

SENATE No. 590

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 relative to plastic bag reduction.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/27/2025</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>4/18/2025</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>4/18/2025</i>

SENATE No. 590

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 590) of James B. Eldridge and Joanne M. Comerford for legislation relative to plastic bag reduction. Environment and Natural Resources.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 477 OF 2023-2024.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act relative to plastic bag reduction.

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

1 Title II of the General Laws is hereby amended by inserting after chapter 21O the
2 following chapter:-

3 CHAPTER 21P: PLASTIC BAG REDUCTION

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 that is provided to a customer to carry items purchased from or
7 serviced by a retail establishment. A carryout bag does not include the following: (i) a bag
8 provided by a pharmacy to a customer purchasing prescription medication; (ii) a bag used to
9 protect items from damaging or contaminating other purchased items placed in a recycled paper

bag or a reusable grocery bag; (iii) a bag provided to contain an unwrapped food item; (iv) a bag to protect articles of clothing on a hanger; (v) a bag to prevent frozen food items, including ice cream, from thawing; (vi) a bag to protect small items from loss.

“Postconsumer recycled material”, a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

“Recycled paper bag”, a paper bag that is (i) 100 per cent recyclable; (ii) contains a minimum of 40 per cent postconsumer recycled materials, provided, however, that an 8 pound or smaller recycled paper bag shall contain a minimum of 20 per cent postconsumer recycled material; and (iii) displays the words "Recyclable" and "made from 40% post-consumer recycled content" or other applicable amount in a visible manner on the outside of the bag.

“Reusable grocery bag”, a bag that is not a plastic film bag, has handles that are stitched and not heat fused, and that is made of machine-washable cloth, hemp, or other woven or non-woven fibers, fabrics, or materials that are at least 45 grams per square meter, designed and manufactured specifically for multiple uses.

“Single-use carryout bag”, a carryout bag made of plastic, paper, or other material that is provided by a Retail establishment to a customer at the point of sale and that is not a recycled paper bag or a reusable grocery bag.

“Retail establishment”, a store or premises in which a person is engaged in the retail business of selling or providing merchandise, goods, groceries, prepared take-out food and beverages for consumption off-premises or the servicing of an item, directly to customers at such

store or premises, including, but not limited to, grocery stores, department stores, pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including farmers markets and public markets; provided, however, that a “retail establishment” shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable roadside stand used by a person from which to engage in such business directly with customers and business establishments without a storefront, including, but not limited to, a business delivering prepared foods or other food items, web-based or catalog business or delivery services used by a retail establishment; provided further, that a “retail establishment” shall include a non-profit organization, charity or religious institution that has a retail establishment and holds itself out to the public as engaging in retail activities that are characteristic of similar type retail businesses, whether or not for profit when engaging in such activity; provided further that a “retail establishment” shall include K-12 food service operations or institutional cafeterias, including those operated by or on behalf of any government entity.

Section 2. (a) Eighteen months after the enactment of this law, a Retail establishment shall not sell or otherwise distribute to a customer a carryout bag that is not: a (i) reusable grocery bag, or (ii) recycled paper bag.

(b) For up to 180 days from the date of enactment, a Retail establishment may make available a single-use carryout bag, reusable grocery bag, or recycled paper bag to a customer.

(c) From 180 days to eighteen months after the enactment of this law, if a Retail establishment makes available a single-use carryout bag, recycled paper bag, or reusable grocery bag to a customer, the price of a single-use carryout bag, recycled paper bag, or reusable grocery bag shall be not less than \$0.10 each.

(d) From eighteen months after the enactment of this law, if a Retail establishment makes available a recycled paper bag or a reusable grocery bag to a customer, the price of a recycled paper bag or a reusable grocery bag shall be not less than \$0.10 each.

(e) All moneys collected pursuant to this section shall be retained by the Retail establishment.

(f) Subsections (a)-(d) shall not apply to any type of bag used by a Retail establishment or provided by a retail establishment to a customer for: (i) providing or distributing prepared foods, groceries or articles of clothing at no cost or at a substantially reduced cost by a nonprofit organization, charity or religious institution, or (ii) any item that requires the use of a certain type of bag under federal or state law.

(g) The department of environmental protection shall promulgate regulations with regard to the enforcement of this chapter. The department of environmental protection shall establish a small business exemption process by which a Retail establishment may elect to be exempt from the provisions of subsections (b) through (d) of this section. A Retail establishment electing for said exemption must upon request submit to the department of environmental protection a self-audit attesting that they meet the following criteria:

1.the owner of the Retail establishment has 3 or fewer store locations under the same ownership; and

2.each Retail establishment has less than 4,000 square feet of retail selling space; and

3.each Retail establishment has 15 or fewer employees employed at the store location;
and either

4.the Retail establishment is not a food establishment as defined by 105 CMR
590.001(C); or

5.the Retail establishment provided to consumers at the point of sale less than 15,000
carry-out bags or checkout bags in total during the previous calendar year.

(h) Nothing in this section shall prohibit a customer from bringing a personal bag, made
or comprised of any material, to a retail establishment to carry out items purchased from or
serviced by the retail establishment.

(i) A retail establishment shall not be prohibited from selling or offering for sale to
customers: (i) any package containing several bags, including, but not limited to, food bags,
sandwich bags, yard waste bags, garbage bags or municipal pay-as-you-throw program trash
bags; (ii) any product, merchandise or good with a protective bag, a bag to hold related
accessories, parts or instruction manuals or a bag used as product packaging that the retail
establishment received with such item or product from the manufacturer, distributor or vendor;
or (iii) any bag that is not a retail type carryout bag that is sold or offered for sale as a product or
merchandise, including, but not limited to, sports bags, handbags, equipment bags, tent bags or
other bags specifically designed to protect or contain a particular item.

(j) Notwithstanding subsections (c)-(d) and to the extent permitted under federal and state
law, a retail establishment that makes available for purchase a recycled paper bag at the point of
sale shall not charge a fee for the bag to a customer using an electronic benefit transfer card as
payment.

Section 3. This chapter shall preempt any limitation by any political subdivision of the
commonwealth regarding the use, sale or distribution of carryout bags by a Retail establishment

to the extent that it is regulated or covered by this chapter. Any part of a municipal ordinance, bylaw or regulation, including a regulation of a board of health, that is inconsistent with this chapter shall be null and void 180 days after the enactment of this law.

Section 4. (a) Each city and town shall enforce this chapter through its enforcing authority as determined under subsection (c).

(b) A retail establishment that violates this chapter shall be subject to a warning for the first violation, a civil penalty of up to \$500 for the second violation and a civil penalty of up to \$1000 for a third or subsequent violation. Each day a retail establishment is in violation of this chapter shall be considered a separate violation. Each city and town shall dispose of a civil violation under this subsection by the non-criminal method of disposition procedures contained in section 21D of chapter 40 without an enabling ordinance or bylaw.

(c) Each city and town shall designate the municipal board, department or official responsible for the local enforcement of this chapter and for the collection of money resulting from civil penalties assessed for violations of this chapter. A city or town shall retain any civil penalties collected for such violations.

Section 5. The department of environmental protection may through regulation: (i) increase or adjust the postconsumer recycled material percentage in a recycled paper bag; (ii) increase or adjust the fee established under subsections (c)-(d) of section 2; (iii) allow a retail establishment to use other non-plastic type carryout bags that are recyclable or compostable, provided however that such regulations shall not be implemented prior to the universal availability of a safe disposal route for compostable bags and, provided further, that the

118 department shall seek public comment on said proposed regulations; and (iv) promulgate
119 standards regulating bags authorized under subsection (b) of section 2.

120 The department of environmental protection shall, when adopting or amending any
121 standard for an allowed recycled or reusable bag under this chapter, consult with the department
122 of public health on issues relating to food safety and the materials used to produce the bags.

123 The department of environmental protection shall conduct an evaluation of the
124 implementation of this act every three years and shall submit to the clerks of the senate and the
125 house of representatives a report including legislative recommendations not later than December
126 31.

127 Section 6. Nothing in this chapter shall prohibit or limit the department of environmental
128 protection's authority to enforce this chapter.

129 Section 7. Notwithstanding any general or special law to the contrary, the department of
130 transitional assistance shall, if necessary to implement subsection (j) of section 2 of chapter 21P
131 of the General Laws, use reasonable efforts to seek a waiver from the federal Food and Nutrition
132 Service to implement said subsection (j) of said section 2 of said chapter 21P.