

**HOUSE . . . . . No. 992**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Smitty Pignatelli***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

**An Act reducing plastic bag pollution.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>2/19/2021</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/22/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/24/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/26/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/26/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>3/12/2021</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>3/15/2021</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>3/16/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>5/16/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>6/6/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>7/9/2021</i>

**HOUSE . . . . . No. 992**

By Mr. Pignatelli of Lenox, a petition (accompanied by bill, House, No. 992) of Smitty Pignatelli and others relative to reducing plastic bag pollution. Environment, Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act reducing plastic bag pollution.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 21O, the  
2 following chapter:

3 CHAPTER 21P.

4 PLASTIC BAG REDUCTION

5 Section 1. As used in this chapter, the following words shall have the following meanings  
6 unless the context clearly requires otherwise:

7 “Department”, the department of environmental protection.

8 “Postconsumer recycled material”, material used in a recycled paper bag that would  
9 otherwise be destined for solid waste disposal having completed its intended end use and product  
10 life cycle, and does not comprise any material or byproduct generated from, and commonly  
11 reused within, an original manufacturing and fabrication process.

12           “Recycled paper bag”, a paper bag that (i) is 100 per cent recyclable, (ii) contains a  
13 minimum of 40 per cent postconsumer recycled materials, provided, however, that an 8 pound or  
14 smaller paper bag shall contain a minimum of 20 per cent postconsumer recycled material, and  
15 (iii) displays on the outside of the bag, the words "100% Recyclable" and “40 % postconsumer  
16 recycled content", or such other per cent of postconsumer recycled material content as required  
17 under clause (ii), or other standard established by department regulation.

18           “Retail establishment”, any store or premises engaged in the retail business of selling or  
19 providing merchandise, goods, groceries, prepared take-out food and beverages for consumption  
20 off-premises, or the servicing of an item, directly to customers at such store or premises,  
21 including but not limited to, grocery stores, department stores, pharmacies, convenience stores,  
22 restaurants, coffee shops, and seasonal and temporary businesses, such as farmers markets and  
23 public markets, provided the use of a food truck or other motor vehicle, mobile canteen, trailer,  
24 market pushcart, moveable roadside stand, used to engage in such business directly with  
25 customers, shall be considered a “retail establishment” for the purpose of this definition.

26           A non-profit organization, charity or religious institution that has a retail establishment  
27 and holds itself out to the public as engaging in retail activities that are characteristic of similar  
28 type retail businesses, whether or not for profit, shall when engaging in such activity, be  
29 considered a “retail establishment”.

30           “Reusable carryout bag”, a bag with handles made of washable, cloth, hemp, or other  
31 fibers, fabrics or materials, or combination thereof, that is designed and manufactured  
32 specifically for multiple uses, which meets the standards established by department regulation.

33           “Serviced”, or “Servicing”, A service performed to clean, repair, improve, refinish or  
34 alter an item of a customer by a retail business that provides such services, including but not  
35 limited to, dry cleaning and tailoring articles of clothing, jewelry repair, and shoe and leather  
36 repair.

37           “Single-use plastic carryout bag”, a plastic film-type bag with or without handles  
38 provided by a retail establishment to customers at its business location to carry items purchased  
39 or serviced, and is not a recycled paper bag or reusable carryout bag.

40           Section 2. (a) Except as provided in this chapter, a retail establishment shall not provide a  
41 customer with a single-use plastic carryout bag or provide any other carryout bag that is not a  
42 recycled paper bag, or reusable carryout bag for the customer to carry away an item purchased or  
43 serviced, from the retail establishment.

44           (b) A retail establishment when delivering prepared food, or other food item, directly to a  
45 customer at a place other than the location of such establishment, shall be subject to the  
46 prohibition in subsection (a).

47           (c) The prohibition in subsection (a), shall not apply to any type of bag, used by a retail  
48 establishment, or provided to its customer for: (1) prescription medications, (2) produce, meats,  
49 poultry, fish, bread, and other food items to keep such items fresh or unsoiled, (3) preventing  
50 frozen food items, including ice cream, from thawing, (4) containing products or items that are  
51 saturated, wet, prone to leak, or need to be immersed in a liquid. (5) containing products or items  
52 that are granular, powdery, dirty or greasy, (6) protecting an item from damage or contamination,  
53 or to protect a second item when both are carried together from the retail establishment, (7)  
54 protecting articles of clothing on a hanger, (8) items that contain any herbicide, pesticide,

55 solvent, corrosive, automotive type fluid or other chemical, that can be harmful to public health,  
56 whether or not, the item is prepackaged in a sealed container or bag, (9) protecting small items  
57 from loss, and (10) any item that requires the use of a certain type bag, under federal and state  
58 laws and regulations.

59 (d) A retail establishment may charge a fee for a recycled paper bag, reusable carryout  
60 bag, or other type of carryout bag approved by department regulation under section 4. The retail  
61 business establishment shall retain any collected fees.

62 (e) Notwithstanding the prohibition in subsection (a), a customer shall not be prohibited  
63 under said subsection, from bringing a clean personal bag, made or comprised of any material, to  
64 the retail establishment to carry out items purchased or serviced from such establishment.

65 (f) Notwithstanding the prohibition in subsection (a), a retail establishment shall not be  
66 prohibited under said subsection, from selling, or offering for sale, to customers:

67 (1) Any package containing several bags, including but not limited to, food bags,  
68 sandwich bags, yard waste bags, garbage bags, or municipal pay-as-you-throw program trash  
69 bags;

70 (2) Any product, merchandise, or good with a protective bag, or a bag to hold related  
71 accessories, parts, and instruction manuals, or a bag used as product packaging, that the retail  
72 establishment received with such item or product, from the manufacturer, distributor or vendor;  
73 or

74 (3) Any bag that is not a retail type carryout bag, which is sold, or offered for sale, as a  
75 product or merchandise, including but not limited to, sports bags, handbags, equipment bags, tent  
76 bags, or other bags specifically designed to protect or contain a particular item.

77 (g) Notwithstanding any provision of this chapter, a nonprofit organization, charity, or  
78 religious institution, shall be exempt from the provisions of subsection (a), when providing or  
79 distributing, prepared foods, groceries, or articles of clothing directly to those in need, including  
80 the elderly.

81 Section 3. (a) The department shall enforce this chapter, and a city or town, through its  
82 enforcing authority as determined under subparagraph (d), shall enforce this chapter in such city  
83 or town.

84 (b) A retail establishment that violates the provisions of this chapter shall be subject a  
85 warning for the first violation; a \$50 civil penalty for a second violation; and a \$100 civil penalty  
86 for a third, or subsequent violation. Each day a retail establishment is in violation of this chapter  
87 shall be considered a separate violation.

88 Each city or town, and the department, shall dispose of a civil violation under this  
89 subsection by the non-criminal method of disposition procedures contained in section 21D of  
90 chapter 40, without an enabling ordinance or by law, or by the equivalent of these procedures by  
91 the department under its regulations.

92 (c) Notwithstanding the provisions of subsection (b), a city or town may establish  
93 increased civil penalties for violations occurring within the municipality. In a city or town having  
94 an ordinance or by-law that imposes a civil fine that is greater than the civil fine imposed for a

95 violation under subsection (b), the ordinance or by-law shall prevail over the prescribed penalty  
96 under said subsection.

97 (d) A city or town shall determine the municipal board, department, or official  
98 responsible for the local enforcement of this chapter and for the collection of monies resulting  
99 from civil penalties assessed for violations of this chapter. A city or town shall retain any civil  
100 penalties it collects for such violations.

101 (e) The department shall enforce the provisions of this chapter and may assess additional  
102 civil administrative penalties when a retail establishment repeatedly violates the provision of this  
103 chapter or related department regulation.

104 Section 4. The department shall adopt regulations, and may amend such regulations, to  
105 implement, enforce, and administer this chapter, consistent with the provisions of this chapter.

106 The department shall establish standards for reusable carryout bags, including but not  
107 limited to, the minimum amount of weight and number of uses required of a reusable carryout  
108 bag, and the minimum amount of any recycled material required in certain types reusable  
109 carryout bags.

110 To further advance the use of non-plastic type carryout bags and reduce waste, as  
111 necessary the department by regulation may, (i) increase or adjust the postconsumer recycled  
112 material percentage in a recycled paper bag, and (ii) allow a retail establishment to use other  
113 non-plastic type carryout bags, that are recyclable or compostable, including carryout bags  
114 composed of a plant material, in addition to allowed recycled paper bags and reusable carryout  
115 bags under subsection (a), provided the department by regulation, establishes standards for the  
116 allowed use of such bag.

117           When adopting or amending any standard for an allowed carryout bag under this chapter,  
118 the department shall consult with the department of public health relating to issues of food safety  
119 regarding the materials used in such bag.

120           Section 5. Nothing in this chapter shall prevent a political subdivision of the  
121 commonwealth from imposing restrictions on the use, sale or distributions of carryout bags by a  
122 retail establishment or other entity in addition to the provisions of this chapter. Where such  
123 additional regulations of a political subdivision undermine the provisions of this chapter or  
124 regulations adopted by the department, such additional regulations shall be null and void.

125           SECTION 2. Section 1 shall take effect 1 year after passage of this act.