

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 680

H.P. 461

House of Representatives, March 3, 2015

### An Act To Reduce Waste from Disposable Bags

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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 RYKERSON of Kittery.

Cosponsored by Representatives: BEAVERS of South Berwick, BLUME of York, DEVIN of Newcastle, HARLOW of Portland, HYMANSON of York, McCREIGHT of Harpswell.

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2 **Sec. 1. 38 MRSA §1605**, as repealed and replaced by PL 1991, c. 475, §1, is  
3 repealed.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. Single-use disposable 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 disposable bag" means a bag made from plastic or kraft paper and  
15 designed for one-time use to carry consumer goods in a retail transaction. "Single-  
16 use disposable bag" does not include:

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

22 (2) Bags provided by pharmacists to contain prescription drugs;

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

26 (4) Bags provided by an eating establishment licensed under Title 22, chapter  
27 562 to customers to take food away from the eating establishment; or

28 (5) Reusable bags.

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

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

1 B. Single-use disposable bags made from kraft paper are 100% recyclable, display  
2 the phrase "Please recycle this bag" or a substantially similar phrase in a highly  
3 visible manner on the bag exterior and contain a minimum of 40% post-consumer  
4 recycled content;

5 C. The retailer locates inside the retailer's store or within 20 feet of the main entrance  
6 to the store a receptacle for collecting any used single-use disposable bags and  
7 ensures that the bags collected are recycled or delivered to a person engaged in  
8 recycling plastics or kraft paper; and

9 D. The retailer collects a fee as required by subsection 3.

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

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

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

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

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

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

34 **4. Reusable bags.** A retailer shall provide reusable bags for purchase by customers.

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



1 impact on the environment and must implement an outreach campaign aimed at providing  
2 reusable bags to residents of the State, especially to elderly and low-income households.