

SENATE No. 2895

The Commonwealth of Massachusetts

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

SENATE, June 9, 2022.

The committee on Environment, Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, Senate, No. 525) of James B. Eldridge, Lori A. Ehrlich, Jack Patrick Lewis, Joanne M. Comerford and other members of the General Court for legislation relative to plastic bag reduction, reports the accompanying bill (Senate, No. 2895).

For the committee,
Rebecca L. Rausch

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An Act eliminating plastic bags.

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

6 “Carryout bag”, a bag provided to a customer to hold items purchased from or serviced
7 by a retail establishment. A carryout bag does not include a bag: (i) provided by a pharmacy to a
8 customer purchasing prescription medication; (ii) used to protect items from damaging or
9 contaminating other purchased items placed in a recycled paper bag or a reusable grocery bag;
10 (iii) provided to contain an unwrapped food item; (iv) used to protect articles of clothing on a
11 hanger; (v) used to prevent frozen food items from thawing; (vi) containing products or items
12 that are saturated, wet, prone to leak or need to be immersed in a liquid; (vii) containing products

13 or items that are granular, powdery, dirty or greasy; or (viii) used to protect small items from
14 loss.

15 “Department”, the department of environmental protection.

16 “Person”, an individual, partnership, trust, association, corporation, society, club,
17 institution, organization or other entity.

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

22 “Recycled paper bag”, a paper bag that is 100 per cent recyclable and contains at least 20
23 per cent postconsumer recycled material; provided, however, that a paper bag with a weight load
24 capacity of more than 8 pounds shall contain at least 40 per cent postconsumer recycled material.

25 “Retail establishment”, a store or premises in which a person is engaged in the business
26 of selling or providing merchandise, goods, foods, or item servicing directly to customers,
27 including, but not limited to, grocery stores, department stores, pharmacies, convenience stores,
28 restaurants, coffee shops, food trucks and other mobile businesses, and seasonal and temporary
29 businesses, such as farmers markets and public markets; provided, however, that a “retail
30 establishment” shall include a non-profit organization, charity or religious institution that holds
31 itself out to the public as engaging and does engage in retail activities that are characteristic of
32 similar type retail businesses, whether or not for profit when engaging in such activity.

33 “Reusable bag”, a bag that: is made of machine-washable cloth, fabric, hemp or other
34 woven or non-woven fibers; has handles that are stitched and not heat-fused; and is designed and
35 manufactured for multiple uses. A bag made of plastic film of any thickness is not a reusable
36 bag.

37 “Serviced” or “Servicing”, the past or present act of cleaning, repairing, improving,
38 refinishing or altering an item owned by a customer by a person engaged in a retail business of
39 customarily providing such services, including, but not limited to, dry cleaning and tailoring
40 articles of clothing, jewelry repair and shoe and leather repair.

41 Section 2. (a) A retail establishment shall not provide a customer with a carryout bag
42 unless such carryout bag is a recycled paper bag or a reusable bag; provided, however, that a
43 retail establishment shall charge a customer not less than ten cents per carryout bag; and
44 provided further, that a carryout bag purchased under this section shall not be subject to taxation
45 pursuant to chapter 64H or 64I.

46 (b) A retail establishment shall remit five cents per recycled paper bag sold to the
47 commissioner of revenue at the same time and in the same manner as sales taxes are due to the
48 commonwealth. A portion of funds collected pursuant to this paragraph shall be remitted to
49 municipalities to offset recycling and other environmentally-conscious waste management and
50 reduction costs. The department of revenue, in consultation with the department of
51 environmental protection, shall promulgate regulations to implement this paragraph.

52 (c) Except as provided in paragraph (b), a retail establishment shall retain amounts
53 charged to customers for carryout bags.

54 (d) Nothing in this section shall prohibit: (i) a customer from bringing a personal bag
55 made or comprised of any material to a retail establishment to carry out items purchased from or
56 serviced by the retail establishment; or (ii) a retail establishment from selling or offering for sale
57 to customers packages containing several bags, products or goods with a protective or other bag
58 received from a manufacturer or distributor, or bags offered for sale as a product or merchandise
59 that are not carryout bags.

60 (e) This section shall not apply to bags otherwise required to be used under state or
61 federal law or a nonprofit organization, charity or religious institution in the provision or
62 distribution of food, clothing or other items at no cost or substantially reduced cost.

63 (f) A retail establishment that violates this section shall be subject to a warning for a first
64 violation, a civil penalty of not more than \$500 for a second violation and a civil penalty of not
65 more than \$1,000 for a third or subsequent violation. Each day a retail establishment is in
66 violation of this section shall be considered a separate violation.

67 (g) Upon attestation to the department confirming satisfaction of the criteria set forth in
68 this paragraph, this section shall not apply to retail establishments with not more than 3 store
69 locations under the same ownership; provided, however, that each location has not more than
70 4,000 square feet of retail selling space and not more than 15 employees; and provided further,
71 that the retail establishment provided fewer than 15,000 carryout bags in total during the
72 previous calendar year. Retail establishments exempt under this paragraph shall not be prohibited
73 from offering carryout bags for sale.

74 Section 3. Except as otherwise provided, the department shall promulgate regulations to
75 implement the provisions of this chapter. The department may promulgate regulations to

76 increase: (i) the minimum postconsumer recycled material required for recycled paper bags; and
77 (ii) the fee established in paragraph (b) of section 2.

78 SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting after
79 section 2QQQQQ the following section:-

80 Section 2RRRRR. (a) There shall be an Environmental Justice Trust Fund. The fund shall
81 be expended to: improve the air, water, soil, or other environmental conditions for environmental
82 justice populations, as defined by section 62 of chapter 30; provide reusable bags to
83 environmental justice populations and individuals receiving benefits administered by the
84 department of transitional assistance at no cost; and provide multilingual, culturally competent
85 educational materials and programming, including but not limited to experiential education,
86 regarding bag reuse and recycling and other aspects of environmental protection. The fund shall
87 consist of: (i) revenue from appropriations or other money authorized by the general court and
88 specifically designated to be credited to the fund; (ii) interest earned on such revenues; (iii) funds
89 from public and private sources, including but not limited to gifts, grants, donations, and
90 settlements received by the commonwealth that are specifically designated to be credited to the
91 fund; (iv) federal funds paid to the commonwealth designated to be credited to the fund; and (v)
92 monies paid to the commonwealth pursuant to chapter 21P. Any bond proceeds deposited into
93 the fund shall be kept separate from any and all other funds deposited into the fund. Any balance
94 in the fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal
95 years and shall not be transferred to any other fund or revert to the general fund.

96 (b) The department of environmental protection shall administer the fund. Annually not
97 later than March 1, the department shall report on the activities of the fund from the previous

98 calendar year to the senate and house committees on ways and means and the joint committee on
99 environment, natural resources and agriculture. The department may promulgate regulations or
100 issue other guidance to implement this section. The department shall consult with the department
101 of transitional assistance to equitably implement the provision of no-cost reusable bags as set
102 forth in paragraph (a).

103 SECTION 3. Except as otherwise provided herein, the provisions of this act shall take
104 effect on August 1, 2023.

105 SECTION 4. Paragraph (g) of section 2 of chapter 21P of the General Laws is hereby
106 repealed.

107 SECTION 5. Section 4 shall take effect on August 1, 2025.