

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 396

H.P. 262

House of Representatives, February 12, 2015

An Act To Encourage the Use of Alternatives to Single-use Plastic Disposable Bags

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative COOPER of Yarmouth.
Cosponsored by Representative: BEAVERS of South Berwick, Senator: GRATWICK of Penobscot.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §1605**, as repealed and replaced by PL 1991, c. 475, §1, is
3 repealed.

4 **Sec. 2. 38 MRSA §§1605-A and 1605-B** are enacted to read:

5 **§1605-A. Plastic bags**

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
7 following terms have the following meanings.

8 A. "Plastic" means an organic or petroleum-derivative synthetic or semisynthetic
9 organic solid that is moldable.

10 B. "Retailer" means a person that offers consumer goods for sale at retail in the State.

11 C. "Reusable bag" means a bag with handles that is specifically designed and
12 manufactured for multiple reuse and is made of cloth, fiber, other machine-washable
13 fabric or durable plastic.

14 D. "Single-use plastic disposable bag" means a bag made from plastic and designed
15 for one-time use to carry consumer goods in a retail transaction. "Single-use plastic
16 disposable bag" does not include:

17 (1) Plastic bags used by consumers inside stores to package bulk items, such as
18 fruit, vegetables, nuts, grains, candy or small hardware items; to contain or wrap
19 frozen foods, meat or fish, whether prepackaged or not; to contain or wrap
20 flowers, potted plants or other items where dampness may be a problem; and to
21 contain unwrapped prepared foods or bakery goods;

22 (2) Plastic bags provided by pharmacists to contain prescription drugs; or

23 (3) Plastic newspaper bags, door-hanger bags, laundry or dry-cleaning bags or
24 bags sold in packages containing multiple bags intended for use as garbage, pet
25 waste or yard waste bags.

26 **2. Use of plastic bags by retailer.** A retailer may not use single-use plastic
27 disposable bags at the point of retail sale, or otherwise make single-use plastic disposable
28 bags available to customers, unless the following provisions are met:

29 A. The single-use plastic disposable bags are 100% recyclable, display the phrase
30 "Please recycle this bag" or a substantially similar phrase in a highly visible manner
31 on the bag exterior and are made of high-density polyethylene film marked with the
32 Society of the Plastics Industry resin identification code 2 or low-density
33 polyethylene film marked with the Society of the Plastics Industry resin identification
34 code 4, or such standards as are established by a successor organization;

35 B. The retailer locates inside the retailer's store or within 20 feet of the main entrance
36 to the store a receptacle for collecting any used single-use plastic disposable bags and
37 ensures that the bags collected are recycled or delivered to a person engaged in
38 recycling plastics; and

1 C. The retailer collects a fee as required by subsection 3.

2 **3. Plastic bag fee and carryout program.** A retailer shall collect a fee of 5¢ from a
3 customer for each single-use plastic disposable bag distributed to the customer at the
4 point of retail sale. The retailer:

5 A. Retains 1¢ of each 5¢ fee to cover administrative costs, except as provided in
6 paragraph B.

7 B. In addition to the amount retained under paragraph A, may elect to retain 1¢ of
8 each 5¢ fee, for a total of 2¢ retained of each 5¢ fee collected, to implement and
9 support a carryout program that credits a customer no less than 5¢ for each bag
10 provided by the customer at the point of retail sale for packaging purchases,
11 regardless of whether the bag is paper, plastic or reusable material. The retailer has
12 the sole discretion of determining the amount of the credit due to a customer at the
13 point of retail sale; and

14 C. Shall provide an itemized sales receipt documenting the amount of the fee paid by
15 a customer or, if applicable, the carryout program credit under paragraph B. The
16 retailer shall prominently display at each point of retail sale a sign describing the fee
17 required under this subsection and, if applicable, the carryout program.

18 The retailer shall document all fees collected under this subsection on a form determined
19 by the commissioner and on a monthly basis submit to the department the completed
20 form and fees collected, less the fee portions retained under paragraph A and, if
21 applicable, under paragraph B. Fees remitted to the department under this subsection
22 must be credited to the Plastics Recycling Fund established in section 1605-B.

23 The assessment of a fee under this subsection is not considered a sale of tangible personal
24 property or taxable services under Title 36, section 1811, and the fees retained by the
25 retailer are not considered revenue and are considered tax-exempt under Title 36, Part 8.

26 **4. Paper and reusable bags.** A retailer may provide recyclable paper bags to bag
27 products at the point of sale. A retailer shall provide reusable bags for purchase by a
28 customer.

29 **5. Enforcement and penalties for violation.** If the commissioner determines that a
30 retailer has violated this section, the commissioner shall initiate an enforcement action
31 pursuant to section 347-A to recover any unpaid fees required under subsection 3 and
32 may impose an additional penalty on the retailer consistent with section 349. No more
33 than one penalty may be imposed upon a retailer within a 7-day period. Revenues
34 collected by the department from penalties assessed under this subsection must be
35 credited to the Plastics Recycling Fund established in section 1605-B.

36 **6. Rules.** The department may adopt rules to implement the provisions of this
37 section. Rules adopted pursuant to this subsection are routine technical rules as defined
38 in Title 5, chapter 375, subchapter 2-A.

39 **§1605-B. Plastics Recycling Fund**

40 The Plastics Recycling Fund, referred to in this section as "the fund," is established
41 within the department for the purpose of promoting recycling efforts related to plastics.

1 including establishing statewide or county programs to promote plastics recycling and to
2 educate the public about plastics recycling and about the benefits of the alternate use of
3 reusable bags and establishing other programs that carry out the purposes of the fund as
4 determined by the commissioner. Revenues in the fund may also be used to provide
5 reusable bags to residents of the State, with priority distribution to elderly and low-
6 income residents. The commissioner shall administer the fund. The fund is funded from
7 fees collected under section 1605-A, subsection 3. Any unexpended money in the fund
8 may not lapse, but must be carried forward to the next fiscal year. Revenues in the fund
9 must be used for carrying out the purposes of the fund after reasonable costs for the
10 administration of the fund by the department are deducted.

11 **Sec. 3. Department of Environmental Protection; public information and**
12 **outreach campaigns.** By January 1, 2016, the Department of Environmental
13 Protection shall develop and conduct an intensive public information campaign aimed at
14 educating the public on the importance of reducing the number of single-use plastic
15 disposable bags entering the waste stream and the impact of such bags on the
16 environmental health of the State. By January 1, 2016, the department shall develop and
17 implement an outreach campaign that includes a public-private partnership to provide
18 reusable bags to residents of the State and, working with service providers that assist
19 elderly and low-income residents, to distribute information and reusable bags to elderly
20 and low-income households. The department may use funds in the Plastics Recycling
21 Fund established under the Maine Revised Statutes, Title 38, section 1605-B to cover the
22 costs of developing and implementing these campaigns.

23 **SUMMARY**

24 This bill requires a retailer to assess a 5¢ fee for a single-use plastic disposable bag
25 distributed to a customer at the point of retail sale. The retailer retains 1¢ from each 5¢
26 fee for administrative costs and may elect to retain an additional 1¢ from each 5¢ fee to
27 provide a carryout program that credits a customer no less than 5¢ for each bag provided
28 by the customer at the point of retail sale for packaging purchases. The revenues from
29 the fee, less the portion retained by the retailer for administrative costs and, if applicable,
30 the carryout program, are credited to the Plastics Recycling Fund administered by the
31 Department of Environmental Protection for the purpose of promoting recycling efforts in
32 the State related to plastics. A retailer may provide recyclable paper products at the point
33 of sale and must provide reusable bags for purchase by a customer. This bill authorizes
34 the Department of Environmental Protection to enforce these laws and impose penalties
35 for violations. This bill also directs that, by January 1, 2016, the Department of
36 Environmental Protection must conduct a public information campaign relating to plastics
37 and their impact on the environment and must implement an outreach campaign aimed at
38 providing reusable bags to residents of the State, especially to elderly and low-income
39 households.