

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1532

H.P. 1115

House of Representatives, April 9, 2019

An Act To Eliminate Single-use Plastic Carry-out Bags

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

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative STOVER of Boothbay.
Cosponsored by Representatives: GROHOSKI of Ellsworth, McCREA of Fort Fairfield and
Representatives: BABINE of Scarborough, BRENNAN of Portland, GRAMLICH of Old
Orchard Beach, MAREAN of Hollis, McDONALD of Stonington, MEYER of Eliot, O'NEIL
of Saco, Senator: SANBORN, L. of Cumberland.

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

2 **Sec. 1. 38 MRSA §1605, first ¶**, as repealed and replaced by PL 1991, c. 475, §1,
3 is amended to read:

4 A As provided in section 1611, a retailer may use plastic bags to bag products other
5 than at the point of retail sale only if the retailer:

6 **Sec. 2. 38 MRSA §1611** is enacted to read:

7 **§1611. Plastic bag reduction**

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

10 A. "Plastic" means an organic or petroleum derivative synthetic or a semisynthetic
11 organic solid that is moldable, and to which additives or other substances may have
12 been added. "Plastic" does not include natural polymers that have not been
13 chemically modified.

14 B. "Point of sale" means a check-out stand, cash register or other point of departure
15 from a retail establishment.

16 C. "Post-consumer recycled material" means a recycled material that if not recycled
17 would otherwise have been destined for solid waste disposal, having completed its
18 intended end use and product life cycle. "Post-consumer recycled material" does not
19 include materials and by-products generated from, and commonly reused in, an
20 original manufacturing and fabrication process.

21 D. "Recycled paper bag" means a paper bag that:

22 (1) Is 100% recyclable; and

23 (2) Contains at least 20% post-consumer recycled material if it has a capacity to
24 hold at least 8 pounds,

25 E. "Restaurant" means an establishment that sells prepared food directly to the
26 consumer.

27 F. "Retail establishment" means a store, a restaurant or a temporary business.

28 G. "Reusable bag" means a bag with handles that:

29 (1) Is designed and manufactured to withstand 75 repeated uses;

30 (2) Is machine washable or made from a material that can be cleaned and
31 disinfected regularly;

32 (3) If made from plastic is at least 4 mils thick; and

33 (4) Has the capability of carrying a minimum of 18 pounds.

34 H. "Single-use carry-out bag" means a bag that is made of plastic, paper or other
35 material provided by a retail establishment at the point of sale for the purpose of

1 transporting merchandise away from the retail establishment and that is not a
2 recycled paper bag or a reusable bag.

3 I. "Store" means a retail store that engages in the retail sale of merchandise,
4 including food, goods, products and clothing. "Store" includes grocery stores
5 primarily engaged in the retail sale of canned food, dry goods, fresh fruits and
6 vegetables, fresh meats, fish and poultry and convenience stores engaged in the sale
7 of a limited line of goods, including milk, bread, soda and snack foods, and prepared
8 foods intended to be consumed off the premises.

9 J. "Temporary business" means a seasonal or nonpermanent retail establishment such
10 as a farmers' market or fair that sells merchandise including food, goods, products or
11 clothing.

12 **2. Prohibition; exemptions.** This subsection governs the use of single-use carry-out
13 bags.

14 A. Except as otherwise provided in this subsection, beginning April 22, 2020, a retail
15 establishment may not provide a single-use carry-out bag to a customer at the point of
16 sale or otherwise make single-use carry-out bags available to customers.

17 B. The prohibition in paragraph A does not apply to:

18 (1) Bags provided by a pharmacy to a customer for transporting a prescription
19 medication away from the store;

20 (2) Bags without handles used to protect items from being damaged or from
21 damaging or contaminating other purchased items placed in a recycled paper bag
22 or a reusable bag;

23 (3) Bags used by customers inside a retail establishment to package loose items,
24 such as fruits, vegetables, nuts, coffee, grains, bakery goods, candy, greeting
25 cards or small hardware items; to contain or wrap frozen foods, meats or fish; or
26 to contain or wrap flowers or potted plants;

27 (4) Laundry, dry cleaning or garment bags, including bags provided by a hotel to
28 guests to contain wet or dirty clothing or bags provided to protect large garments
29 like suits, jackets or dresses;

30 (5) Newspaper bags;

31 (6) Bags sold in packages containing multiple bags intended to contain garbage,
32 pet waste or yard waste;

33 (7) Bags used to contain live animals, such as fish or insects sold in pet stores;

34 (8) Bags used for vehicle tires;

35 (9) Bags used to transport chemical pesticides, drain cleaning chemicals or other
36 caustic chemicals sold at a retail establishment;

37 (10) Bags used by a hunger relief organization such as a food pantry or soup
38 kitchen to distribute food directly to the consumer at no charge;

1 (11) Bags that customers bring to the retail establishment for their own use or for
2 carrying away from the retail establishment goods that are not placed in a bag
3 provided by the retail establishment.

4 **3. Recycled paper bag fees; exemptions.** This subsection governs fees assessed on
5 recycled paper bags.

6 A. Beginning April 22, 2020 a retail establishment may use a recycled paper bag to
7 bag products at the point of sale as long as the retail establishment charges a fee of at
8 least 5¢ per bag.

9 (1) All amounts collected pursuant to this paragraph are retained by the retail
10 establishment and may be used for any lawful purpose.

11 (2) A retail establishment may not rebate or otherwise reimburse a customer any
12 portion of the fee charged pursuant to this paragraph;

13 (3) A retail establishment that sells a recycled paper bag to bag products at the
14 point of sale may not charge for the bag if a customer uses an electronic benefits
15 transfer card or a payment card or voucher issued by the State for the federal
16 supplemental nutrition program under Title 22, section 3104 or the Women,
17 Infants and Children Special Supplemental Food Program of the United States
18 Child Nutrition Act of 1966 to pay for the customer's products.

19 B. The requirement to charge a fee under paragraph A does not apply to:

20 (1) Stores at which less than 2% of retail sales are attributed to the sale of food
21 and that have less than 10,000 square feet of retail area;

22 (2) Restaurants; or

23 (3) Hunger relief organizations engaged in distributing food directly to
24 consumers at no charge.

25 A retail establishment exempt from charging a fee under this paragraph may charge a
26 fee for a recycled paper bag.

27 **4. Violations.** A retail establishment that is not in compliance with this section is
28 subject to civil penalties under section 349.

29 **5. Preemption.** To ensure maximum effectiveness through uniform statewide
30 application, the State intends to occupy the whole field of regulation of single-use carry-
31 out bags at retail establishments.

32 **SUMMARY**

33 This bill prohibits a retail establishment from using single-use carry-out bags to bag
34 products at the point of sale or otherwise make single-use carry-out bags available to
35 customers, with exemptions for certain types and uses of plastic and paper bags. Retail
36 establishments may provide recyclable paper bags to bag products at the point of sale for
37 at least 5¢ per bag, with exceptions to the fee requirement for certain types of retail
38 establishments. The prohibition is effective April 22, 2020.