
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 752 Session of
2021

INTRODUCED BY SABATINA, KEARNEY, SANTARSIERO, COMMITTA,
TARTAGLIONE, COSTA AND CAPPELLETTI, JUNE 23, 2021

REFERRED TO FINANCE, JUNE 23, 2021

AN ACT

1 Prohibiting retail establishments from providing single-use
2 carryout plastic bags to consumers at the point of sale;
3 authorizing counties to impose paper carryout bag fee;
4 establishing the Paper Carryout Bag Fee Account; and imposing
5 penalties.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Carryout Bag
10 Regulation Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Account." The Paper Carryout Bag Fee Account established
16 under section 5(a).

17 "Compostable plastic bag." A plastic bag or pouch that at a
18 minimum meets the American Society for Testing and Materials
19 standard D6400 for compostable plastic, as amended.

1 "Consumer good." A good that is sold at retail to a
2 purchaser for personal consumption or household use.

3 "Department." The Department of Revenue of the Commonwealth.

4 "Paper carryout bag." A paper bag that is designed and
5 intended to be used for the carrying of goods purchased at a
6 retail establishment and is provided to a consumer by the retail
7 establishment at the point of sale. The term does not include a
8 recycled paper bag.

9 "Postconsumer recycled material." A material that would
10 otherwise be destined for solid waste disposal, having completed
11 its intended end use and product life cycle. The term does not
12 include materials and byproducts generated from, and commonly
13 reused within, an original manufacturing and fabrication
14 process.

15 "Recycled paper bag." A paper carryout bag provided to a
16 consumer by a retail establishment at the point of sale that
17 meets all the following criteria:

18 (1) If more than an eight pound bag, the bag contains
19 no less than 40% postconsumer recycled materials.

20 (2) If less than an eight pound bag, the bag contains no
21 less than 20% postconsumer recycled material.

22 (3) The bag is accepted for recycling in curbside
23 recycling programs in a majority of households that have
24 access to curbside recycling programs in this Commonwealth.

25 (4) The name of the manufacturer of the bag, the country
26 where the bag was manufactured and the percentage of
27 postconsumer recycled material contained in the bag are
28 printed on the bag.

29 "Retail establishment." An establishment that meets all of
30 the following criteria:

1 (1) The establishment sells or offers to sell retail
2 consumer goods to the public and has gross sales of consumer
3 goods in excess of \$1,000,000 during the previous tax year.

4 (2) The establishment has more than 10,000 square feet
5 of retail space or is part of a chain engaged in the same
6 general field of business which operates no less than five
7 units of more than 4,000 square feet of retail space in this
8 Commonwealth under common ownership and management.

9 "Single-use carryout plastic bag." A bag or pouch of
10 flexible packaging made of thin, flexible, plastic film that is
11 designed and intended to be used for the carrying of goods
12 purchased at a retail establishment and is provided to a
13 consumer by the retail establishment at the point of sale. The
14 term does not include any of the following:

15 (1) A reusable bag or pouch specifically designed for
16 multiple use that is made of cloth, fabric or durable plastic
17 of a least 2.25 mils.

18 (2) A nonhandled plastic bag used to protect a purchased
19 item from damaging or contaminating other purchased items
20 when placed in a recycled paper bag, a reusable grocery bag
21 or a compostable plastic bag.

22 (3) A bag provided by a pharmacy.

23 (4) A bag provided to contain an unwrapped food item.

24 (5) A nonhandled bag that is designed to be placed over
25 articles of clothing on a hanger.

26 (6) A compostable plastic bag.

27 Section 3. Prohibition on single-use carryout plastic bags.

28 (a) Prohibition.--

29 (1) A retail establishment shall not provide a single-
30 use carryout plastic bag to a consumer at the point of sale.

1 (2) A retail establishment shall not require a consumer
2 to use, purchase or accept a single-use carryout plastic bag,
3 paper carryout bag, recycled paper bag, compostable plastic
4 bag or reusable grocery bag as a condition of sale of any
5 product.

6 (b) Nonretail establishments.--An establishment that is not
7 a retail establishment may opt to reduce its distribution of
8 single-use plastic carryout bags or cease to provide single-use
9 carryout plastic bags to consumers at the point of sale as
10 required for a retail establishment under this act.

11 (c) Notice.--

12 (1) If an establishment that is not a retail
13 establishment opts to cease providing single-use carryout
14 plastic bags to consumers at the point of sale as required
15 for a retail establishment under this act, the establishment
16 shall provide the department with a written notice. The
17 notice shall specify the establishment's intent to be
18 regulated as a retail establishment under this act and shall
19 be irrevocable.

20 (2) The notice shall be dated and signed by an
21 authorized representative of the establishment and shall
22 include the name and physical address of all retail locations
23 covered by the notice.

24 (3) The department shall acknowledge the receipt of the
25 notice in writing and shall specify the date the retail
26 establishment will be regulated as a retail establishment
27 under this act, which shall not be less than 30 days after
28 the date the department acknowledges the receipt under this
29 paragraph.

30 (4) The department shall post the name and physical

1 retail locations, organized by county, of each establishment
2 that has opted to be regulated as a retail establishment as
3 specified under this act.

4 Section 4. Paper carryout bag fee.

5 (a) Fee.--The governing body of a county of any class may,
6 by ordinance, impose a fee of five cents per paper carryout bag
7 provided by a retail establishment to a consumer at the point of
8 sale. The fee shall be collected by the retail establishment
9 from the purchaser and shall be paid over to the Commonwealth.

10 (b) Statements.--Any sales slip, invoice, receipt or other
11 statement of price furnished by a retail establishment to a
12 consumer to collect the fee imposed under this section shall
13 separately state and make payable the fee and state the number
14 of paper carryout bags provided to the consumer.

15 (c) Retail sales.--The transfer of a paper carryout bag to a
16 consumer by a retail establishment shall not constitute a retail
17 sale and the fee imposed under this section shall not constitute
18 a receipt for the sale of tangible personal property.

19 (d) Exemptions.--All of the following shall be exempt from
20 the fee imposed under this section:

21 (1) A consumer who is provided a recycled paper bag from
22 a retail establishment at the point of sale.

23 (2) A consumer using the Supplemental Nutrition
24 Assistance Program (SNAP), Special Supplemental Nutrition
25 Program for Women, Infants and Children (WIC) or any
26 successor programs for the full or partial payment for the
27 items purchased.

28 Section 5. Paper Carryout Bag Fee Account.

29 (a) Establishment.--The Paper Carryout Bag Fee Account is
30 established as a restricted account in the General Fund. Money

1 collected from the fee imposed under section 4 shall be
2 deposited into the account.

3 (b) Distribution.--Money in the account shall be distributed
4 as follows:

5 (1) Two cents out of every five cents collected in a
6 county from the fee imposed under section 4 shall be
7 distributed to the Department of Environmental Resources to
8 award grants for applicants approved to develop and implement
9 municipal recycling programs within the county in accordance
10 with section 902 of the act of July 28, 1988 (P.L.556,
11 No.101), known as the Municipal Waste Planning, Recycling and
12 Waste Reduction Act.

13 (2) Three cents out of every five cents collected in a
14 county from the fee imposed under section 4 shall be
15 distributed to the Department of Conservation and Natural
16 Resources to award grants for approved applicants to design,
17 establish, monitor and maintain riparian buffers within the
18 county under the Riparian Forest Buffer Grant Program.

19 Section 6. Preemption.

20 (a) Single-use plastic bags.--The provisions of section 3
21 prohibiting a retail establishment from providing a single-use
22 carryout plastic bag to a consumer at the point of sale shall
23 preempt any local ordinance or regulation regarding single-use
24 plastic bags.

25 (b) Paper carryout bag fee.--An ordinance adopted under
26 section 4(a) authorizing a county to impose a paper carryout bag
27 fee shall preempt any local ordinance or regulation regarding
28 carryout paper bags.

29 Section 7. Penalties.

30 (a) Assessment.--The Office of Attorney General, a county or

1 municipality may assess a civil penalty on a person who
2 knowingly or reasonably should have known that the person
3 engaged in conduct that violates this act. A civil penalty under
4 this section may be assessed as follows:

5 (1) An amount not exceeding \$100 per day for the first
6 violation of this act.

7 (2) An amount not exceeding \$200 per day for a second
8 violation of this act.

9 (3) An amount not exceeding \$5,000 per day for the third
10 and subsequent violations.

11 (b) Collection.--A civil penalty collected under subsection
12 (a) shall be distributed to the law enforcement agency
13 responsible for assessing the civil penalty. If the civil
14 penalty under subsection (a) is collected by the Office of
15 Attorney General, the Office of Attorney General may use the
16 civil penalty to enforce this act upon appropriation by the
17 General Assembly.

18 Section 8. Effective date.

19 This act shall take effect in 180 days.