the State  
47 any polystyrene foam food service product, and a food service  
48 business would be prohibited from providing or selling any food in

1 a polystyrene foam food service product. However, the following  
2 items would be exempt from the prohibition on polystyrene foam  
3 food service products for a period of two years after the prohibition  
4 takes effect: (1) disposable, long-handled polystyrene foam soda  
5 spoons when required and used for thick drinks; (2) portion cups of  
6 two ounces or less, if used for hot foods or foods requiring lids; (3)  
7 meat and fish trays for raw or butchered meat, including poultry, or  
8 fish that is sold from a refrigerator or similar retail appliance; (4)  
9 any food product pre-packaged by the manufacturer with a  
10 polystyrene foam food service product; and (5) any other  
11 polystyrene foam food service product as determined necessary by  
12 the DEP. The DEP would be authorized to extend any exemption  
13 listed above for additional periods not to exceed one year upon a  
14 written determination that there is no cost-effective and readily  
15 available alternative for the item.

16 Additionally, the DEP would be authorized, upon written  
17 application by a person or food service business, to waive the  
18 prohibitions on polystyrene foam food service products for the  
19 person or food service business for a period of up to one year if: (1)  
20 there is no feasible and commercially available alternative for a  
21 specific polystyrene foam food service product; or (2) the person or  
22 food service business has less than \$500,000 in gross annual income  
23 and there is no reasonably affordable, commercially-available  
24 alternative to the polystyrene foam food service product. The DEP  
25 would prescribe the form and manner of an application for a waiver.

26 Beginning one year after the effective date of the bill, a food  
27 service business would only be permitted to provide a single-use  
28 plastic straw to a customer upon the request of the customer. A  
29 store would be permitted to provide other types of straws, such as  
30 paper or reusable metal straws, without limitation. The bill would  
31 require a food service business to maintain an adequate supply of  
32 single-use plastic straws to provide at the request of customers.  
33 Nothing in the bill would prohibit a store from selling packages of  
34 single-use plastic straws to customers, or from providing or selling  
35 a beverage pre-packaged by the manufacturer with a plastic straw.

36 A municipality or county would be prohibited from adopting any  
37 rule, regulation, code, or ordinance concerning the regulation or  
38 prohibition of single-use plastic carryout bags, single-use paper  
39 carryout bags, polystyrene foam food service products, and single-  
40 use plastic straws after the effective date of the bill. Beginning  
41 when the respective prohibitions described above take effect, the  
42 bill would supersede and preempt any municipal or county rules,  
43 regulations, codes, or ordinances concerning the regulation or  
44 prohibition of single-use plastic carryout bags, single-use paper  
45 carryout bags, polystyrene foam food service products, and single-  
46 use plastic straws that were enacted prior to the effective date of the  
47 bill.

1       The DEP, a municipality, and any entity certified pursuant to the  
2 “County Environmental Health Act,” P.L.1977, c.443 (C.26:3a2-21  
3 et seq.) would have the authority to enforce the bill; with the  
4 exception that the Department of Health would enforce the  
5 provisions of the bill concerning single-use plastic straws. Any  
6 person or entity that violates the provisions of the bill would be  
7 subject to a warning for a first offense, a fine of up to \$1,000 for a  
8 second offense, and a fine of up to \$5,000 for a third or subsequent  
9 offense. If the violation is of a continuing nature, each day during  
10 which it continues would constitute an additional, separate, and  
11 distinct offense. Any penalty collected under the bill would be  
12 remitted to the State Treasurer for deposit in the Clean  
13 Communities Program Fund established pursuant to section 5 of  
14 P.L.2002, c.128 (C.13:1E-217). However, a municipality or entity  
15 certified pursuant to the “County Environmental Health Act would  
16 be permitted to retain 30 percent of any penalty it collects under the  
17 bill.

18       The bill would also establish the Plastics Advisory Council in the  
19 DEP to monitor the implementation of the bill, and evaluate its  
20 effectiveness in reducing single-use plastics and plastic waste in the  
21 State. The council would be required, each year, to report to the  
22 Governor and the Legislature on the implementation and  
23 effectiveness of the bill. The council would also study and report  
24 on the environmental and public health impacts of single-use  
25 plastics and micro-plastics; healthy and environmentally-friendly  
26 alternatives to single-use plastics; strategies and policies to increase  
27 the recyclability of plastics and reduce the amount of plastic  
28 entering the environment; the technological feasibility of increasing  
29 recycled content of consumer plastics and expanding the types of  
30 plastics that may be manufactured from recycled material; and ways  
31 to enhance the development and expansion of markets of post-  
32 consumer recycled plastic, including State and local purchasing and  
33 procurement practices.

34       Under the bill, the Department of State, in consultation with  
35 DEP, would be required to establish a program to assist businesses  
36 in complying with the provisions of the bill, including, but not  
37 limited to, developing and publishing on its Internet website  
38 guidance on compliance with the bill, and establishing an online  
39 clearinghouse of vendors who provide environmentally sound  
40 alternatives to single-use plastic carryout bags, single-use paper  
41 carryout bags, polystyrene foam food service products, and single-  
42 use plastic straws.

43       The bill would require the organization that is under contract  
44 with the Department of Environmental Protection (DEP) pursuant to  
45 section 6 of P.L.2002, c.128 (C.13:1E-218) (for implementation of  
46 certain components of the Clean Communities Program) to develop  
47 and implement a Statewide public information and education  
48 program concerning the provisions of the bill. The program would

1 include educational programs, public service announcements, and  
2 the distribution of free reusable carryout bags throughout the State.

3 Finally, the bill would amend section 5 of P.L.2002, c.128  
4 (C.13:1E-217)(concerning the Clean Communities Program Fund)  
5 to provide that, in each of the first three years after the effective  
6 date of the bill, \$500,000 of the estimated annual balance of the  
7 Clean Communities Program Fund would be appropriated to the  
8 DEP and made available to the organization under contract with the  
9 DEP pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) to  
10 develop the Statewide public information and education program  
11 required under this bill.