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**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

Committee meeting of Senate Environment and Energy Committee [and] Assembly Environment and Solid Waste Committee: the Committees will meet to hear testimony from invited experts and the public on the issues of single-use plastics and plastic waste, and what steps the State can take to address these issues [August 23, 2018 Toms River, New Jersey]

Call number: 974.90 M966, 2018a

Available online at <https://dspace.njstatelib.org/handle/10929/49306>

Committee meeting of Senate Environment and Energy Committee : the following bills will be considered: S-2776, SCR-136, SCR-137

[September 27, 2018, Trenton, New Jersey]

Call number: 974.90 A881, 2017b

Available online at <https://dspace.njstatelib.org/handle/10929/49430>

**NEWSPAPER ARTICLES:** Yes

"Criminal justice bills signed." The Times, (Trenton, NJ), October 22, 2020: 013.

"The days of hauling groceries in thin plastic bags, carrying." Burlington County Times (Willingboro, NJ), November 6, 2020: A2.

"Murphy signs law banning plastic bags." The Jersey Journal, (Jersey City, NJ), November 5, 2020: 009.

"NJ governor signs bill to ban single-use plastic, paper bags." Associated Press State Wire: New Jersey (NJ), November 4, 2020.

"New Jersey Gov. Phil Murphy signs bill banning single-use plastic and paper bags as well as plastic foam containers." Associated Press State Wire: New Jersey (NJ), November 4, 2020.

"Gov. Murphy signs bill banning single-use paper and plastic bags." Cranbury Press (NJ), November 4, 2020.

"Murphy signs bill to ban Styrofoam, single-use plastic and paper bags." NJBIZ (New Brunswick, NJ), November 4, 2020.

"Gov. Murphy signs New Jersey plastic bag ban: 'The strongest bill of its kind in the United States'." The Trentonian (Trenton, NJ), November 4, 2020.

RWH/CL

P.L. 2020, CHAPTER 117, *approved November 4, 2020*  
Senate, No. 864 (*Fourth Reprint*)

1 AN ACT concerning single-use plastic carryout bags, single-use  
2 paper carryout bags, polystyrene foam food service products, and  
3 single-use plastic straws, supplementing Title 13 of the Revised  
4 Statutes, and amending P.L.2002, c.128.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. (New section) The Legislature finds and declares that, since  
10 1950, global annual production of plastics has increased from two  
11 million tons to over 381 million tons; that approximately one third of  
12 all plastics produced are single-use plastics, which are plastics  
13 designed to be used only once and then thrown away; and that an  
14 estimated 100 billion single-use plastic carryout bags and 25 billion  
15 styrofoam plastic coffee cups are thrown away in the United States  
16 each year.

17 The Legislature further finds that, in 2017, only 8.4 percent of  
18 plastics in the United States were recycled; that most single-use  
19 plastics are disposed of in landfills, are incinerated, or become litter in  
20 waterways and oceans; that plastics released in the environment do not  
21 biodegrade, but instead break down into smaller pieces, known as  
22 microplastics, which accumulate in the natural environment and are  
23 eaten by fish and other marine life; and that microplastic pollution  
24 moves through natural food webs and accumulates in fish and shellfish  
25 tissues, which means microplastics and associated pollutants can move  
26 into the food chain.

27 The Legislature further finds that approximately eight million tons  
28 of plastic end up in the oceans annually; that, without action, scientists  
29 estimate that by 2050 the mass of plastic pollution in the ocean will  
30 exceed the mass of fish; that currently, there is a collection of litter in  
31 the North <sup>3</sup>**[Atlantic]** Pacific<sup>3</sup> Ocean, known as the Great Pacific  
32 Garbage Patch, that is 7.7 million square miles and is composed  
33 primarily of plastics; that one study found plastics in the gut of every  
34 sea turtle examined and in 90 percent of seabirds examined; and that  
35 plastics have been known to cause death or reproductive failure in sea  
36 turtles, birds, and other organisms that ingest plastic.

37 The Legislature further finds that, as plastics break down through  
38 photodegradation, they release harmful chemicals such as bisphenol A

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEN committee amendments adopted January 30, 2020.

<sup>2</sup>Senate floor amendments adopted February 10, 2020.

<sup>3</sup>Assembly AAP committee amendments adopted September 17, 2020.

<sup>4</sup>Assembly ABU committee amendments adopted September 21, 2020.

1 (BPA) into the environment that have been linked to health problems  
2 in humans; that these chemicals enter the food chain when consumed  
3 by marine life; and that single-use plastic waste creates visual  
4 pollution, degrades water quality, and impacts the tourism, fishing, and  
5 shipping industries, all of which are major contributors to the New  
6 Jersey economy.

7 The Legislature therefore determines that it is no longer  
8 conscionable to permit the unfettered use and disposal of single-use  
9 plastics in the State; that New Jersey must do its part to minimize  
10 plastic pollution in the ocean, and to ensure that future generations  
11 have a clean and healthy environment to live, work, and recreate in;  
12 that banning or limiting the use of single-use plastic carryout bags,  
13 polystyrene foam food service products, and single-use plastic straws  
14 is a significant step in this effort, as these items are among the most  
15 significant sources of beach and ocean pollution; that New Jersey joins  
16 several other states and hundreds of municipalities across the country  
17 in banning or limiting the use of single-use plastics; and that such bans  
18 and limitations have drastically lowered consumer consumption of  
19 single-use plastics.

20 The Legislature further finds that single-use paper carryout bags  
21 use as much or more energy and resources to manufacture and  
22 transport than single-use plastic carryout bags and contribute to  
23 harmful air emissions. Consequently, the Legislature further  
24 determines that it is in the public interest to prohibit grocery stores  
25 from providing single-use paper carryout bags.

26 <sup>3</sup>The Legislature further finds that the State’s nascent hemp-  
27 growing industry, regulated through the New Jersey Department of  
28 Agriculture’s Division of Plant Industry, would be a significant force  
29 in creating biodegradable raw materials that can be turned into hemp-  
30 based bio-packaging, which breaks down in approximately 90 days  
31 versus the dozens of years it takes petroleum-based plastics to break  
32 down into microplastics in the ocean.<sup>3</sup>

33

34 2. (New section) As used in P.L. , c. (C. ) (pending  
35 before the Legislature as this bill):

36 “Carryout bag” means a bag that is provided by a store or food  
37 service business to a customer for the purpose of transporting  
38 groceries, prepared foods, or retail goods. “Carryout bag” shall not  
39 include:

40 (1) a bag used solely to contain or wrap uncooked meat, fish, or  
41 poultry;

42 (2) a bag used solely to package loose items such as fruits,  
43 vegetables, nuts, coffee, grains, baked goods, candy, greeting cards,  
44 flowers, or small hardware items;

45 (3) a bag used solely to contain live animals, such as fish or  
46 insects sold in a pet store;

1 (4) a bag used solely to contain food sliced or prepared to order,  
2 including soup or hot food;

3 (5) a laundry, dry cleaning, or garment bag;

4 (6) a bag provided by a pharmacy to carry prescription drugs;

5 (7) a newspaper bag; and

6 (8) any similar bag, as determined by the department pursuant to  
7 rule, regulation, or guidance.

8 “Department” means the Department of Environmental  
9 Protection.

10 “Food service business” means a business that sells or provides  
11 food for consumption on or off the premises, and includes, but is  
12 not limited to, any restaurant, café, delicatessen, coffee shop,  
13 convenience store, grocery store, vending truck or cart, food truck,  
14 movie theater, or business or institutional cafeteria, including those  
15 operated by or on behalf of any governmental entity.

16 “Grocery store” means a self-service retail establishment that  
17 occupies at least <sup>2</sup>[4,500] 2,500<sup>2</sup> square feet and that <sup>2</sup>[primarily]<sup>2</sup>  
18 sells <sup>2</sup>[a full-line of]<sup>2</sup> household foodstuffs for off-site  
19 consumption, including, but not limited to, fresh produce, meat,  
20 poultry, fish, deli products, dairy products, canned foods, dry foods,  
21 beverages, baked foods, or prepared foods. <sup>4</sup>“Grocery store” shall  
22 not include an establishment that handles only prepackaged food  
23 that does not require time or temperature controls for food safety.<sup>4</sup>

24 <sup>3</sup>“Hemp product” means a finished product with a delta-9  
25 tetrahydrocannabinol concentration of not more than 0.3 percent  
26 that is derived from or made by processing a hemp plant or plant  
27 part and prepared in a form available for commercial sale.<sup>3</sup>

28 “Person” means any individual, corporation, company,  
29 association, society, firm, partnership, joint stock company, or  
30 governmental entity.

31 “Plastic” means a synthetic material made from linking  
32 monomers through a chemical reaction to create an organic polymer  
33 chain that can be molded or extruded at high heat into various solid  
34 forms retaining their defined shapes during the life cycle and after  
35 disposal.

36 “Polystyrene foam” means blown polystyrene and expanded and  
37 extruded foams that are thermoplastic petrochemical materials  
38 utilizing a styrene monomer and processed by a number of  
39 techniques, including, but not limited to, fusion of polymer spheres  
40 (expandable bead polystyrene), injection molding, foam molding,  
41 and extrusion-blow molding (extruded foam polystyrene).

42 “Polystyrene foam food service product” means a product made,  
43 in whole or in part, of polystyrene foam that is used for selling or  
44 providing a food or beverage, and includes, but is not limited to, a  
45 food container, plate, hot or cold beverage cup, meat or vegetable  
46 tray, cutlery, or egg carton.

1 “Reusable carryout bag” means a carryout bag that: (1) is made  
2 of polypropylene, PET nonwoven fabric, nylon, cloth, <sup>3</sup>hemp  
3 product,<sup>3</sup> or other machine washable fabric; (2) has stitched  
4 handles; and (3) is designed and manufactured for multiple reuse.

5 “Single-use paper carryout bag” means a carryout bag made of  
6 paper that is not a reusable carryout bag.

7 “Single-use plastic carryout bag” means a carryout bag made of  
8 plastic that is not a reusable carryout bag.

9 “Store” means any grocery store, convenience store, liquor store,  
10 pharmacy, drug store, or other retail establishment.

11  
12 3. (New section) a. Beginning <sup>1</sup>**two years** 18 months<sup>1</sup> after  
13 the effective date of P.L. , c. (C. )(pending before the  
14 Legislature as this bill):

15 (1) no store or food service business shall provide or sell a single-  
16 use plastic carryout bag to a customer; and

17 (2) no grocery store shall provide or sell a single-use paper  
18 carryout bag to a customer.

19 b. A municipality or county shall not adopt any rule, regulation,  
20 code, or ordinance concerning the regulation or prohibition of single-  
21 use plastic carryout bags or single-use paper carryout bags after the  
22 effective date of P.L. , c. (C. ) (pending before the  
23 Legislature as this bill).

24 c. Beginning <sup>1</sup>**two years** 18 months<sup>1</sup> after the effective date of  
25 P.L. , c. (C. )(pending before the Legislature as this bill), this  
26 section shall supersede and preempt any municipal or county rule,  
27 regulation, code, or ordinance concerning the regulation or prohibition  
28 of single-use plastic carryout bags or single-use paper carryout bags  
29 that was enacted prior to the effective date of  
30 P.L. , c. (C. )(pending before the Legislature as this bill).

31  
32 4. (New section) a. Beginning <sup>1</sup>**two years** 18 months<sup>1</sup> after  
33 the effective date of P.L. , c. (C. )(pending before the  
34 Legislature as this bill), no person shall sell or offer for sale in the  
35 State any polystyrene foam food service product.

36 b. Beginning <sup>1</sup>**two years** 18 months<sup>1</sup> after the effective date of  
37 P.L. , c. (C. )(pending before the Legislature as this bill), no  
38 food service business shall provide or sell any food in a polystyrene  
39 foam food service product.

40 c. The following products shall be exempt from the provisions of  
41 subsections a. and b. of this section for a period of two years beginning  
42 <sup>1</sup>**two years** 18 months<sup>1</sup> after the effective date of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill):

44 (1) disposable, long-handled polystyrene foam soda spoons when  
45 required and used for thick drinks;

46 (2) portion cups of two ounces or less, if used for hot foods or  
47 foods requiring lids;

1 (3) meat and fish trays for raw or butchered meat, including  
2 poultry, or fish that is sold from a refrigerator or similar retail  
3 appliance;

4 (4) any food product pre-packaged by the manufacturer with a  
5 polystyrene foam food service product; and

6 (5) any other polystyrene foam food service product as determined  
7 necessary by the department.

8 d. The department may extend any exemption provided for in  
9 subsection c. of this section for additional periods not to exceed one  
10 year upon a written determination that there is no cost-effective and  
11 readily available alternative for the item. An exemption shall expire  
12 after one year unless the department extends the exemption pursuant to  
13 this subsection.

14 e. The department may, upon written application by a person or  
15 food service business, waive the provisions of subsection a. or b. of  
16 this section for the person or food service business for a period not to  
17 exceed one year, if:

18 (1) there is no feasible and commercially available alternative for a  
19 specific polystyrene foam food service product; or

20 (2) the person or food service business has less than \$500,000 in  
21 gross annual income and there is no reasonably affordable,  
22 commercially-available alternative to the polystyrene foam food  
23 service product.

24 The department shall prescribe the form and manner of the  
25 application for a waiver pursuant to this subsection. The department  
26 may, upon written application, extend any waiver granted pursuant to  
27 this section for additional periods not to exceed one year.

28 f. A municipality or county shall not adopt any rule, regulation,  
29 code, or ordinance concerning the regulation or prohibition of  
30 polystyrene foam food service products after the effective date of  
31 P.L. , c. (C. )(pending before the Legislature as this bill).

32 g. Beginning <sup>1</sup>【two years】 18 months<sup>1</sup> after the effective date of  
33 P.L. , c. (C. )(pending before the Legislature as this bill), this  
34 section shall supersede and preempt any municipal or county rule,  
35 regulation, code, or ordinance concerning the regulation or prohibition  
36 of polystyrene foam food service products that was enacted prior to the  
37 effective date of P.L. , c. (C. )(pending before the Legislature  
38 as this bill).

39  
40 5. (New section) a. Beginning one year after the effective  
41 date of P.L. , c. (C. )(pending before the Legislature as this  
42 bill), a food service business shall only provide a single-use plastic  
43 straw to a customer upon the request of the customer.

44 b. A food service business shall maintain an adequate supply of  
45 single-use plastic straws to provide at the request of customers  
46 pursuant to subsection a. of this section.

47 c. Nothing in this section shall be construed to prohibit a store  
48 from selling packages of single-use plastic straws to customers, or

1 from providing or selling a beverage pre-packaged by the  
2 manufacturer with a single-use plastic straw, including, but not  
3 limited to, a juice box.

4 d. Notwithstanding the provisions of subsection c. of section 6  
5 of P.L. , c. (C. )(pending before the Legislature as this bill),  
6 the Department of Health shall enforce the provisions of this  
7 section. The Department of Health may adopt, pursuant to the  
8 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
9 seq.), any rules and regulations necessary to effectuate the  
10 provisions of this section.

11 e. No later than four years after the effective date of  
12 P.L. , c. (C. )(pending before the Legislature as this bill), the  
13 Department of Health shall prepare and submit to the Plastics  
14 Advisory Council a written report evaluating the compliance of  
15 food service businesses with the requirements of this section.

16 f. A municipality or county shall not adopt any rule,  
17 regulation, code, or ordinance concerning the regulation or  
18 prohibition of single-use plastic straws after the effective date of  
19 P.L. , c. (C. )(pending before the Legislature as this bill).

20 g. Beginning one year after the effective date of  
21 P.L. , c. (C. )(pending before the Legislature as this bill),  
22 this section shall supersede and preempt any municipal or county  
23 rule, regulation, code, or ordinance concerning the regulation or  
24 prohibition of single-use plastic straws that was enacted prior to the  
25 effective date of P.L. , c. (C. )(pending before the  
26 Legislature as this bill).

27  
28 6. (New section) a. Any person or entity that violates a  
29 provision of P.L. , c. (C. )(pending before the Legislature as  
30 this bill), or any rule or regulation adopted pursuant thereto, shall be  
31 subject to a warning for a first offense, up to \$1,000 for a second  
32 offense, and up to \$5,000 for a third or subsequent offense, to be  
33 collected in a civil action by a summary proceeding under the  
34 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10  
35 et seq.), or in any case before a court of competent jurisdiction  
36 wherein injunctive relief has been requested. If the violation is of a  
37 continuing nature, each day during which it continues shall  
38 constitute an additional, separate, and distinct offense. The  
39 Superior Court and the municipal court shall have jurisdiction to  
40 enforce the provisions of the “Penalty Enforcement Law of 1999” in  
41 connection with P.L. , c. (C. )(pending before the  
42 Legislature as this bill).

43 b. Any penalty collected pursuant to this section shall be  
44 remitted to the State Treasurer for deposit in the Clean  
45 Communities Program Fund established pursuant to section 5 of  
46 P.L.2002, c.128 (C.13:1E-217), except that a municipality or entity  
47 certified pursuant to the “County Environmental Health Act,”



1 P.L.1977, c.443 (C.26:3a2-21 et seq.) may retain 30 percent of any  
2 penalty it collects pursuant to subsection a. of this section.

3 c. The Department of Environmental Protection, a  
4 municipality, and any entity certified pursuant to the “County  
5 Environmental Health Act,” P.L.1977, c.443 (C.26:3a2-21 et seq.)  
6 shall have the authority to enforce the provisions of  
7 P.L. , c. (C. )(pending before the Legislature as this bill).  
8 Those entities may institute a civil action for injunctive relief to  
9 enforce P.L. , c. (C. )(pending before the Legislature as this  
10 bill) and to prohibit and prevent a violation thereof, and the court  
11 may proceed in the action in a summary manner.

12

13 7. (New section) a. There is established in the Department of  
14 Environmental Protection the Plastics Advisory Council. The council  
15 shall monitor the implementation of P.L. , c. (C. ) (pending  
16 before the Legislature as this bill), and evaluate its effectiveness in  
17 reducing single-use plastics and plastic waste in the State.

18 b. The council shall consist of <sup>3</sup>[15] 16<sup>3</sup> members as follows:

19 (1) the Commissioner of Environmental Protection, who shall  
20 serve ex officio, or the commissioner’s designee;

21 (2) the Commissioner of Health, who shall serve ex officio, or the  
22 commissioner’s designee;

23 (3) <sup>3</sup>the Secretary of Agriculture, who shall serve ex officio, or the  
24 secretary’s designee; and

25 (4)<sup>3</sup> the following members appointed by the Governor:

26 (a) two members of the academic community with expertise on the  
27 issues of single-use plastics and plastic waste;

28 (b) four members representing the environmental community;

29 (c) four members representing stores and food service businesses  
30 in the State;

31 (d) one member representing the polystyrene foam industry;

32 (e) one member representing the recycling industry; and

33 (f) one member representing local governments.

34 c. All appointments to the council shall be made no later than 90  
35 days after the effective date of P.L. , c. (C. ) (pending before  
36 the Legislature as this bill). The term of office of each public member  
37 shall be three years. Each member shall serve until a successor has  
38 been appointed and qualified, and vacancies shall be filled in the same  
39 manner as the original appointments for the remainder of the  
40 unexpired term. A member is eligible for reappointment to the  
41 council. The members of the council shall serve without  
42 compensation, but shall be eligible for necessary and reasonable  
43 expenses incurred in the performance of their official duties within the  
44 limits of funds appropriated or otherwise made available for the  
45 council’s purposes.

46 d. The council shall organize as soon as practicable following the  
47 appointment of its members and shall select a chairperson and a vice-

1 chairperson from among its members, as well as a secretary who need  
2 not be a member of the council. A majority of the membership of the  
3 council shall constitute a quorum for the transaction of council  
4 business. The council may meet and hold hearings at the place or  
5 places it designates.

6 e. No later than one year after the effective date of  
7 P.L. , c. (C. ) (pending before the Legislature as this bill), and  
8 each year thereafter, the council shall prepare and submit a written  
9 report to the Governor, the Legislature pursuant to section 2 of  
10 P.L.1991, c.164 (C.52:14-19.1), and the respective chairpersons of the  
11 Senate Environment and Energy Committee and the Assembly  
12 Environment and Solid Waste Committee, or their successors,  
13 evaluating the implementation and effectiveness of  
14 P.L. , c. (C. ) (pending before the Legislature as this bill), and  
15 making any recommendations for legislative or administrative action  
16 to improve the implementation or effectiveness of P.L. , c. (C. )  
17 (pending before the Legislature as this bill).

18 f. (1) The council shall also study the environmental and public  
19 health impacts of single-use plastics and micro-plastics; healthy and  
20 environmentally-friendly alternatives to single-use plastics; strategies  
21 and policies to increase the recyclability of plastics and reduce the  
22 amount of plastic entering the environment; the technological  
23 feasibility of increasing recycled content of consumer plastics and  
24 expanding the types of plastics that may be manufactured from  
25 recycled material; and ways to enhance the development and  
26 expansion of markets of post-consumer recycled plastic, including  
27 State and local purchasing and procurement practices.

28 (2) No later than two years after the effective date of  
29 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
30 council shall submit a written report to the Governor, the Legislature  
31 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the  
32 respective chairpersons of the Senate Environment and Energy  
33 Committee and the Assembly Environment and Solid Waste  
34 Committee, or their successors. The written report shall summarize  
35 the analysis conducted pursuant to paragraph (1) of this subsection and  
36 recommend ways to reduce the use of plastics and the amount of  
37 plastic entering the environment, and increase the rate of recycling of  
38 plastics.

39

40 8. (New section) No later than six months after the effective  
41 date of P.L. , c. (C. ) (pending before the Legislature as this  
42 bill):

43 a. the Department of State, in consultation with the Department  
44 of Environmental Protection, shall establish a program to assist  
45 businesses in complying with the provisions of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill),  
47 including, but not limited to, developing and publishing on its  
48 Internet website guidance on compliance with the act, and

1 establishing an online clearinghouse of vendors who provide  
2 environmentally sound alternatives to single-use plastic carryout  
3 bags, single-use paper carryout bags, polystyrene foam food service  
4 products, and single-use plastic straws; and

5 b. the organization under contract with the Department of  
6 Environmental Protection pursuant to section 6 of P.L.2002, c.128  
7 (C.13:1E-218) shall, in cooperation with local governments and the  
8 business community, develop and implement a Statewide public  
9 information and education program concerning the provisions of  
10 P.L. , c. (C. )(pending before the Legislature as this bill).  
11 The program shall include, but need not be limited to, educational  
12 programs, public service announcements, and the distribution of  
13 free reusable carryout bags throughout the State.

14

15 9. (New section) The department shall adopt, pursuant to the  
16 “Administrative Procedure Act,” P.L.1968, c.410  
17 (C.52:14B-1 et seq.), any rules and regulations necessary to  
18 effectuate the provisions of P.L. , c. (C. )(pending before the  
19 Legislature as this bill).

20

21 10. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to  
22 read as follows:

23 5. The Clean Communities Program Fund is established as a  
24 nonlapsing, revolving fund in the Department of the Treasury. The  
25 Clean Communities Program Fund shall be administered by the  
26 Department of Environmental Protection and credited, in addition to  
27 any appropriations made thereto, with all user fees imposed  
28 pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties  
29 imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222),  
30 and any sums received as voluntary contributions from private  
31 sources. Interest received on moneys in the Clean Communities  
32 Program Fund shall be credited to the fund. Unless otherwise  
33 expressly provided by the specific appropriation thereof by the  
34 Legislature, which shall take the form of a discrete legislative  
35 appropriations act and shall not be included within the annual  
36 appropriations act, all available moneys in the Clean Communities  
37 Program Fund shall be appropriated annually solely for the  
38 following purposes and no others:

39 a. 10 **【%】** percent of the estimated annual balance of the Clean  
40 Communities Program Fund shall be used for a State program of  
41 litter pickup and removal and of enforcement of litter-related laws  
42 and ordinances in State owned places and areas that are accessible  
43 to the public. Moneys in the fund may also be used by the State to  
44 abate graffiti;

45 b. 50 **【%】** percent of the estimated annual balance of the Clean  
46 Communities Program Fund shall be distributed as State aid to  
47 eligible municipalities with total housing units of 200 or more for

1 programs of litter pickup and removal, including establishing an  
2 "Adopt-A-Highway" program, of public education and information  
3 relating to litter abatement and of enforcement of litter-related laws  
4 and ordinances. The amount of State aid due each municipality  
5 shall be solely calculated based on the proportion which the housing  
6 units of a qualifying municipality bear to the total housing units in  
7 the State. Total housing units shall be determined using the most  
8 recent federal decennial population estimates for New Jersey and its  
9 municipalities, filed in the office of the Secretary of State. Moneys  
10 in the fund may also be used by an eligible municipality to abate  
11 graffiti;

12 c. 30 **[%]** percent of the estimated annual balance of the Clean  
13 Communities Program Fund shall be distributed as State aid to  
14 eligible municipalities with total housing units of 200 or more for  
15 programs of litter pickup and removal, including establishing an  
16 "Adopt-A-Highway" program, of public education and information  
17 relating to litter abatement and of enforcement of litter-related laws  
18 and ordinances. The amount of State aid due each municipality  
19 shall be solely calculated based on the proportion which the  
20 municipal road mileage of a qualifying municipality bears to the  
21 total municipal road mileage within the State. For the purposes of  
22 this subsection, "municipal road mileage" means that road mileage  
23 under the jurisdiction of municipalities, as determined by the  
24 Department of Transportation. Moneys in the fund may also be  
25 used by an eligible municipality to abate graffiti;

26 d. 10 **[%]** percent of the estimated annual balance of the Clean  
27 Communities Program Fund shall be distributed as State aid to  
28 eligible counties for programs of litter pickup and removal,  
29 including establishing an "Adopt-A-Highway" program, of public  
30 education and information relating to litter abatement and of  
31 enforcement of litter-related laws and ordinances. The amount of  
32 State aid due each county shall be solely calculated based on the  
33 proportion which the county road mileage of an eligible county  
34 bears to the total county road mileage within the State. For the  
35 purposes of this subsection, "county road mileage" means that road  
36 mileage under the jurisdiction of counties, as determined by the  
37 Department of Transportation. Moneys in the fund may also be  
38 used by an eligible county to abate graffiti;

39 e. No eligible municipality shall receive less than \$4,000 in  
40 State aid as apportioned pursuant to subsections b. and c. of this  
41 section. A municipality or county may use up to **[%]** five percent  
42 of its State aid for administrative expenses;

43 f. Prior to the distribution of funds pursuant to subsections a.  
44 through d. of this section **[,]** :

45 (1) \$375,000 of the estimated annual balance of the Clean  
46 Communities Program Fund shall be annually appropriated to the  
47 department and made available on July 1 of every year to the

1 organization under contract with the department pursuant to section  
2 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public  
3 information and education program concerning antilittering  
4 activities and other aspects of responsible solid waste handling  
5 behavior, of which up to \$75,000 shall be used exclusively to  
6 finance an annual Statewide television, radio, newspaper and other  
7 media advertising campaign to promote antilittering and responsible  
8 solid waste handling behavior.

9 (2) in each of the first three years after the effective date of  
10 P.L. , c. (C. )(pending before the Legislature as this bill),  
11 \$500,000 of the estimated annual balance of the Clean Communities  
12 Program Fund shall be appropriated to the department and made  
13 available on July 1 of each year to the organization under contract  
14 with the department pursuant to section 6 of P.L.2002, c.128  
15 (C.13:1E-218) for the Statewide public information and education  
16 program developed pursuant to subsection b. of section 8  
17 of P.L. , c. (C. )(pending before the Legislature as this bill).

18 The organization under contract with the department pursuant to  
19 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the  
20 date on which the contract period concludes, submit a report to the  
21 Governor and the Legislature concerning its activities during the  
22 contract period and any recommendations concerning improving the  
23 program. Every eligible municipality and county shall cooperate  
24 with the organization under contract with the department pursuant  
25 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing  
26 information concerning its program of litter pickup and removal.

27 No later than May 31, 2008, 25 **【%】** percent of the estimated  
28 annual balance of the Clean Communities Program Fund shall be  
29 appropriated to the State Recycling Fund established pursuant to  
30 section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be  
31 used by the Department of Environmental Protection for direct  
32 recycling grants to counties and municipalities, up to a maximum  
33 appropriation of \$4,000,000.

34 g. As used in this section, "graffiti" means any inscription  
35 drawn, painted or otherwise made on a bridge, building, public  
36 transportation vehicle, rock, wall, sidewalk, street or other exposed  
37 surface on public property.

38 The department may carry forward any unexpended balances in  
39 the Clean Communities Program Fund as of June 30 of each year.

40 (cf: P.L.2007, c.311, s.15)

41  
42 11. This act shall take effect immediately.  
43  
44  
45  
46

47 Prohibits provision or sale of single-use plastic carryout bags,  
48 single-use paper carryout bags, and polystyrene foam food service

**S864 [4R]**

12

- 1 products; limits provision of single-use plastic straws; appropriates
- 2 moneys from Clean Communities Program Fund for public
- 3 education.

# SENATE, No. 864

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 14, 2020

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Prohibits provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products; limits provision of single-use plastic straws; appropriates moneys from Clean Communities Program Fund for public education.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning single-use plastic carryout bags, single-use  
2 paper carryout bags, polystyrene foam food service products, and  
3 single-use plastic straws, supplementing Title 13 of the Revised  
4 Statutes, and amending P.L.2002, c.128.

5  
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7 *of New Jersey:*

8  
9 1. (New section) The Legislature finds and declares that, since  
10 1950, global annual production of plastics has increased from two  
11 million tons to over 381 million tons; that approximately one third  
12 of all plastics produced are single-use plastics, which are plastics  
13 designed to be used only once and then thrown away; and that an  
14 estimated 100 billion single-use plastic carryout bags and 25 billion  
15 styrofoam plastic coffee cups are thrown away in the United States  
16 each year.

17 The Legislature further finds that, in 2017, only 8.4 percent of  
18 plastics in the United States were recycled; that most single-use  
19 plastics are disposed of in landfills, are incinerated, or become litter  
20 in waterways and oceans; that plastics released in the environment  
21 do not biodegrade, but instead break down into smaller pieces,  
22 known as microplastics, which accumulate in the natural  
23 environment and are eaten by fish and other marine life; and that  
24 microplastic pollution moves through natural food webs and  
25 accumulates in fish and shellfish tissues, which means microplastics  
26 and associated pollutants can move into the food chain.

27 The Legislature further finds that approximately eight million  
28 tons of plastic end up in the oceans annually; that, without action,  
29 scientists estimate that by 2050 the mass of plastic pollution in the  
30 ocean will exceed the mass of fish; that currently, there is a  
31 collection of litter in the North Atlantic Ocean, known as the Great  
32 Pacific Garbage Patch, that is 7.7 million square miles and is  
33 composed primarily of plastics; that one study found plastics in the  
34 gut of every sea turtle examined and in 90 percent of seabirds  
35 examined; and that plastics have been known to cause death or  
36 reproductive failure in sea turtles, birds, and other organisms that  
37 ingest plastic.

38 The Legislature further finds that, as plastics break down through  
39 photodegradation, they release harmful chemicals such as bisphenol  
40 A (BPA) into the environment that have been linked to health  
41 problems in humans; that these chemicals enter the food chain when  
42 consumed by marine life; and that single-use plastic waste creates  
43 visual pollution, degrades water quality, and impacts the tourism,  
44 fishing, and shipping industries, all of which are major contributors  
45 to the New Jersey economy.

46 The Legislature therefore determines that it is no longer  
47 conscionable to permit the unfettered use and disposal of single-use

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.



1 plastics in the State; that New Jersey must do its part to minimize  
2 plastic pollution in the ocean, and to ensure that future generations  
3 have a clean and healthy environment to live, work, and recreate in;  
4 that banning or limiting the use of single-use plastic carryout bags,  
5 polystyrene foam food service products, and single-use plastic  
6 straws is a significant step in this effort, as these items are among  
7 the most significant sources of beach and ocean pollution; that New  
8 Jersey joins several other states and hundreds of municipalities  
9 across the country in banning or limiting the use of single-use  
10 plastics; and that such bans and limitations have drastically lowered  
11 consumer consumption of single-use plastics.

12 The Legislature further finds that single-use paper carryout bags  
13 use as much or more energy and resources to manufacture and  
14 transport than single-use plastic carryout bags and contribute to  
15 harmful air emissions. Consequently, the Legislature further  
16 determines that it is in the public interest to prohibit grocery stores  
17 from providing single-use paper carryout bags.

18

19 2. (New section) As used in P.L. , c. (C. )(pending  
20 before the Legislature as this bill):

21 “Carryout bag” means a bag that is provided by a store or food  
22 service business to a customer for the purpose of transporting  
23 groceries, prepared foods, or retail goods. “Carryout bag” shall not  
24 include:

25 (1) a bag used solely to contain or wrap uncooked meat, fish, or  
26 poultry;

27 (2) a bag used solely to package loose items such as fruits,  
28 vegetables, nuts, coffee, grains, baked goods, candy, greeting cards,  
29 flowers, or small hardware items;

30 (3) a bag used solely to contain live animals, such as fish or  
31 insects sold in a pet store;

32 (4) a bag used solely to contain food sliced or prepared to order,  
33 including soup or hot food;

34 (5) a laundry, dry cleaning, or garment bag;

35 (6) a bag provided by a pharmacy to carry prescription drugs;

36 (7) a newspaper bag; and

37 (8) any similar bag, as determined by the department pursuant to  
38 rule, regulation, or guidance.

39 “Department” means the Department of Environmental  
40 Protection.

41 “Food service business” means a business that sells or provides  
42 food for consumption on or off the premises, and includes, but is  
43 not limited to, any restaurant, café, delicatessen, coffee shop,  
44 convenience store, grocery store, vending truck or cart, food truck,  
45 movie theater, or business or institutional cafeteria, including those  
46 operated by or on behalf of any governmental entity.

47 “Grocery store” means a self-service retail establishment that  
48 occupies at least 4,500 square feet and that primarily sells a full-line

1 of household foodstuffs for off-site consumption, including, but not  
2 limited to, fresh produce, meat, poultry, fish, deli products, dairy  
3 products, canned foods, dry foods, beverages, baked foods, or  
4 prepared foods.

5 “Person” means any individual, corporation, company,  
6 association, society, firm, partnership, joint stock company, or  
7 governmental entity.

8 “Plastic” means a synthetic material made from linking  
9 monomers through a chemical reaction to create an organic polymer  
10 chain that can be molded or extruded at high heat into various solid  
11 forms retaining their defined shapes during the life cycle and after  
12 disposal.

13 “Polystyrene foam” means blown polystyrene and expanded and  
14 extruded foams that are thermoplastic petrochemical materials  
15 utilizing a styrene monomer and processed by a number of  
16 techniques, including, but not limited to, fusion of polymer spheres  
17 (expandable bead polystyrene), injection molding, foam molding,  
18 and extrusion-blow molding (extruded foam polystyrene).

19 “Polystyrene foam food service product” means a product made,  
20 in whole or in part, of polystyrene foam that is used for selling or  
21 providing a food or beverage, and includes, but is not limited to, a  
22 food container, plate, hot or cold beverage cup, meat or vegetable  
23 tray, cutlery, or egg carton.

24 “Reusable carryout bag” means a carryout bag that: (1) is made  
25 of polypropylene, PET nonwoven fabric, nylon, cloth, or other  
26 machine washable fabric; (2) has stitched handles; and (3) is  
27 designed and manufactured for multiple reuse.

28 “Single-use paper carryout bag” means a carryout bag made of  
29 paper that is not a reusable carryout bag.

30 “Single-use plastic carryout bag” means a carryout bag made of  
31 plastic that is not a reusable carryout bag.

32 “Store” means any grocery store, convenience store, liquor store,  
33 pharmacy, drug store, or other retail establishment.

34

35 3. (New section) a. Beginning two years after the effective  
36 date of P.L. , c. (C. )(pending before the Legislature as this  
37 bill):

38 (1) no store or food service business shall provide or sell a  
39 single-use plastic carryout bag to a customer; and

40 (2) no grocery store shall provide or sell a single-use paper  
41 carryout bag to a customer.

42 b. A municipality or county shall not adopt any rule,  
43 regulation, code, or ordinance concerning the regulation or  
44 prohibition of single-use plastic carryout bags or single-use paper  
45 carryout bags after the effective date of  
46 P.L. , c. (C. )(pending before the Legislature as this bill).

47 c. Beginning two years after the effective date of P.L. , c.  
48 (C. )(pending before the Legislature as this bill), this section

1 shall supersede and preempt any municipal or county rule,  
2 regulation, code, or ordinance concerning the regulation or  
3 prohibition of single-use plastic carryout bags or single-use paper  
4 carryout bags that was enacted prior to the effective date of  
5 P.L. , c. (C. )(pending before the Legislature as this bill).

6  
7 4. (New section) a. Beginning two years after the effective  
8 date of P.L. , c. (C. )(pending before the Legislature as this  
9 bill), no person shall sell or offer for sale in the State any  
10 polystyrene foam food service product.

11 b. Beginning two years after the effective date of  
12 P.L. , c. (C. )(pending before the Legislature as this bill), no  
13 food service business shall provide or sell any food in a polystyrene  
14 foam food service product.

15 c. The following products shall be exempt from the provisions  
16 of subsections a. and b. of this section for a period of two years  
17 beginning two years after the effective date of P.L. , c. (C. )  
18 (pending before the Legislature as this bill):

19 (1) disposable, long-handled polystyrene foam soda spoons  
20 when required and used for thick drinks;

21 (2) portion cups of two ounces or less, if used for hot foods or  
22 foods requiring lids;

23 (3) meat and fish trays for raw or butchered meat, including  
24 poultry, or fish that is sold from a refrigerator or similar retail  
25 appliance;

26 (4) any food product pre-packaged by the manufacturer with a  
27 polystyrene foam food service product; and

28 (5) any other polystyrene foam food service product as  
29 determined necessary by the department.

30 d. The department may extend any exemption provided for in  
31 subsection c. of this section for additional periods not to exceed one  
32 year upon a written determination that there is no cost-effective and  
33 readily available alternative for the item. An exemption shall  
34 expire after one year unless the department extends the exemption  
35 pursuant to this subsection.

36 e. The department may, upon written application by a person or  
37 food service business, waive the provisions of subsection a. or b. of  
38 this section for the person or food service business for a period not  
39 to exceed one year, if:

40 (1) there is no feasible and commercially available alternative  
41 for a specific polystyrene foam food service product; or

42 (2) the person or food service business has less than \$500,000 in  
43 gross annual income and there is no reasonably affordable,  
44 commercially-available alternative to the polystyrene foam food  
45 service product.

46 The department shall prescribe the form and manner of the  
47 application for a waiver pursuant to this subsection. The  
48 department may, upon written application, extend any waiver

1 granted pursuant to this section for additional periods not to exceed  
2 one year.

3 f. A municipality or county shall not adopt any rule,  
4 regulation, code, or ordinance concerning the regulation or  
5 prohibition of polystyrene foam food service products after the  
6 effective date of P.L. , c. (C. )(pending before the  
7 Legislature as this bill).

8 g. Beginning two years after the effective date of P.L. , c.  
9 (C. )(pending before the Legislature as this bill), this section  
10 shall supersede and preempt any municipal or county rule,  
11 regulation, code, or ordinance concerning the regulation or  
12 prohibition of polystyrene foam food service products that was  
13 enacted prior to the effective date of P.L. , c. (C. )(pending  
14 before the Legislature as this bill).

15  
16 5. (New section) a. Beginning one year after the effective  
17 date of P.L. , c. (C. )(pending before the Legislature as this  
18 bill), a food service business shall only provide a single-use plastic  
19 straw to a customer upon the request of the customer.

20 b. A food service business shall maintain an adequate supply of  
21 single-use plastic straws to provide at the request of customers  
22 pursuant to subsection a. of this section.

23 c. Nothing in this section shall be construed to prohibit a store  
24 from selling packages of single-use plastic straws to customers, or  
25 from providing or selling a beverage pre-packaged by the  
26 manufacturer with a single-use plastic straw, including, but not  
27 limited to, a juice box.

28 d. Notwithstanding the provisions of subsection c. of section 6  
29 of P.L. , c. (C. )(pending before the Legislature as this bill),  
30 the Department of Health shall enforce the provisions of this  
31 section. The Department of Health may adopt, pursuant to the  
32 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
33 seq.), any rules and regulations necessary to effectuate the  
34 provisions of this section.

35 e. No later than four years after the effective date of  
36 P.L. , c. (C. )(pending before the Legislature as this bill), the  
37 Department of Health shall prepare and submit to the Plastics  
38 Advisory Council a written report evaluating the compliance of  
39 food service businesses with the requirements of this section.

40 f. A municipality or county shall not adopt any rule,  
41 regulation, code, or ordinance concerning the regulation or  
42 prohibition of single-use plastic straws after the effective date of  
43 P.L. , c. (C. )(pending before the Legislature as this bill).

44 g. Beginning one year after the effective date of P.L. , c.  
45 (C. )(pending before the Legislature as this bill), this section  
46 shall supersede and preempt any municipal or county rule,  
47 regulation, code, or ordinance concerning the regulation or  
48 prohibition of single-use plastic straws that was enacted prior to the

1 effective date of P.L. , c. (C. )(pending before the  
2 Legislature as this bill).

3  
4 6. (New section) a. Any person or entity that violates a  
5 provision of P.L. , c. (C. )(pending before the Legislature as  
6 this bill), or any rule or regulation adopted pursuant thereto, shall be  
7 subject to a warning for a first offense, up to \$1,000 for a second  
8 offense, and up to \$5,000 for a third or subsequent offense, to be  
9 collected in a civil action by a summary proceeding under the  
10 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10  
11 et seq.), or in any case before a court of competent jurisdiction  
12 wherein injunctive relief has been requested. If the violation is of a  
13 continuing nature, each day during which it continues shall  
14 constitute an additional, separate, and distinct offense. The  
15 Superior Court and the municipal court shall have jurisdiction to  
16 enforce the provisions of the “Penalty Enforcement Law of 1999” in  
17 connection with P.L. , c. (C. )(pending before the  
18 Legislature as this bill).

19 b. Any penalty collected pursuant to this section shall be  
20 remitted to the State Treasurer for deposit in the Clean  
21 Communities Program Fund established pursuant to section 5 of  
22 P.L.2002, c.128 (C.13:1E-217), except that a municipality or entity  
23 certified pursuant to the “County Environmental Health Act,”  
24 P.L.1977, c.443 (C.26:3a2-21 et seq.) may retain 30 percent of any  
25 penalty it collects pursuant to subsection a. of this section.

26 c. The Department of Environmental Protection, a  
27 municipality, and any entity certified pursuant to the “County  
28 Environmental Health Act,” P.L.1977, c.443 (C.26:3a2-21 et seq.)  
29 shall have the authority to enforce the provisions of P.L. , c.  
30 (C. )(pending before the Legislature as this bill). Those entities  
31 may institute a civil action for injunctive relief to enforce P.L. , c.  
32 (C. )(pending before the Legislature as this bill) and to prohibit  
33 and prevent a violation thereof, and the court may proceed in the  
34 action in a summary manner.

35  
36 7. (New section) a. There is established in the Department of  
37 Environmental Protection the Plastics Advisory Council. The  
38 council shall monitor the implementation of  
39 P.L. , c. (C. )(pending before the Legislature as this bill),  
40 and evaluate its effectiveness in reducing single-use plastics and  
41 plastic waste in the State.

42 b. The council shall consist of 15 members as follows:

43 (1) the Commissioner of Environmental Protection, who shall  
44 serve ex officio, or the commissioner’s designee;

45 (2) the Commissioner of Health, who shall serve ex officio, or  
46 the commissioner’s designee;

47 (3) the following members appointed by the Governor:

- 1 (a) two members of the academic community with expertise on  
2 the issues of single-use plastics and plastic waste;
  - 3 (b) four members representing the environmental community;
  - 4 (c) four members representing stores and food service  
5 businesses in the State;
  - 6 (d) one member representing the polystyrene foam industry;
  - 7 (e) one member representing the recycling industry; and
  - 8 (f) one member representing local governments.
- 9 c. All appointments to the council shall be made no later than  
10 90 days after the effective date of P.L. , c. (C. )(pending  
11 before the Legislature as this bill). The term of office of each  
12 public member shall be three years. Each member shall serve until  
13 a successor has been appointed and qualified, and vacancies shall be  
14 filled in the same manner as the original appointments for the  
15 remainder of the unexpired term. A member is eligible for  
16 reappointment to the council. The members of the council shall  
17 serve without compensation, but shall be eligible for necessary and  
18 reasonable expenses incurred in the performance of their official  
19 duties within the limits of funds appropriated or otherwise made  
20 available for the council's purposes.
- 21 d. The council shall organize as soon as practicable following  
22 the appointment of its members and shall select a chairperson and a  
23 vice-chairperson from among its members, as well as a secretary  
24 who need not be a member of the council. A majority of the  
25 membership of the council shall constitute a quorum for the  
26 transaction of council business. The council may meet and hold  
27 hearings at the place or places it designates.
- 28 e. No later than one year after the effective date of P.L. , c.  
29 (C. )(pending before the Legislature as this bill), and each year  
30 thereafter, the council shall prepare and submit a written report to  
31 the Governor, the Legislature pursuant to section 2 of  
32 P.L.1991, c.164 (C.52:14-19.1), and the respective chairpersons of  
33 the Senate Environment and Energy Committee and the Assembly  
34 Environment and Solid Waste Committee, or their successors,  
35 evaluating the implementation and effectiveness of P.L. , c.  
36 (C. )(pending before the Legislature as this bill), and making  
37 any recommendations for legislative or administrative action to  
38 improve the implementation or effectiveness of P.L. , c.  
39 (C. )(pending before the Legislature as this bill).
- 40 f. (1) The council shall also study the environmental and  
41 public health impacts of single-use plastics and micro-plastics;  
42 healthy and environmentally-friendly alternatives to single-use  
43 plastics; strategies and policies to increase the recyclability of  
44 plastics and reduce the amount of plastic entering the environment;  
45 the technological feasibility of increasing recycled content of  
46 consumer plastics and expanding the types of plastics that may be  
47 manufactured from recycled material; and ways to enhance the  
48 development and expansion of markets of post-consumer recycled

1 plastic, including State and local purchasing and procurement  
2 practices.

3 (2) No later than two years after the effective date of P.L. , c.  
4 (C. )(pending before the Legislature as this bill), the council  
5 shall submit a written report to the Governor, the Legislature  
6 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the  
7 respective chairpersons of the Senate Environment and Energy  
8 Committee and the Assembly Environment and Solid Waste  
9 Committee, or their successors. The written report shall summarize  
10 the analysis conducted pursuant to paragraph (1) of this subsection  
11 and recommend ways to reduce the use of plastics and the amount  
12 of plastic entering the environment, and increase the rate of  
13 recycling of plastics.

14

15 8. (New section) No later than six months after the effective  
16 date of P.L. , c. (C. )(pending before the Legislature as this  
17 bill):

18 a. the Department of State, in consultation with the Department  
19 of Environmental Protection, shall establish a program to assist  
20 businesses in complying with the provisions of P.L. , c.  
21 (C. )(pending before the Legislature as this bill), including, but  
22 not limited to, developing and publishing on its Internet website  
23 guidance on compliance with the act, and establishing an online  
24 clearinghouse of vendors who provide environmentally sound  
25 alternatives to single-use plastic carryout bags, single-use paper  
26 carryout bags, polystyrene foam food service products, and single-  
27 use plastic straws; and

28 b. the organization under contract with the Department of  
29 Environmental Protection pursuant to section 6 of P.L.2002, c.128  
30 (C.13:1E-218) shall, in cooperation with local governments and the  
31 business community, develop and implement a Statewide public  
32 information and education program concerning the provisions of  
33 P.L. , c. (C. )(pending before the Legislature as this bill).  
34 The program shall include, but need not be limited to, educational  
35 programs, public service announcements, and the distribution of  
36 free reusable carryout bags throughout the State.

37

38 9. (New section) The department shall adopt, pursuant to the  
39 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
40 seq.), any rules and regulations necessary to effectuate the  
41 provisions of P.L. , c. (C. )(pending before the Legislature  
42 as this bill).

43

44 10. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to  
45 read as follows:

46 5. The Clean Communities Program Fund is established as a  
47 nonlapsing, revolving fund in the Department of the Treasury. The  
48 Clean Communities Program Fund shall be administered by the

1 Department of Environmental Protection and credited, in addition to  
2 any appropriations made thereto, with all user fees imposed  
3 pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties  
4 imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222),  
5 and any sums received as voluntary contributions from private  
6 sources. Interest received on moneys in the Clean Communities  
7 Program Fund shall be credited to the fund. Unless otherwise  
8 expressly provided by the specific appropriation thereof by the  
9 Legislature, which shall take the form of a discrete legislative  
10 appropriations act and shall not be included within the annual  
11 appropriations act, all available moneys in the Clean Communities  
12 Program Fund shall be appropriated annually solely for the  
13 following purposes and no others:

14 a. 10 **[%]** percent of the estimated annual balance of the Clean  
15 Communities Program Fund shall be used for a State program of  
16 litter pickup and removal and of enforcement of litter-related laws  
17 and ordinances in State owned places and areas that are accessible  
18 to the public. Moneys in the fund may also be used by the State to  
19 abate graffiti;

20 b. 50 **[%]** percent of the estimated annual balance of the Clean  
21 Communities Program Fund shall be distributed as State aid to  
22 eligible municipalities with total housing units of 200 or more for  
23 programs of litter pickup and removal, including establishing an  
24 "Adopt-A-Highway" program, of public education and information  
25 relating to litter abatement and of enforcement of litter-related laws  
26 and ordinances. The amount of State aid due each municipality  
27 shall be solely calculated based on the proportion which the housing  
28 units of a qualifying municipality bear to the total housing units in  
29 the State. Total housing units shall be determined using the most  
30 recent federal decennial population estimates for New Jersey and its  
31 municipalities, filed in the office of the Secretary of State. Moneys  
32 in the fund may also be used by an eligible municipality to abate  
33 graffiti;

34 c. 30 **[%]** percent of the estimated annual balance of the Clean  
35 Communities Program Fund shall be distributed as State aid to  
36 eligible municipalities with total housing units of 200 or more for  
37 programs of litter pickup and removal, including establishing an  
38 "Adopt-A-Highway" program, of public education and information  
39 relating to litter abatement and of enforcement of litter-related laws  
40 and ordinances. The amount of State aid due each municipality  
41 shall be solely calculated based on the proportion which the  
42 municipal road mileage of a qualifying municipality bears to the  
43 total municipal road mileage within the State. For the purposes of  
44 this subsection, "municipal road mileage" means that road mileage  
45 under the jurisdiction of municipalities, as determined by the  
46 Department of Transportation. Moneys in the fund may also be  
47 used by an eligible municipality to abate graffiti;



1 d. 10 **[%]** percent of the estimated annual balance of the Clean  
2 Communities Program Fund shall be distributed as State aid to  
3 eligible counties for programs of litter pickup and removal,  
4 including establishing an "Adopt-A-Highway" program, of public  
5 education and information relating to litter abatement and of  
6 enforcement of litter-related laws and ordinances. The amount of  
7 State aid due each county shall be solely calculated based on the  
8 proportion which the county road mileage of an eligible county  
9 bears to the total county road mileage within the State. For the  
10 purposes of this subsection, "county road mileage" means that road  
11 mileage under the jurisdiction of counties, as determined by the  
12 Department of Transportation. Moneys in the fund may also be  
13 used by an eligible county to abate graffiti;

14 e. No eligible municipality shall receive less than \$4,000 in  
15 State aid as apportioned pursuant to subsections b. and c. of this  
16 section. A municipality or county may use up to **[5%]** five percent  
17 of its State aid for administrative expenses;

18 f. Prior to the distribution of funds pursuant to subsections a.  
19 through d. of this section **[,]** :

20 (1) \$375,000 of the estimated annual balance of the Clean  
21 Communities Program Fund shall be annually appropriated to the  
22 department and made available on July 1 of every year to the  
23 organization under contract with the department pursuant to section  
24 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public  
25 information and education program concerning antilittering  
26 activities and other aspects of responsible solid waste handling  
27 behavior, of which up to \$75,000 shall be used exclusively to  
28 finance an annual Statewide television, radio, newspaper and other  
29 media advertising campaign to promote antilittering and responsible  
30 solid waste handling behavior.

31 (2) in each of the first three years after the effective date of  
32 P.L. , c. (C. )(pending before the Legislature as this bill),  
33 \$500,000 of the estimated annual balance of the Clean Communities  
34 Program Fund shall be appropriated to the department and made  
35 available on July 1 of each year to the organization under contract  
36 with the department pursuant to section 6 of P.L.2002, c.128  
37 (C.13:1E-218) for the Statewide public information and education  
38 program developed pursuant to subsection b. of section of section 8  
39 of P.L. , c. (C. )(pending before the Legislature as this bill).

40 The organization under contract with the department pursuant to  
41 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the  
42 date on which the contract period concludes, submit a report to the  
43 Governor and the Legislature concerning its activities during the  
44 contract period and any recommendations concerning improving the  
45 program. Every eligible municipality and county shall cooperate  
46 with the organization under contract with the department pursuant  
47 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing  
48 information concerning its program of litter pickup and removal.

1 No later than May 31, 2008, 25 **【%】** percent of the estimated  
2 annual balance of the Clean Communities Program Fund shall be  
3 appropriated to the State Recycling Fund established pursuant to  
4 section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be  
5 used by the Department of Environmental Protection for direct  
6 recycling grants to counties and municipalities, up to a maximum  
7 appropriation of \$4,000,000.

8 g. As used in this section, "graffiti" means any inscription  
9 drawn, painted or otherwise made on a bridge, building, public  
10 transportation vehicle, rock, wall, sidewalk, street or other exposed  
11 surface on public property.

12 The department may carry forward any unexpended balances in  
13 the Clean Communities Program Fund as of June 30 of each year.  
14 (cf: P.L.2007, c.311, s.15)

15

16 11. This act shall take effect immediately.

17

18

19

#### STATEMENT

20

21 This bill would prohibit the provision or sale of single-use plastic  
22 carryout bags, single-use paper carryout bags, and polystyrene foam  
23 food service products, and limit the provision of single-use plastic  
24 straws.

25 Specifically, beginning two years after the effective date of the  
26 bill, a store or food service business would be prohibited from  
27 providing or selling a single-use plastic carryout bag to a customer,  
28 and a grocery store would be prohibited from providing or selling a  
29 single-use paper carryout bag to customer. The prohibitions in the  
30 bill would not apply to: (1) a bag used solely to contain or wrap  
31 uncooked meat, fish, or poultry; (2) a bag used solely to package  
32 loose items such as fruits, vegetables, nuts, coffee, grains, baked  
33 goods, candy, greeting cards, flowers, or small hardware items; (3)  
34 a bag used solely to contain live animals, such as fish or insects  
35 sold in a pet store; (4) a bag used solely to contain food sliced or  
36 prepared to order, including soup or hot food; (5) a laundry, dry  
37 cleaning, or garment bag; (6) a bag provided by a pharmacy to  
38 carry prescription drugs; (7) a newspaper bag; and (8) any similar  
39 bag, as determined by the Department of Environmental Protection  
40 (DEP). The prohibitions would also not apply to a reusable  
41 carryout bag, which is a bag that is made of polypropylene, PET  
42 nonwoven fabric, nylon, cloth, or other machine washable fabric;  
43 has stitched handles; and is designed and manufactured for multiple  
44 reuse.

45 Beginning two years after the effective date of the bill, a person  
46 would be prohibited from selling or offering for sale in the State  
47 any polystyrene foam food service product, and a food service  
48 business would be prohibited from providing or selling any food in

1 a polystyrene foam food service product. However, the following  
2 items would be exempt from the prohibition on polystyrene foam  
3 food service products for a period of two years after the prohibition  
4 takes effect: (1) disposable, long-handled polystyrene foam soda  
5 spoons when required and used for thick drinks; (2) portion cups of  
6 two ounces or less, if used for hot foods or foods requiring lids; (3)  
7 meat and fish trays for raw or butchered meat, including poultry, or  
8 fish that is sold from a refrigerator or similar retail appliance; (4)  
9 any food product pre-packaged by the manufacturer with a  
10 polystyrene foam food service product; and (5) any other  
11 polystyrene foam food service product as determined necessary by  
12 the DEP. The DEP would be authorized to extend any exemption  
13 listed above for additional periods not to exceed one year upon a  
14 written determination that there is no cost-effective and readily  
15 available alternative for the item.

16 Additionally, the DEP would be authorized, upon written  
17 application by a person or food service business, to waive the  
18 prohibitions on polystyrene foam food service products for the  
19 person or food service business for a period of up to one year if: (1)  
20 there is no feasible and commercially available alternative for a  
21 specific polystyrene foam food service product; or (2) the person or  
22 food service business has less than \$500,000 in gross annual income  
23 and there is no reasonably affordable, commercially-available  
24 alternative to the polystyrene foam food service product. The DEP  
25 would prescribe the form and manner of an application for a waiver.

26 Beginning one year after the effective date of the bill, a food  
27 service business would only be permitted to provide a single-use  
28 plastic straw to a customer upon the request of the customer. A  
29 store would be permitted to provide other types of straws, such as  
30 paper or reusable metal straws, without limitation. The bill would  
31 require a food service business to maintain an adequate supply of  
32 single-use plastic straws to provide at the request of customers.  
33 Nothing in the bill would prohibit a store from selling packages of  
34 single-use plastic straws to customers, or from providing or selling  
35 a beverage pre-packaged by the manufacturer with a plastic straw.

36 A municipality or county would be prohibited from adopting any  
37 rule, regulation, code, or ordinance concerning the regulation or  
38 prohibition of single-use plastic carryout bags, single-use paper  
39 carryout bags, polystyrene foam food service products, and single-  
40 use plastic straws after the effective date of the bill. Beginning  
41 when the respective prohibitions described above take effect, the  
42 bill would supersede and preempt any municipal or county rules,  
43 regulations, codes, or ordinances concerning the regulation or  
44 prohibition of single-use plastic carryout bags, single-use paper  
45 carryout bags, polystyrene foam food service products, and single-  
46 use plastic straws that were enacted prior to the effective date of the  
47 bill.

1 The DEP, a municipality, and any entity certified pursuant to the  
2 “County Environmental Health Act,” P.L.1977, c.443 (C.26:3a2-21  
3 et seq.) would have the authority to enforce the bill; with the  
4 exception that the Department of Health would enforce the  
5 provisions of the bill concerning single-use plastic straws. Any  
6 person or entity that violates the provisions of the bill would be  
7 subject to a warning for a first offense, a fine of up to \$1,000 for a  
8 second offense, and a fine of up to \$5,000 for a third or subsequent  
9 offense. If the violation is of a continuing nature, each day during  
10 which it continues would constitute an additional, separate, and  
11 distinct offense. Any penalty collected under the bill would be  
12 remitted to the State Treasurer for deposit in the Clean  
13 Communities Program Fund established pursuant to section 5 of  
14 P.L.2002, c.128 (C.13:1E-217). However, a municipality or entity  
15 certified pursuant to the “County Environmental Health Act would  
16 be permitted to retain 30 percent of any penalty it collects under the  
17 bill.

18 The bill would also establish the Plastics Advisory Council in the  
19 DEP to monitor the implementation of the bill, and evaluate its  
20 effectiveness in reducing single-use plastics and plastic waste in the  
21 State. The council would be required, each year, to report to the  
22 Governor and the Legislature on the implementation and  
23 effectiveness of the bill. The council would also study and report  
24 on the environmental and public health impacts of single-use  
25 plastics and micro-plastics; healthy and environmentally-friendly  
26 alternatives to single-use plastics; strategies and policies to increase  
27 the recyclability of plastics and reduce the amount of plastic  
28 entering the environment; the technological feasibility of increasing  
29 recycled content of consumer plastics and expanding the types of  
30 plastics that may be manufactured from recycled material; and ways  
31 to enhance the development and expansion of markets of post-  
32 consumer recycled plastic, including State and local purchasing and  
33 procurement practices.

34 Under the bill, the Department of State, in consultation with  
35 DEP, would be required to establish a program to assist businesses  
36 in complying with the provisions of the bill, including, but not  
37 limited to, developing and publishing on its Internet website  
38 guidance on compliance with the bill, and establishing an online  
39 clearinghouse of vendors who provide environmentally sound  
40 alternatives to single-use plastic carryout bags, single-use paper  
41 carryout bags, polystyrene foam food service products, and single-  
42 use plastic straws.

43 The bill would require the organization that is under contract  
44 with the Department of Environmental Protection (DEP) pursuant to  
45 section 6 of P.L.2002, c.128 (C.13:1E-218) (for implementation of  
46 certain components of the Clean Communities Program) to develop  
47 and implement a Statewide public information and education  
48 program concerning the provisions of the bill. The program would

1 include educational programs, public service announcements, and  
2 the distribution of free reusable carryout bags throughout the State.

3 Finally, the bill would amend section 5 of P.L.2002, c.128  
4 (C.13:1E-217)(concerning the Clean Communities Program Fund)  
5 to provide that, in each of the first three years after the effective  
6 date of the bill, \$500,000 of the estimated annual balance of the  
7 Clean Communities Program Fund would be appropriated to the  
8 DEP and made available to the organization under contract with the  
9 DEP pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) to  
10 develop the Statewide public information and education program  
11 required under this bill.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### [Second Reprint] **SENATE, No. 864**

with committee amendments

# STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 2020

The Assembly Appropriations Committee reports favorably Senate Bill No. 864 (2R), with committee amendments.

This bill would prohibit the provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products, and limit the provision of single-use plastic straws.

Specifically, beginning 18 months after the effective date of the bill, a store or food service business would be prohibited from providing or selling a single-use plastic carryout bag to a customer, and a grocery store would be prohibited from providing or selling a single-use paper carryout bag to a customer. The prohibitions in the bill would not apply to: (1) a bag used solely to contain or wrap uncooked meat, fish, or poultry; (2) a bag used solely to package loose items such as fruits, vegetables, nuts, coffee, grains, baked goods, candy, greeting cards, flowers, or small hardware items; (3) a bag used solely to contain live animals, such as fish or insects sold in a pet store; (4) a bag used solely to contain food sliced or prepared to order, including soup or hot food; (5) a laundry, dry cleaning, or garment bag; (6) a bag provided by a pharmacy to carry prescription drugs; (7) a newspaper bag; and (8) any similar bag, as determined by the Department of Environmental Protection (DEP). The prohibitions would also not apply to a reusable carryout bag, which is a bag that is made of polypropylene, PET nonwoven fabric, nylon, cloth, hemp products, or other machine washable fabric; has stitched handles; and is designed and manufactured for multiple reuses.

Beginning 18 months after the effective date of the bill, a person would be prohibited from selling or offering for sale in the State any polystyrene foam food service product, and a food service business would be prohibited from providing or selling any food in a polystyrene foam food service product. However, the following items would be exempt from the prohibition on polystyrene foam food service products for a period of two years after the prohibition takes effect: (1) disposable, long-handled polystyrene foam soda spoons when required and used for thick drinks; (2) portion cups of two ounces or less, if used

for hot foods or foods requiring lids; (3) meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance; (4) any food product pre-packaged by the manufacturer with a polystyrene foam food service product; and (5) any other polystyrene foam food service product as determined necessary by the DEP. The DEP would be authorized to extend any exemption listed above for additional periods not to exceed one year upon a written determination that there is no cost-effective and readily available alternative for the item.

Additionally, the DEP would be authorized, upon written application by a person or food service business, to waive the prohibitions on polystyrene foam food service products for the person or food service business for a period of up to one year if: (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product. The DEP would prescribe the form and manner of an application for a waiver.

Beginning one year after the effective date of the bill, a food service business would only be permitted to provide a single-use plastic straw to a customer upon the request of the customer. A store would be permitted to provide other types of straws, such as paper or reusable metal straws, without limitation. The bill would require a food service business to maintain an adequate supply of single-use plastic straws to provide at the request of customers. Nothing in the bill would prohibit a store from selling packages of single-use plastic straws to customers, or from providing or selling a beverage pre-packaged by the manufacturer with a plastic straw.

A municipality or county would be prohibited from adopting any rule, regulation, code, or ordinance concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws after the effective date of the bill. Beginning when the respective prohibitions described above take effect, the bill would supersede and preempt any municipal or county rules, regulations, codes, or ordinances concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws that were enacted prior to the effective date of the bill.

The DEP, a municipality, and any entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3a2-21 et seq.) would have the authority to enforce the provisions in the bill; with the exception that the Department of Health would enforce the provisions of the bill concerning single-use plastic straws. Any person or entity that violates the provisions of the bill would be subject to a warning for a first offense, a fine of up to \$1,000 for a second offense,

and a fine of up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues would constitute an additional, separate, and distinct offense. Any penalty collected under the bill would be remitted to the State Treasurer for deposit in the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217). However, a municipality or entity certified pursuant to the "County Environmental Health Act would be permitted to retain 30 percent of any penalty it collects under the bill.

The bill would also establish the Plastics Advisory Council in the DEP to monitor the implementation of the bill, and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State. The council would be required, each year, to report to the Governor and the Legislature on the implementation and effectiveness of the bill. The council would also study and report on the environmental and public health impacts of single-use plastics and micro-plastics; healthy and environmentally-friendly alternatives to single-use plastics; strategies and policies to increase the recyclability of plastics and reduce the amount of plastic entering the environment; the technological feasibility of increasing recycled content of consumer plastics and expanding the types of plastics that may be manufactured from recycled material; and ways to enhance the development and expansion of markets of post-consumer recycled plastic, including State and local purchasing and procurement practices.

Under the bill, the Department of State, in consultation with DEP, would be required to establish a program to assist businesses in complying with the provisions of the bill, including, but not limited to, developing and publishing on its Internet website guidance on compliance with the bill, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws.

The bill would require the organization that is under contract with the Department of Environmental Protection (DEP) pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) (for implementation of certain components of the Clean Communities Program) to develop and implement a Statewide public information and education program concerning the provisions of the bill. The program would include educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

Finally, the bill would amend section 5 of P.L.2002, c.128 (C.13:1E-217) (concerning the Clean Communities Program Fund) to provide that, in each of the first three years after the effective date of the bill, \$500,000 of the estimated annual balance of the Clean Communities Program Fund would be appropriated to the DEP and made available to the organization under contract with the DEP pursuant to section 6 of



P.L.2002, c.128 (C.13:1E-218) to develop the Statewide public information and education program required under this bill.

As amended and reported Senate Bill No. 864 (2R) is identical to the Assembly Committee Substitute for Assembly Bill No. 1978 which also was reported from the committee on this date.

#### COMMITTEE AMENDMENTS

The committee amendments to the bill would:

(1) add information to the Legislative findings and declarations section;

(2) add a definition for the term "hemp product," and clarify that the term "reusable carryout bag" includes bags made from hemp products; and

(3) add the Secretary of Agriculture or the secretary's designee to the Plastics Advisory Council established by the bill.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments, such as cafeterias in schools, hospitals, and prisons, to cease using polystyrene foam food service products. This provision will likely necessitate the use of more expensive alternative food service products.

The OLS also determines that the bill would lead to an increase in State expenditures due to provisions that increase the administrative workload of several State departments. The DEP would be required to perform new administrative tasks under the bill, including processing requests for exemptions from the bill's provisions concerning polystyrene food service products, enforcing many of the bill's provisions, and assisting a new council created by the bill. These tasks will likely require new full-time employees at the DEP.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

[Third Reprint]

## **SENATE, No. 864**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 22, 2020

The Assembly Budget Committee reports favorably Senate Bill No. 864 (3R) with committee amendments.

This bill would prohibit the provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products, and limit the provision of single-use plastic straws.

Specifically, beginning 18 months after the effective date of the bill, a store or food service business would be prohibited from providing or selling a single-use plastic carryout bag to a customer, and a grocery store would be prohibited from providing or selling a single-use paper carryout bag to a customer. The prohibitions in the bill would not apply to: (1) a bag used solely to contain or wrap uncooked meat, fish, or poultry; (2) a bag used solely to package loose items such as fruits, vegetables, nuts, coffee, grains, baked goods, candy, greeting cards, flowers, or small hardware items; (3) a bag used solely to contain live animals, such as fish or insects sold in a pet store; (4) a bag used solely to contain food sliced or prepared to order, including soup or hot food; (5) a laundry, dry cleaning, or garment bag; (6) a bag provided by a pharmacy to carry prescription drugs; (7) a newspaper bag; and (8) any similar bag, as determined by the Department of Environmental Protection (DEP). The prohibitions would also not apply to a reusable carryout bag, which is a bag that is made of polypropylene, PET nonwoven fabric, nylon, cloth, hemp products, or other machine washable fabric; has stitched handles; and is designed and manufactured for multiple reuses.

Beginning 18 months after the effective date of the bill, a person would be prohibited from selling or offering for sale in the State any polystyrene foam food service product, and a food service business would be prohibited from providing or selling any food in a polystyrene foam food service product. However, the following items would be exempt from the prohibition on polystyrene foam food service products for a period of two years after the prohibition takes effect: (1) disposable, long-handled polystyrene foam soda spoons when required and used for thick drinks; (2) portion cups of two

ounces or less, if used for hot foods or foods requiring lids; (3) meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance; (4) any food product pre-packaged by the manufacturer with a polystyrene foam food service product; and (5) any other polystyrene foam food service product as determined necessary by the DEP. The DEP would be authorized to extend any exemption listed above for additional periods not to exceed one year upon a written determination that there is no cost-effective and readily available alternative for the item.

Additionally, the DEP would be authorized, upon written application by a person or food service business, to waive the prohibitions on polystyrene foam food service products for the person or food service business for a period of up to one year if: (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product. The DEP would prescribe the form and manner of an application for a waiver.

Beginning one year after the effective date of the bill, a food service business would only be permitted to provide a single-use plastic straw to a customer upon the request of the customer. A store would be permitted to provide other types of straws, such as paper or reusable metal straws, without limitation. The bill would require a food service business to maintain an adequate supply of single-use plastic straws to provide at the request of customers. Nothing in the bill would prohibit a store from selling packages of single-use plastic straws to customers, or from providing or selling a beverage pre-packaged by the manufacturer with a plastic straw.

A municipality or county would be prohibited from adopting any rule, regulation, code, or ordinance concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws after the effective date of the bill. Beginning when the respective prohibitions described above take effect, the bill would supersede and preempt any municipal or county rules, regulations, codes, or ordinances concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws that were enacted prior to the effective date of the bill.

The DEP, a municipality, and any entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3a2-21 et seq.) would have the authority to enforce the provisions in the bill; with the exception that the Department of Health would enforce the provisions of the bill concerning single-use plastic straws. Any person or entity that violates the provisions of the bill would be subject to a warning for a first offense, a fine of up to \$1,000 for a second offense,

and a fine of up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues would constitute an additional, separate, and distinct offense. Any penalty collected under the bill would be remitted to the State Treasurer for deposit in the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217). However, a municipality or entity certified pursuant to the "County Environmental Health Act would be permitted to retain 30 percent of any penalty it collects under the bill.

The bill would also establish the Plastics Advisory Council in the DEP to monitor the implementation of the bill, and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State. The council would be required, each year, to report to the Governor and the Legislature on the implementation and effectiveness of the bill. The council would also study and report on the environmental and public health impacts of single-use plastics and micro-plastics; healthy and environmentally-friendly alternatives to single-use plastics; strategies and policies to increase the recyclability of plastics and reduce the amount of plastic entering the environment; the technological feasibility of increasing recycled content of consumer plastics and expanding the types of plastics that may be manufactured from recycled material; and ways to enhance the development and expansion of markets of post-consumer recycled plastic, including State and local purchasing and procurement practices.

Under the bill, the Department of State, in consultation with DEP, would be required to establish a program to assist businesses in complying with the provisions of the bill, including, but not limited to, developing and publishing on its Internet website guidance on compliance with the bill, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws.

The bill would require the organization that is under contract with the Department of Environmental Protection (DEP) pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) (for implementation of certain components of the Clean Communities Program) to develop and implement a Statewide public information and education program concerning the provisions of the bill. The program would include educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

Finally, the bill would amend section 5 of P.L.2002, c.128 (C.13:1E-217) (concerning the Clean Communities Program Fund) to provide that, in each of the first three years after the effective date of the bill, \$500,000 of the estimated annual balance of the Clean Communities Program Fund would be appropriated to the DEP and made available to the organization under contract with the DEP

pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) to develop the Statewide public information and education program required under this bill.

As amended and reported by the committee, Senate Bill No. 864 (3R) is identical to Assembly Bill No. 1978 (ACS), which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to exempt from the definition of “grocery store” establishments that handle only prepackaged food that does not require time or temperature controls for food safety.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments, such as cafeterias in schools, hospitals, and prisons, to cease using polystyrene foam food service products. This provision will likely necessitate the use of more expensive alternative food service products.

The OLS also determines that the bill would lead to an increase in State expenditures due to provisions that increase the administrative workload of several State departments. The DEP would be required to perform new administrative tasks under the bill, including processing requests for exemptions from the bill's provisions concerning polystyrene food service products, enforcing many of the bill's provisions, and assisting a new council created by the bill. These tasks will likely require new full-time employees at the DEP.

# SENATE ENVIRONMENT AND ENERGY COMMITTEE

## STATEMENT TO

### **SENATE, No. 864**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 30, 2020

The Senate Environment and Energy Committee favorably reports Senate Bill No. 864 with committee amendments.

This bill would prohibit the provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products, and limit the provision of single-use plastic straws.

Specifically, beginning 18 months after the effective date of the bill, a store or food service business would be prohibited from providing or selling a single-use plastic carryout bag to a customer, and a grocery store would be prohibited from providing or selling a single-use paper carryout bag to a customer. The prohibitions in the bill would not apply to: (1) a bag used solely to contain or wrap uncooked meat, fish, or poultry; (2) a bag used solely to package loose items such as fruits, vegetables, nuts, coffee, grains, baked goods, candy, greeting cards, flowers, or small hardware items; (3) a bag used solely to contain live animals, such as fish or insects sold in a pet store; (4) a bag used solely to contain food sliced or prepared to order, including soup or hot food; (5) a laundry, dry cleaning, or garment bag; (6) a bag provided by a pharmacy to carry prescription drugs; (7) a newspaper bag; and (8) any similar bag, as determined by the Department of Environmental Protection (DEP). The prohibitions would also not apply to a reusable carryout bag, which is a bag that is made of polypropylene, PET nonwoven fabric, nylon, cloth, or other machine washable fabric; has stitched handles; and is designed and manufactured for multiple reuse.

Beginning 18 months after the effective date of the bill, a person would be prohibited from selling or offering for sale in the State any polystyrene foam food service product, and a food service business would be prohibited from providing or selling any food in a polystyrene foam food service product. However, the following items would be exempt from the prohibition on polystyrene foam food service products for a period of two years after the prohibition takes effect: (1) disposable, long-handled polystyrene foam soda spoons when required and used for thick drinks; (2) portion cups of two ounces or less, if used for hot foods or foods requiring lids; (3) meat and fish trays for raw or butchered meat, including poultry, or fish that

is sold from a refrigerator or similar retail appliance; (4) any food product pre-packaged by the manufacturer with a polystyrene foam food service product; and (5) any other polystyrene foam food service product as determined necessary by the DEP. The DEP would be authorized to extend any exemption listed above for additional periods not to exceed one year upon a written determination that there is no cost-effective and readily available alternative for the item.

Additionally, the DEP would be authorized, upon written application by a person or food service business, to waive the prohibitions on polystyrene foam food service products for the person or food service business for a period of up to one year if: (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product. The DEP would prescribe the form and manner of an application for a waiver.

Beginning one year after the effective date of the bill, a food service business would only be permitted to provide a single-use plastic straw to a customer upon the request of the customer. A store would be permitted to provide other types of straws, such as paper or reusable metal straws, without limitation. The bill would require a food service business to maintain an adequate supply of single-use plastic straws to provide at the request of customers. Nothing in the bill would prohibit a store from selling packages of single-use plastic straws to customers, or from providing or selling a beverage pre-packaged by the manufacturer with a plastic straw.

A municipality or county would be prohibited from adopting any rule, regulation, code, or ordinance concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws after the effective date of the bill. Beginning when the respective prohibitions described above take effect, the bill would supersede and preempt any municipal or county rules, regulations, codes, or ordinances concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws that were enacted prior to the effective date of the bill.

The DEP, a municipality, and any entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3a2-21 et seq.) would have the authority to enforce the provisions in the bill; with the exception that the Department of Health would enforce the provisions of the bill concerning single-use plastic straws. Any person or entity that violates the provisions of the bill would be subject to a warning for a first offense, a fine of up to \$1,000 for a second offense, and a fine of up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues

would constitute an additional, separate, and distinct offense. Any penalty collected under the bill would be remitted to the State Treasurer for deposit in the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217). However, a municipality or entity certified pursuant to the “County Environmental Health Act would be permitted to retain 30 percent of any penalty it collects under the bill.

The bill would also establish the Plastics Advisory Council in the DEP to monitor the implementation of the bill, and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State. The council would be required, each year, to report to the Governor and the Legislature on the implementation and effectiveness of the bill. The council would also study and report on the environmental and public health impacts of single-use plastics and micro-plastics; healthy and environmentally-friendly alternatives to single-use plastics; strategies and policies to increase the recyclability of plastics and reduce the amount of plastic entering the environment; the technological feasibility of increasing recycled content of consumer plastics and expanding the types of plastics that may be manufactured from recycled material; and ways to enhance the development and expansion of markets of post-consumer recycled plastic, including State and local purchasing and procurement practices.

Under the bill, the Department of State, in consultation with DEP, would be required to establish a program to assist businesses in complying with the provisions of the bill, including, but not limited to, developing and publishing on its Internet website guidance on compliance with the bill, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws.

The bill would require the organization that is under contract with the Department of Environmental Protection (DEP) pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) (for implementation of certain components of the Clean Communities Program) to develop and implement a Statewide public information and education program concerning the provisions of the bill. The program would include educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

Finally, the bill would amend section 5 of P.L.2002, c.128 (C.13:1E-217)(concerning the Clean Communities Program Fund) to provide that, in each of the first three years after the effective date of the bill, \$500,000 of the estimated annual balance of the Clean Communities Program Fund would be appropriated to the DEP and made available to the organization under contract with the DEP pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) to develop the



Statewide public information and education program required under this bill.

The committee amendments to the bill would:

(1) provide that the prohibitions on single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products will take effect 18 months after the date of enactment of the bill, instead of two years after enactment; and

(2) provide that the preemption of municipal and county rules, regulations, codes, and ordinances will take effect 18 months after the date of enactment, instead of two years after enactment.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 864**

with Senate Floor Amendments  
(Proposed by Senator B. SMITH)

ADOPTED: FEBRUARY 10, 2020

This floor amendment makes certain changes to the definition of the term “grocery store.” Specifically, the floor amendment reduces the square footage requirement for a grocery store from 4,500 square feet to 2,500 square feet, and removes the requirement that the store *primarily* sell a *full-line* of household foodstuffs for offsite consumption. Under the bill, as amended, the term “grocery store” is defined as “a self-service retail establishment that sells household foodstuffs for off-site consumption...” The effect of this amendment is to expand the scope of stores that would be prohibited from providing single-use paper carryout bags under the bill.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 864**

## **STATE OF NEW JERSEY 219th LEGISLATURE**

DATED: SEPTEMBER 10, 2020

### SUMMARY

- Synopsis:** Prohibits provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products; limits provision of single-use plastic straws; appropriates moneys from Clean Communities Program Fund for public education.
- Type of Impact:** Annual increase in State and local expenditures.
- Agencies Affected:** Department of Environmental Protection, Department of Health, Department of State, Department of Corrections, local governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditure Increase</b>		Indeterminate	
<b>Local Expenditure Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments—such as cafeterias in schools, hospitals, and prisons—to cease using polystyrene foam food service products. This provision will likely necessitate the use of more expensive alternative food service products.
- The OLS also determines that the bill would lead to an increase in State expenditures due to provisions that increase the administrative workload of several State departments. The Department of Environmental Protection (DEP) would be required to perform new administrative tasks under the bill, including processing requests for exemptions from the bill's provisions concerning polystyrene food service products, enforcing many of the bill's provisions, and assisting a new council created by the bill. These tasks will likely require new full-time employees at the DEP.

- In addition, the OLS notes that the Department of Health (DOH) may require additional staff and resources, indeterminate in amount, to enforce the provision of the bill that prohibits food service businesses from offering plastic straws except upon request. The bill also requires the Department of State to develop a program to assist businesses in complying with the bill's provisions, which may require additional staff or a contract with a third-party firm.

## **BILL DESCRIPTION**

This bill would prohibit the provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products, and limit the provision of single-use plastic straws.

Beginning 18 months after the effective date of the bill, a store or food service business would be prohibited from providing or selling a single-use plastic bag to a customer, and a grocery store would be prohibited from providing or selling a single-use paper bag to a customer. Beginning one year after the effective date of the bill, a food service business would be prohibited from providing a single-use plastic straw to a customer, except upon request.

Beginning 18 months after the effective date of the bill, a person would be prohibited from selling or offering for sale in the State any polystyrene foam food service product, and a food service business would be prohibited from providing or selling any food contained in a polystyrene foam food service product. The DEP would be authorized, upon written application by a person or food service business, to waive the prohibitions on polystyrene foam food service products for a period of up to one year if: (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product.

The DEP, a municipality, and any entity certified pursuant to the County Environmental Health Act would have the authority to enforce the bill's provisions; with the exception that the DOH would enforce the provisions of the bill concerning single-use plastic straws. Any person or entity that violates the provisions of the bill would be subject to a warning for a first offense, a fine of up to \$1,000 for a second offense, and a fine of up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues would constitute an additional, separate, and distinct offense. Any penalty collected under the bill would be remitted to the State Treasurer for deposit in the Clean Communities Program Fund. However, a municipality or entity certified pursuant to the County Environmental Health Act would be permitted to retain 30 percent of any penalty it collects under the bill.

The bill would also establish the Plastics Advisory Council in the DEP to monitor the implementation of the bill, and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State. The council would be required, each year, to report to the Governor and the Legislature on the implementation and effectiveness of the bill. The council would also study and report on various issues related to single-use plastics.

Under the bill, the Department of State, in consultation with DEP, would be required to establish a program to assist businesses in complying with the provisions of the bill, including, but not limited to, developing and publishing on its website guidance on compliance with the bill, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws.

Finally, the bill would appropriate \$500,000 per year, for three years, from the Clean Communities Program Fund to the DEP. Resources in this fund are currently used to provide State

aid to municipalities for programs of litter pickup and removal and a small portion is used for a State program of litter pickup and removal, as well as enforcement of litter-related laws. The DEP would use these additional funds to contract with a non-profit organization to develop and implement a Statewide public information and education program concerning the provisions of the bill. The program would include educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive has not submitted a formal fiscal note for this bill. However, the DEP has informed the OLS that it estimates that seven new full-time employees (one supervisory and six staff-level) will be required to appropriately manage the new workload. The DEP estimates the new staff members will require an additional expenditure of approximately \$800,000 annually. The DEP also notes that these resources will assist the Solid Waste program in implementing the bill, and that more resources will be needed to address enforcement.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments—such as cafeterias in schools, hospitals, and prisons—to cease using polystyrene foam food service products. This provision will likely cause some State and local entities to switch to alternative food service products (e.g. compostable food trays), which are more costly. For example, according to information provided by the New Jersey Association of School Business Officials, one school district reported that compostable school lunch trays cost an additional \$0.06 per tray, leading to an annual cost increase of \$6.84 per student. A similar cost increase for the approximately 19,970 prisoners in the charge of the Department of Corrections would represent an expenditure increase of approximately \$1,312,000 annually for that department (assuming a cost increase of \$0.06 per tray and three trays needed per day). State or local entities may also choose to purchase reusable food service products. This option would likely represent a higher up-front cost, but a lower cost over time. Raritan High School, for example, recently switched to reusable trays at a cost of approximately \$10.97 per student (this cost did not include large-capacity dishwashers, which can cost tens of thousands of dollars). The OLS cannot quantify the total State and local expenditure increase because it depends on the exceptions allowed by the DEP under the bill, the business decisions made by State and local food service businesses (e.g. whether to invest in reusable products and dishwashers), and the actual cost of alternative food service products, which may change over time.

The OLS also determines that the bill would lead to an increase in State expenditures due to provisions in the bill that increase the administrative workload of several State departments. As noted above, the DEP has estimated that it would require seven new full-time employees with total compensation of approximately \$800,000 annually to implement the bill's provisions, not including the cost of enforcement. The DEP's costs also depend on how many resources they choose to allocate to enforcement.

In addition, the DOH may require additional staff and resources, indeterminate in amount, to enforce the provision of the bill that prohibits food service businesses from offering plastic straws

except upon request. The bill also requires the Department of State to develop a program to assist businesses in complying with the bill's provisions, which may require additional staff or a contract with a third-party firm.

The OLS notes that State and local revenue may increase by a marginal amount as a result of the imposition and collection of penalties for violations of the bill's provisions. The bill provides that any penalties collected would be remitted to the State Treasurer for deposit into the Clean Communities Program Fund, but that municipalities and certain other entities may retain 30 percent of any penalties they collect. The bill allows for penalties of up to \$5,000 for recurring offenses. On the other hand, the bill preempts local ordinances. Thus, counties and municipalities that currently have a prohibition on plastic or polystyrene products, and are generating revenue from fines associated with the prohibition that are greater than what they would collect under the bill, may see a marginal decrease in revenue under this bill.

Finally, the OLS notes that the bill allocates \$500,000 annually for the first three years after the date of enactment from the Clean Communities Program Fund toward a Statewide public information and education program concerning the provisions of this bill, including public service announcements and the distribution of free reusable carryout bags throughout the State. Currently the DEP allocates \$375,000 annually from the fund to maintain a Statewide public information and education program concerning anti-littering activities. This fund had a balance of \$3.7 million in FY 2018. The DEP currently contracts with the New Jersey Clean Communities Council, a non-profit organization, to maintain the anti-litter program. Under this bill, the DEP would allocate an additional \$500,000 annually for three years to the New Jersey Clean Communities Council to develop a public information campaign concerning the provisions of this bill.

*Section: Environment, Agriculture, Energy, and Natural Resources*

*Analyst: Eric Hansen  
Assistant Research Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

**SENATE, No. 864**

## **STATE OF NEW JERSEY 219th LEGISLATURE**

DATED: SEPTEMBER 24, 2020

### SUMMARY

- Synopsis:** Prohibits provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products; limits provision of single-use plastic straws; appropriates moneys from Clean Communities Program Fund for public education.
- Type of Impact:** Annual increase in State and local expenditures.
- Agencies Affected:** Department of Environmental Protection, Department of Health, Department of State, Department of Corrections, local governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditure Increase</b>		Indeterminate	
<b>Local Expenditure Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments—such as cafeterias in schools, hospitals, and prisons—to cease using polystyrene foam food service products. This provision will likely necessitate the use of more expensive alternative food service products.
- The OLS also determines that the bill would lead to an increase in State expenditures due to provisions that increase the administrative workload of several State departments. The Department of Environmental Protection (DEP) would be required to perform new administrative tasks under the bill, including processing requests for exemptions from the bill's provisions concerning polystyrene food service products, enforcing many of the bill's provisions, and assisting a new council created by the bill. These tasks will likely require new full-time employees at the DEP.

- In addition, the OLS notes that the Department of Health (DOH) may require additional staff and resources, indeterminate in amount, to enforce the provision of the bill that prohibits food service businesses from offering plastic straws except upon request. The bill also requires the Department of State to develop a program to assist businesses in complying with the bill's provisions, which may require additional staff or a contract with a third-party firm.

## **BILL DESCRIPTION**

This bill would prohibit the provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products, and limit the provision of single-use plastic straws.

Beginning 18 months after the effective date of the bill, a store or food service business would be prohibited from providing or selling a single-use plastic bag to a customer, and a grocery store would be prohibited from providing or selling a single-use paper bag to a customer. Beginning one year after the effective date of the bill, a food service business would be prohibited from providing a single-use plastic straw to a customer, except upon request.

Beginning 18 months after the effective date of the bill, a person would be prohibited from selling or offering for sale in the State any polystyrene foam food service product, and a food service business would be prohibited from providing or selling any food contained in a polystyrene foam food service product. The DEP would be authorized, upon written application by a person or food service business, to waive the prohibitions on polystyrene foam food service products for a period of up to one year if: (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product.

The DEP, a municipality, and any entity certified pursuant to the County Environmental Health Act would have the authority to enforce the bill's provisions; with the exception that the DOH would enforce the provisions of the bill concerning single-use plastic straws. Any person or entity that violates the provisions of the bill would be subject to a warning for a first offense, a fine of up to \$1,000 for a second offense, and a fine of up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues would constitute an additional, separate, and distinct offense. Any penalty collected under the bill would be remitted to the State Treasurer for deposit in the Clean Communities Program Fund. However, a municipality or entity certified pursuant to the County Environmental Health Act would be permitted to retain 30 percent of any penalty it collects under the bill.

The bill would also establish the Plastics Advisory Council in the DEP to monitor the implementation of the bill, and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State. The council would be required, each year, to report to the Governor and the Legislature on the implementation and effectiveness of the bill. The council would also study and report on various issues related to single-use plastics.

Under the bill, the Department of State, in consultation with DEP, would be required to establish a program to assist businesses in complying with the provisions of the bill, including, but not limited to, developing and publishing on its website guidance on compliance with the bill, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws.



Finally, the bill would appropriate \$500,000 per year, for three years, from the Clean Communities Program Fund to the DEP. Resources in this fund are currently used to provide State aid to municipalities for programs of litter pickup and removal and a small portion is used for a State program of litter pickup and removal, as well as enforcement of litter-related laws. The DEP would use these additional funds to contract with a non-profit organization to develop and implement a Statewide public information and education program concerning the provisions of the bill. The program would include educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive has not submitted a formal fiscal note for this bill. However, the DEP has informed the OLS that it estimates that seven new full-time employees (one supervisory and six staff-level) will be required to appropriately manage the new workload. The DEP estimates the new staff members will require an additional expenditure of approximately \$800,000 annually. The DEP also notes that these resources will assist the Solid Waste program in implementing the bill, and that more resources will be needed to address enforcement.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments—such as cafeterias in schools, hospitals, and prisons—to cease using polystyrene foam food service products. This provision will likely cause some State and local entities to switch to alternative food service products (e.g. compostable food trays), which are more costly. For example, according to information provided by the New Jersey Association of School Business Officials, one school district reported that compostable school lunch trays cost an additional \$0.06 per tray, leading to an annual cost increase of \$6.84 per student. A similar cost increase for the approximately 19,970 prisoners in the charge of the Department of Corrections would represent an expenditure increase of approximately \$1,312,000 annually for that department (assuming a cost increase of \$0.06 per tray and three trays needed per day). State or local entities may also choose to purchase reusable food service products. This option would likely represent a higher up-front cost, but a lower cost over time. Raritan High School, for example, recently switched to reusable trays at a cost of approximately \$10.97 per student (this cost did not include large-capacity dishwashers, which can cost tens of thousands of dollars). The OLS cannot quantify the total State and local expenditure increase because it depends on the exceptions allowed by the DEP under the bill, the business decisions made by State and local food service businesses (e.g. whether to invest in reusable products and dishwashers), and the actual cost of alternative food service products, which may change over time.

The OLS also determines that the bill would lead to an increase in State expenditures due to provisions in the bill that increase the administrative workload of several State departments. As noted above, the DEP has estimated that it would require seven new full-time employees with total compensation of approximately \$800,000 annually to implement the bill's provisions, not

including the cost of enforcement. The DEP's costs also depend on how many resources they choose to allocate to enforcement.

In addition, the DOH may require additional staff and resources, indeterminate in amount, to enforce the provision of the bill that prohibits food service businesses from offering plastic straws except upon request. The bill also requires the Department of State to develop a program to assist businesses in complying with the bill's provisions, which may require additional staff or a contract with a third-party firm.

The OLS notes that State and local revenue may increase by a marginal amount as a result of the imposition and collection of penalties for violations of the bill's provisions. The bill provides that any penalties collected would be remitted to the State Treasurer for deposit into the Clean Communities Program Fund, but that municipalities and certain other entities may retain 30 percent of any penalties they collect. The bill allows for penalties of up to \$5,000 for recurring offenses. On the other hand, the bill preempts local ordinances. Thus, counties and municipalities that currently have a prohibition on plastic or polystyrene products, and are generating revenue from fines associated with the prohibition that are greater than what they would collect under the bill, may see a marginal decrease in revenue under this bill.

Finally, the OLS notes that the bill allocates \$500,000 annually for the first three years after the date of enactment from the Clean Communities Program Fund toward a Statewide public information and education program concerning the provisions of this bill, including public service announcements and the distribution of free reusable carryout bags throughout the State. Currently the DEP allocates \$375,000 annually from the fund to maintain a Statewide public information and education program concerning anti-littering activities. This fund had a balance of \$3.4 million in FY 2019. The DEP currently contracts with the New Jersey Clean Communities Council, a non-profit organization, to maintain the anti-litter program. Under this bill, the DEP would allocate an additional \$500,000 annually for three years to the New Jersey Clean Communities Council to develop a public information campaign concerning the provisions of this bill.

*Section: Environment, Agriculture, Energy, and Natural Resources*

*Analyst: Eric Hansen  
Associate Research Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

## SENATE, No. 864

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: SEPTEMBER 28, 2020

#### SUMMARY

- Synopsis:** Prohibits provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products; limits provision of single-use plastic straws; appropriates moneys from Clean Communities Program Fund for public education.
- Type of Impact:** Annual increase in State and local expenditures.
- Agencies Affected:** Department of Environmental Protection, Department of Health, Department of State, Department of Corrections, local governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditure Increase</b>		Indeterminate	
<b>Local Expenditure Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments—such as cafeterias in schools, hospitals, and prisons—to cease using polystyrene foam food service products. This provision will likely necessitate the use of more expensive alternative food service products.
- The OLS also determines that the bill would lead to an increase in State expenditures due to provisions that increase the administrative workload of several State departments. The Department of Environmental Protection (DEP) would be required to perform new administrative tasks under the bill, including processing requests for exemptions from the bill's provisions concerning polystyrene food service products, enforcing many of the bill's provisions, and assisting a new council created by the bill. These tasks will likely require new full-time employees at the DEP.

- In addition, the OLS notes that the Department of Health (DOH) may require additional staff and resources, indeterminate in amount, to enforce the provision of the bill that prohibits food service businesses from offering plastic straws except upon request. The bill also requires the Department of State to develop a program to assist businesses in complying with the bill's provisions, which may require additional staff or a contract with a third-party firm.

## **BILL DESCRIPTION**

This bill would prohibit the provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products, and limit the provision of single-use plastic straws.

Beginning 18 months after the effective date of the bill, a store or food service business would be prohibited from providing or selling a single-use plastic bag to a customer, and a grocery store would be prohibited from providing or selling a single-use paper bag to a customer. Beginning one year after the effective date of the bill, a food service business would be prohibited from providing a single-use plastic straw to a customer, except upon request.

Beginning 18 months after the effective date of the bill, a person would be prohibited from selling or offering for sale in the State any polystyrene foam food service product, and a food service business would be prohibited from providing or selling any food contained in a polystyrene foam food service product. The DEP would be authorized, upon written application by a person or food service business, to waive the prohibitions on polystyrene foam food service products for a period of up to one year if: (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product.

The DEP, a municipality, and any entity certified pursuant to the County Environmental Health Act would have the authority to enforce the bill's provisions; with the exception that the DOH would enforce the provisions of the bill concerning single-use plastic straws. Any person or entity that violates the provisions of the bill would be subject to a warning for a first offense, a fine of up to \$1,000 for a second offense, and a fine of up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues would constitute an additional, separate, and distinct offense. Any penalty collected under the bill would be remitted to the State Treasurer for deposit in the Clean Communities Program Fund. However, a municipality or entity certified pursuant to the County Environmental Health Act would be permitted to retain 30 percent of any penalty it collects under the bill.

The bill would also establish the Plastics Advisory Council in the DEP to monitor the implementation of the bill, and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State. The council would be required, each year, to report to the Governor and the Legislature on the implementation and effectiveness of the bill. The council would also study and report on various issues related to single-use plastics.

Under the bill, the Department of State, in consultation with DEP, would be required to establish a program to assist businesses in complying with the provisions of the bill, including, but not limited to, developing and publishing on its website guidance on compliance with the bill, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws.

Finally, the bill would appropriate \$500,000 per year, for three years, from the Clean Communities Program Fund to the DEP. Resources in this fund are currently used to provide State aid to municipalities for programs of litter pickup and removal and a small portion is used for a State program of litter pickup and removal, as well as enforcement of litter-related laws. The DEP would use these additional funds to contract with a non-profit organization to develop and implement a Statewide public information and education program concerning the provisions of the bill. The program would include educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive has not submitted a formal fiscal note for this bill. However, the DEP has informed the OLS that it estimates that seven new full-time employees (one supervisory and six staff-level) will be required to appropriately manage the new workload. The DEP estimates the new staff members will require an additional expenditure of approximately \$800,000 annually. The DEP also notes that these resources will assist the Solid Waste program in implementing the bill, and that more resources will be needed to address enforcement.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments—such as cafeterias in schools, hospitals, and prisons—to cease using polystyrene foam food service products. This provision will likely cause some State and local entities to switch to alternative food service products (e.g. compostable food trays), which are more costly. For example, according to information provided by the New Jersey Association of School Business Officials, one school district reported that compostable school lunch trays cost an additional \$0.06 per tray, leading to an annual cost increase of \$6.84 per student. A similar cost increase for the approximately 19,970 prisoners in the charge of the Department of Corrections would represent an expenditure increase of approximately \$1,312,000 annually for that department (assuming a cost increase of \$0.06 per tray and three trays needed per day). State or local entities may also choose to purchase reusable food service products. This option would likely represent a higher up-front cost, but a lower cost over time. Raritan High School, for example, recently switched to reusable trays at a cost of approximately \$10.97 per student (this cost did not include large-capacity dishwashers, which can cost tens of thousands of dollars). The OLS cannot quantify the total State and local expenditure increase because it depends on the exceptions allowed by the DEP under the bill, the business decisions made by State and local food service businesses (e.g. whether to invest in reusable products and dishwashers), and the actual cost of alternative food service products, which may change over time.

The OLS also determines that the bill would lead to an increase in State expenditures due to provisions in the bill that increase the administrative workload of several State departments. As noted above, the DEP has estimated that it would require seven new full-time employees with total compensation of approximately \$800,000 annually to implement the bill's provisions, not including the cost of enforcement. The DEP's costs also depend on how many resources they choose to allocate to enforcement.

In addition, the DOH may require additional staff and resources, indeterminate in amount, to enforce the provision of the bill that prohibits food service businesses from offering plastic straws except upon request. The bill also requires the Department of State to develop a program to assist businesses in complying with the bill's provisions, which may require additional staff or a contract with a third-party firm.

The OLS notes that State and local revenue may increase by a marginal amount as a result of the imposition and collection of penalties for violations of the bill's provisions. The bill provides that any penalties collected would be remitted to the State Treasurer for deposit into the Clean Communities Program Fund, but that municipalities and certain other entities may retain 30 percent of any penalties they collect. The bill allows for penalties of up to \$5,000 for recurring offenses. On the other hand, the bill preempts local ordinances. Thus, counties and municipalities that currently have a prohibition on plastic or polystyrene products, and are generating revenue from fines associated with the prohibition that are greater than what they would collect under the bill, may see a marginal decrease in revenue under this bill.

Finally, the OLS notes that the bill allocates \$500,000 annually for the first three years after the date of enactment from the Clean Communities Program Fund toward a Statewide public information and education program concerning the provisions of this bill, including public service announcements and the distribution of free reusable carryout bags throughout the State. Currently the DEP allocates \$375,000 annually from the fund to maintain a Statewide public information and education program concerning anti-littering activities. This fund had a balance of \$3.4 million in FY 2019. The DEP currently contracts with the New Jersey Clean Communities Council, a non-profit organization, to maintain the anti-litter program. Under this bill, the DEP would allocate an additional \$500,000 annually for three years to the New Jersey Clean Communities Council to develop a public information campaign concerning the provisions of this bill.

*Section: Environment, Agriculture, Energy, and Natural Resources*

*Analyst: Eric Hansen  
Associate Research Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**ASSEMBLY, No. 1978**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman NANCY J. PINKIN**

**District 18 (Middlesex)**

**Assemblyman JAMES J. KENNEDY**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

**Assemblyman Conaway, Assemblywoman Vainieri Huttle, Assemblyman Calabrese, Assemblywomen Jasey, Carter, Downey, Assemblymen Caputo, Holley, Houghtaling, Assemblywoman Jimenez, Assemblymen Mukherji, Danielsen, Assemblywoman Reynolds-Jackson and Assemblyman Zwicker**

**SYNOPSIS**

Prohibits use of plastic carryout bags, expanded polystyrene, and single-use plastic straws.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 9/17/2020)**

1 AN ACT concerning plastic carryout bags, expanded polystyrene  
2 food service products, and plastic straws, and supplementing  
3 Title 13 of the Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. As used in this act:

9 "Carryout bag" means a bag provided by a store or food service  
10 business to a customer at the point of sale for the purpose of  
11 transporting groceries or retail goods.

12 "Department" means the Department of Environmental  
13 Protection.

14 "Expanded polystyrene" means blown polystyrene and expanded  
15 and extruded foams that are thermoplastic petrochemical materials  
16 utilizing a styrene monomer and processed by a number of  
17 techniques, including, but not limited to, fusion of polymer spheres  
18 (expandable bead polystyrene), injection molding, foam molding,  
19 and extrusion-blow molding (extruded foam polystyrene).

20 "Expanded polystyrene food service product" means a product  
21 made, in whole or in part, of expanded polystyrene that is used for  
22 selling or providing a food or beverage, and includes, but is not  
23 limited to, a food container, plate, hot or cold beverage cup, meat or  
24 vegetable tray, or egg carton. "Expanded polystyrene food service  
25 product" shall not include a product used to package raw, uncooked,  
26 or butchered meat, fish, poultry, or seafood for off-premises  
27 consumption.

28 "Food service business" means a business that sells or provides  
29 food for consumption on or off the premises, and includes, but is  
30 not limited to, any restaurant, café, delicatessen, coffee shop,  
31 supermarket or grocery store, vending truck or cart, food truck,  
32 movie theater, or business or institutional cafeteria, including those  
33 operated by or on behalf of the State.

34 "Store" means any grocery store, supermarket, convenience  
35 store, liquor store, pharmacy, drug store, or other retail  
36 establishment that has over 1,000 square feet of retail space and that  
37 provides carryout bags to its customers as a result of the sale of a  
38 product.

39  
40 2. a. No store or food service business shall provide a plastic  
41 carryout bag to a customer.

42 b. No person shall sell or offer for sale in the State any  
43 expanded polystyrene food service product.

44 c. No food service business shall sell or provide any food in an  
45 expanded polystyrene food service product.

46 d. No food service business shall sell or provide single-use  
47 plastic straws to customers.



1       3. a. A person who violates any provision of this act shall be  
2 subject to a penalty of up to \$5,000 for each offense, to be collected  
3 in a civil action by a summary proceeding under the "Penalty  
4 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),  
5 or in any case before a court of competent jurisdiction wherein  
6 injunctive relief has been requested. The Superior Court shall have  
7 jurisdiction to enforce the provisions of the "Penalty Enforcement  
8 Law of 1999" in connection with this act. If the violation is of a  
9 continuing nature, each day during which it continues constitutes an  
10 additional, separate, and distinct offense.

11       b. The department may institute a civil action for injunctive  
12 relief to enforce this act and to prohibit and prevent a violation of  
13 this act, and the court may proceed in the action in a summary  
14 manner.

15  
16       4. The department shall adopt, pursuant to the "Administrative  
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules  
18 and regulations as may be necessary to effectuate the purposes of  
19 this act.

20  
21       5. Section 2 of this act shall take effect one year after the date  
22 of enactment of this act, and the remainder of this act shall take  
23 effect immediately.

24

25

26

#### STATEMENT

27

28       This bill would prohibit stores and food service businesses from  
29 providing plastic carryout bags to their customers. The bill would  
30 also prohibit any person from selling or offering for sale in the State  
31 any expanded polystyrene (commonly referred to as "Styrofoam")  
32 food service product and prohibit any food service business from  
33 selling or providing any food in an expanded polystyrene food  
34 service product. Further, the bill would prohibit any food service  
35 business from selling or providing single-use plastic straws to  
36 customers. The prohibitions in the bill would take effect one year  
37 after the date of enactment of the bill into law.

38       A person who violates any provision of the bill would be subject  
39 to a penalty of up to \$5,000 for each offense, and each day during  
40 which the violation continues would constitute a separate offense.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1978

# STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 2020

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1978.

This committee substitute would prohibit the provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products, and limit the provision of single-use plastic straws.

Specifically, beginning 18 months after the effective date of the bill, a store or food service business would be prohibited from providing or selling a single-use plastic carryout bag to a customer, and a grocery store would be prohibited from providing or selling a single-use paper carryout bag to a customer. The prohibitions in the bill would not apply to: (1) a bag used solely to contain or wrap uncooked meat, fish, or poultry; (2) a bag used solely to package loose items such as fruits, vegetables, nuts, coffee, grains, baked goods, candy, greeting cards, flowers, or small hardware items; (3) a bag used solely to contain live animals, such as fish or insects sold in a pet store; (4) a bag used solely to contain food sliced or prepared to order, including soup or hot food; (5) a laundry, dry cleaning, or garment bag; (6) a bag provided by a pharmacy to carry prescription drugs; (7) a newspaper bag; and (8) any similar bag, as determined by the Department of Environmental Protection (DEP). The prohibitions would also not apply to a reusable carryout bag, which is a bag that is made of polypropylene, PET nonwoven fabric, nylon, cloth, hemp products, or other machine washable fabric; has stitched handles; and is designed and manufactured for multiple reuses.

Beginning 18 months after the effective date of the bill, a person would be prohibited from selling or offering for sale in the State any polystyrene foam food service product, and a food service business would be prohibited from providing or selling any food in a polystyrene foam food service product. However, the following items would be exempt from the prohibition on polystyrene foam food service products for a period of two years after the prohibition takes effect: (1) disposable, long-handled polystyrene foam soda spoons when required and used for thick drinks; (2) portion cups of two ounces or less, if used for hot foods or foods requiring lids; (3) meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator

or similar retail appliance; (4) any food product pre-packaged by the manufacturer with a polystyrene foam food service product; and (5) any other polystyrene foam food service product as determined necessary by the DEP. The DEP would be authorized to extend any exemption listed above for additional periods not to exceed one year upon a written determination that there is no cost-effective and readily available alternative for the item.

Additionally, the DEP would be authorized, upon written application by a person or food service business, to waive the prohibitions on polystyrene foam food service products for the person or food service business for a period of up to one year if: (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product. The DEP would prescribe the form and manner of an application for a waiver.

Beginning one year after the effective date of the bill, a food service business would only be permitted to provide a single-use plastic straw to a customer upon the request of the customer. A store would be permitted to provide other types of straws, such as paper or reusable metal straws, without limitation. The bill would require a food service business to maintain an adequate supply of single-use plastic straws to provide at the request of customers. Nothing in the bill would prohibit a store from selling packages of single-use plastic straws to customers, or from providing or selling a beverage pre-packaged by the manufacturer with a plastic straw.

A municipality or county would be prohibited from adopting any rule, regulation, code, or ordinance concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws after the effective date of the bill. Beginning when the respective prohibitions described above take effect, the bill would supersede and preempt any municipal or county rules, regulations, codes, or ordinances concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws that were enacted prior to the effective date of the bill.

The DEP, a municipality, and any entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3a2-21 et seq.) would have the authority to enforce the provisions in the bill; with the exception that the Department of Health would enforce the provisions of the bill concerning single-use plastic straws. Any person or entity that violates the provisions of the bill would be subject to a warning for a first offense, a fine of up to \$1,000 for a second offense, and a fine of up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues

would constitute an additional, separate, and distinct offense. Any penalty collected under the bill would be remitted to the State Treasurer for deposit in the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217). However, a municipality or entity certified pursuant to the "County Environmental Health Act would be permitted to retain 30 percent of any penalty it collects under the bill.

The bill would also establish the Plastics Advisory Council in the DEP to monitor the implementation of the bill, and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State. The council would be required, each year, to report to the Governor and the Legislature on the implementation and effectiveness of the bill. The council would also study and report on the environmental and public health impacts of single-use plastics and micro-plastics; healthy and environmentally-friendly alternatives to single-use plastics; strategies and policies to increase the recyclability of plastics and reduce the amount of plastic entering the environment; the technological feasibility of increasing recycled content of consumer plastics and expanding the types of plastics that may be manufactured from recycled material; and ways to enhance the development and expansion of markets of post-consumer recycled plastic, including State and local purchasing and procurement practices.

Under the bill, the Department of State, in consultation with DEP, would be required to establish a program to assist businesses in complying with the provisions of the bill, including, but not limited to, developing and publishing on its Internet website guidance on compliance with the bill, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws.

The bill would require the organization that is under contract with the Department of Environmental Protection (DEP) pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) (for implementation of certain components of the Clean Communities Program) to develop and implement a Statewide public information and education program concerning the provisions of the bill. The program would include educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

Finally, the bill would amend section 5 of P.L.2002, c.128 (C.13:1E-217) (concerning the Clean Communities Program Fund) to provide that, in each of the first three years after the effective date of the bill, \$500,000 of the estimated annual balance of the Clean Communities Program Fund would be appropriated to the DEP and made available to the organization under contract with the DEP pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) to develop the Statewide public information and education program required under this bill.

As reported the Assembly Committee Substitute for Assembly Bill No. 1978 is identical to Senate Bill No. 864 (2R) which was amended and reported from the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments, such as cafeterias in schools, hospitals, and prisons, to cease using polystyrene foam food service products. This provision will likely necessitate the use of more expensive alternative food service products.

The OLS also determines that the bill would lead to an increase in State expenditures due to provisions that increase the administrative workload of several State departments. The DEP would be required to perform new administrative tasks under the bill, including processing requests for exemptions from the bill's provisions concerning polystyrene food service products, enforcing many of the bill's provisions, and assisting a new council created by the bill. These tasks will likely require new full-time employees at the DEP.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 1978**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 22, 2020

The Assembly Budget Committee reports favorably Assembly Bill No. 1978 (ACS) with committee amendments.

This committee substitute would prohibit the provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products, and limit the provision of single-use plastic straws.

Specifically, beginning 18 months after the effective date of the bill, a store or food service business would be prohibited from providing or selling a single-use plastic carryout bag to a customer, and a grocery store would be prohibited from providing or selling a single-use paper carryout bag to a customer. The prohibitions in the bill would not apply to: (1) a bag used solely to contain or wrap uncooked meat, fish, or poultry; (2) a bag used solely to package loose items such as fruits, vegetables, nuts, coffee, grains, baked goods, candy, greeting cards, flowers, or small hardware items; (3) a bag used solely to contain live animals, such as fish or insects sold in a pet store; (4) a bag used solely to contain food sliced or prepared to order, including soup or hot food; (5) a laundry, dry cleaning, or garment bag; (6) a bag provided by a pharmacy to carry prescription drugs; (7) a newspaper bag; and (8) any similar bag, as determined by the Department of Environmental Protection (DEP). The prohibitions would also not apply to a reusable carryout bag, which is a bag that is made of polypropylene, PET nonwoven fabric, nylon, cloth, hemp products, or other machine washable fabric; has stitched handles; and is designed and manufactured for multiple reuses.

Beginning 18 months after the effective date of the bill, a person would be prohibited from selling or offering for sale in the State any polystyrene foam food service product, and a food service business would be prohibited from providing or selling any food in a polystyrene foam food service product. However, the following items would be exempt from the prohibition on polystyrene foam food service products for a period of two years after the prohibition takes effect: (1) disposable, long-handled polystyrene foam soda spoons when required and used for thick drinks; (2) portion cups of two

ounces or less, if used for hot foods or foods requiring lids; (3) meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance; (4) any food product pre-packaged by the manufacturer with a polystyrene foam food service product; and (5) any other polystyrene foam food service product as determined necessary by the DEP. The DEP would be authorized to extend any exemption listed above for additional periods not to exceed one year upon a written determination that there is no cost-effective and readily available alternative for the item.

Additionally, the DEP would be authorized, upon written application by a person or food service business, to waive the prohibitions on polystyrene foam food service products for the person or food service business for a period of up to one year if: (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product. The DEP would prescribe the form and manner of an application for a waiver.

Beginning one year after the effective date of the bill, a food service business would only be permitted to provide a single-use plastic straw to a customer upon the request of the customer. A store would be permitted to provide other types of straws, such as paper or reusable metal straws, without limitation. The bill would require a food service business to maintain an adequate supply of single-use plastic straws to provide at the request of customers. Nothing in the bill would prohibit a store from selling packages of single-use plastic straws to customers, or from providing or selling a beverage pre-packaged by the manufacturer with a plastic straw.

A municipality or county would be prohibited from adopting any rule, regulation, code, or ordinance concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws after the effective date of the bill. Beginning when the respective prohibitions described above take effect, the bill would supersede and preempt any municipal or county rules, regulations, codes, or ordinances concerning the regulation or prohibition of single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws that were enacted prior to the effective date of the bill.

The DEP, a municipality, and any entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3a2-21 et seq.) would have the authority to enforce the provisions in the bill; with the exception that the Department of Health would enforce the provisions of the bill concerning single-use plastic straws. Any person or entity that violates the provisions of the bill would be subject to a warning for a first offense, a fine of up to \$1,000 for a second offense,

and a fine of up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues would constitute an additional, separate, and distinct offense. Any penalty collected under the bill would be remitted to the State Treasurer for deposit in the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217). However, a municipality or entity certified pursuant to the "County Environmental Health Act would be permitted to retain 30 percent of any penalty it collects under the bill.

The bill would also establish the Plastics Advisory Council in the DEP to monitor the implementation of the bill, and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State. The council would be required, each year, to report to the Governor and the Legislature on the implementation and effectiveness of the bill. The council would also study and report on the environmental and public health impacts of single-use plastics and micro-plastics; healthy and environmentally-friendly alternatives to single-use plastics; strategies and policies to increase the recyclability of plastics and reduce the amount of plastic entering the environment; the technological feasibility of increasing recycled content of consumer plastics and expanding the types of plastics that may be manufactured from recycled material; and ways to enhance the development and expansion of markets of post-consumer recycled plastic, including State and local purchasing and procurement practices.

Under the bill, the Department of State, in consultation with DEP, would be required to establish a program to assist businesses in complying with the provisions of the bill, including, but not limited to, developing and publishing on its Internet website guidance on compliance with the bill, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws.

The bill would require the organization that is under contract with the Department of Environmental Protection (DEP) pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) (for implementation of certain components of the Clean Communities Program) to develop and implement a Statewide public information and education program concerning the provisions of the bill. The program would include educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

Finally, the bill would amend section 5 of P.L.2002, c.128 (C.13:1E-217) (concerning the Clean Communities Program Fund) to provide that, in each of the first three years after the effective date of the bill, \$500,000 of the estimated annual balance of the Clean Communities Program Fund would be appropriated to the DEP and made available to the organization under contract with the DEP



pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) to develop the Statewide public information and education program required under this bill.

As amended and reported by the committee, Assembly Bill No. 1978 (ACS) is identical to Senate Bill No. 864 (3R), which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENT:

The committee amended the bill to exempt from the definition of “grocery store” establishments that handle only prepackaged food that does not require time or temperature controls for food safety.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments, such as cafeterias in schools, hospitals, and prisons, to cease using polystyrene foam food service products. This provision will likely necessitate the use of more expensive alternative food service products.

The OLS also determines that the bill would lead to an increase in State expenditures due to provisions that increase the administrative workload of several State departments. The DEP would be required to perform new administrative tasks under the bill, including processing requests for exemptions from the bill's provisions concerning polystyrene food service products, enforcing many of the bill's provisions, and assisting a new council created by the bill. These tasks will likely require new full-time employees at the DEP.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 1978**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: SEPTEMBER 24, 2020

**SUMMARY**

- Synopsis:** Prohibits provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products; limits provision of single-use plastic straws; appropriates moneys from Clean Communities Program Fund for public education.
- Type of Impact:** Annual increase in State and local expenditures.
- Agencies Affected:** Department of Environmental Protection, Department of Health, Department of State, Department of Corrections, local governments.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditure Increase</b>		Indeterminate	
<b>Local Expenditure Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments—such as cafeterias in schools, hospitals, and prisons—to cease using polystyrene foam food service products. This provision will likely necessitate the use of more expensive alternative food service products.
- The OLS also determines that the bill would lead to an increase in State expenditures due to provisions that increase the administrative workload of several State departments. The Department of Environmental Protection (DEP) would be required to perform new administrative tasks under the bill, including processing requests for exemptions from the bill's provisions concerning polystyrene food service products, enforcing many of the bill's provisions, and assisting a new council created by the bill. These tasks will likely require new full-time employees at the DEP.

- In addition, the OLS notes that the Department of Health (DOH) may require additional staff and resources, indeterminate in amount, to enforce the provision of the bill that prohibits food service businesses from offering plastic straws except upon request. The bill also requires the Department of State to develop a program to assist businesses in complying with the bill's provisions, which may require additional staff or a contract with a third-party firm.

## **BILL DESCRIPTION**

This bill would prohibit the provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products, and limit the provision of single-use plastic straws.

Beginning 18 months after the effective date of the bill, a store or food service business would be prohibited from providing or selling a single-use plastic bag to a customer, and a grocery store would be prohibited from providing or selling a single-use paper bag to a customer. Beginning one year after the effective date of the bill, a food service business would be prohibited from providing a single-use plastic straw to a customer, except upon request.

Beginning 18 months after the effective date of the bill, a person would be prohibited from selling or offering for sale in the State any polystyrene foam food service product, and a food service business would be prohibited from providing or selling any food contained in a polystyrene foam food service product. The DEP would be authorized, upon written application by a person or food service business, to waive the prohibitions on polystyrene foam food service products for a period of up to one year if: (1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or (2) the person or food service business has less than \$500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product.

The DEP, a municipality, and any entity certified pursuant to the County Environmental Health Act would have the authority to enforce the bill's provisions; with the exception that the DOH would enforce the provisions of the bill concerning single-use plastic straws. Any person or entity that violates the provisions of the bill would be subject to a warning for a first offense, a fine of up to \$1,000 for a second offense, and a fine of up to \$5,000 for a third or subsequent offense. If the violation is of a continuing nature, each day during which it continues would constitute an additional, separate, and distinct offense. Any penalty collected under the bill would be remitted to the State Treasurer for deposit in the Clean Communities Program Fund. However, a municipality or entity certified pursuant to the County Environmental Health Act would be permitted to retain 30 percent of any penalty it collects under the bill.

The bill would also establish the Plastics Advisory Council in the DEP to monitor the implementation of the bill, and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State. The council would be required, each year, to report to the Governor and the Legislature on the implementation and effectiveness of the bill. The council would also study and report on various issues related to single-use plastics.

Under the bill, the Department of State, in consultation with DEP, would be required to establish a program to assist businesses in complying with the provisions of the bill, including, but not limited to, developing and publishing on its website guidance on compliance with the bill, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws.

Finally, the bill would appropriate \$500,000 per year, for three years, from the Clean Communities Program Fund to the DEP. Resources in this fund are currently used to provide State aid to municipalities for programs of litter pickup and removal and a small portion is used for a State program of litter pickup and removal, as well as enforcement of litter-related laws. The DEP would use these additional funds to contract with a non-profit organization to develop and implement a Statewide public information and education program concerning the provisions of the bill. The program would include educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive has not submitted a formal fiscal note for this bill. However, the DEP has informed the OLS that it estimates that seven new full-time employees (one supervisory and six staff-level) will be required to appropriately manage the new workload. The DEP estimates the new staff members will require an additional expenditure of approximately \$800,000 annually. The DEP also notes that these resources will assist the Solid Waste program in implementing the bill, and that more resources will be needed to address enforcement.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments—such as cafeterias in schools, hospitals, and prisons—to cease using polystyrene foam food service products. This provision will likely cause some State and local entities to switch to alternative food service products (e.g. compostable food trays), which are more costly. For example, according to information provided by the New Jersey Association of School Business Officials, one school district reported that compostable school lunch trays cost an additional \$0.06 per tray, leading to an annual cost increase of \$6.84 per student. A similar cost increase for the approximately 19,970 prisoners in the charge of the Department of Corrections would represent an expenditure increase of approximately \$1,312,000 annually for that department (assuming a cost increase of \$0.06 per tray and three trays needed per day). State or local entities may also choose to purchase reusable food service products. This option would likely represent a higher up-front cost, but a lower cost over time. Raritan High School, for example, recently switched to reusable trays at a cost of approximately \$10.97 per student (this cost did not include large-capacity dishwashers, which can cost tens of thousands of dollars). The OLS cannot quantify the total State and local expenditure increase because it depends on the exceptions allowed by the DEP under the bill, the business decisions made by State and local food service businesses (e.g. whether to invest in reusable products and dishwashers), and the actual cost of alternative food service products, which may change over time.

The OLS also determines that the bill would lead to an increase in State expenditures due to provisions in the bill that increase the administrative workload of several State departments. As noted above, the DEP has estimated that it would require seven new full-time employees with total compensation of approximately \$800,000 annually to implement the bill's provisions, not

including the cost of enforcement. The DEP's costs also depend on how many resources they choose to allocate to enforcement.

In addition, the DOH may require additional staff and resources, indeterminate in amount, to enforce the provision of the bill that prohibits food service businesses from offering plastic straws except upon request. The bill also requires the Department of State to develop a program to assist businesses in complying with the bill's provisions, which may require additional staff or a contract with a third-party firm.

The OLS notes that State and local revenue may increase by a marginal amount as a result of the imposition and collection of penalties for violations of the bill's provisions. The bill provides that any penalties collected would be remitted to the State Treasurer for deposit into the Clean Communities Program Fund, but that municipalities and certain other entities may retain 30 percent of any penalties they collect. The bill allows for penalties of up to \$5,000 for recurring offenses. On the other hand, the bill preempts local ordinances. Thus, counties and municipalities that currently have a prohibition on plastic or polystyrene products, and are generating revenue from fines associated with the prohibition that are greater than what they would collect under the bill, may see a marginal decrease in revenue under this bill.

Finally, the OLS notes that the bill allocates \$500,000 annually for the first three years after the date of enactment from the Clean Communities Program Fund toward a Statewide public information and education program concerning the provisions of this bill, including public service announcements and the distribution of free reusable carryout bags throughout the State. Currently the DEP allocates \$375,000 annually from the fund to maintain a Statewide public information and education program concerning anti-littering activities. This fund had a balance of \$3.4 million in FY 2019. The DEP currently contracts with the New Jersey Clean Communities Council, a non-profit organization, to maintain the anti-litter program. Under this bill, the DEP would allocate an additional \$500,000 annually for three years to the New Jersey Clean Communities Council to develop a public information campaign concerning the provisions of this bill.

*Section: Environment, Agriculture, Energy, and Natural Resources*

*Analyst: Eric Hansen  
Associate Research Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 1978**

**STATE OF NEW JERSEY**

**219th LEGISLATURE**

DATED: SEPTEMBER 28, 2020

## SUMMARY

- Synopsis:** Prohibits provision or sale of single-use plastic carryout bags, single-use paper carryout bags, and polystyrene foam food service products; limits provision of single-use plastic straws; appropriates moneys from Clean Communities Program Fund for public education.
- Type of Impact:** Annual increase in State and local expenditures.
- Agencies Affected:** Department of Environmental Protection, Department of Health, Department of State, Department of Corrections, local governments.

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditure Increase</b>		Indeterminate	
<b>Local Expenditure Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) determines that the bill would lead to an indeterminate annual increase in State and local government expenditures. The largest increase would likely result from the provision of the bill that requires food service businesses, including those operated by or on behalf of the State or local governments—such as cafeterias in schools, hospitals, and prisons—to cease using polystyrene foam food service products. This provision will likely necessitate the use of more expensive alternative food service products.
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provisions, and assisting a new council created by the bill. These tasks will likely require new full-time employees at the DEP.

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*Section: Environment, Agriculture, Energy, and Natural Resources*

*Analyst: Eric Hansen  
Associate Research Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Signs Legislation Banning Single-Use Paper and Plastic Bags in New Jersey

11/4/2020

## *New Law Will Be the Strongest Bag Ban in the Nation*

**TRENTON** – Governor Phil Murphy today signed S864, which prohibits the use of single-use plastic and paper bags in all stores and food service businesses statewide. This bill is a significant step to reduce harm and pollution that these products cause to our environment.

“Plastic bags are one of the most problematic forms of garbage, leading to millions of discarded bags that stream annually into our landfills, rivers, and oceans,” **said Governor Murphy**. “With today’s historic bill signing, we are addressing the problem of plastic pollution head-on with solutions that will help mitigate climate change and strengthen our environment for future generations.”

Starting May 2022, both plastic and paper single-use bags, as well as disposable food containers and cups made out of polystyrene foam, will be banned. Paper bags require resources and energy to produce, contributing to pollution. Moving forward, the focus throughout the state will be on using reusable bags. The following products will be exempt for an additional two years after May 2022:

- Disposable, long-handled polystyrene foam soda spoons when required and used for thick drinks;
- Portion cups of two ounces or less, if used for hot foods or foods requiring lids;
- Meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance;
- Any food product pre-packaged by the manufacturer with a polystyrene foam food service product; and
- Any other polystyrene foam food service product as determined necessary by Department of Environmental Protection.

Under the new law, food service businesses will be allowed to provide single-use plastic straws only upon request starting November 2021.

“From our cities to our shores, single-use plastic bags unnecessarily litter New Jersey’s most treasured spaces and pollute our ecosystems,” **said New Jersey Department of Environmental Protection Commissioner Catherine R. McCabe**. “By banning single-use plastic bags, Governor Murphy and our legislature continue to make a New Jersey a national leader in environmental protection and the DEP stands ready to implement these new measures and educate the public.”

“Environmental activists and supporters of this bill have been waiting years for this moment. Plastic pollution has caused untold damage to the environment and to our public health,” **said Senator Bob Smith, chair of the Senate Environment and Energy Committee**. “Taking action to fight plastic pollution now is key to moving towards a plastic-free future. I want to thank the Governor for being a strong partner on this legislation.”

“If you go to the shore, you see plastic buried in the sand and floating in the ocean. There are an estimated 150 million metric tons of plastics currently in our oceans and about eight million metric tons are added each year,” **said Senator Linda Greenstein, vice-chair of the Senate Environment and Energy Committee**. “We have heard from countless activists and residents around the state, and they have made it clear that they are sick of plastics polluting our ecosystem. Now that this bill is signed by the Governor, New Jersey is closer than ever to a cleaner, greener future.”

“The health and safety of future generations depend on the choices we make today. Single-use plastic products are one of the single greatest threats to our oceans, environment, and health,” **said Assemblywoman Nancy Pinkin**. “Many of our municipalities have already taken steps to limit the use of carryout bags and containers; now, it’s time for the State to act. This is the strongest law implemented in the nation to curb the use of these products and maintains New Jersey’s stance as a leader in environmental protection.”

“Single-use carryout products fill up landfills and find their way into our oceans,” **said Assemblyman James Kennedy**. “There are more sustainable, environmentally-friendly alternatives that many are already using in place of these products. This new law aims to encourage all of us to act together to protect New Jersey’s environmental future.”

“Nearly 40 towns in New Jersey have banned plastic bags, and many others have passed ordinances addressing their use,” **said Assemblyman John McKeon**. “This new law supports community efforts to reduce litter and protect their environments. The reality is: disposable plastics are causing damage to our environment. Anything we can do to curb its effects will help us better protect our oceans, our communities, our health, and to fight climate change.”

“This is an environmental victory that’s been years in the making,” **said Amy Goldsmith, NJ State Director, Clean Water Action**. “Thank you, Governor Murphy, not once but twice - first for vetoing the 2018 bill that would set back efforts to prevent plastic waste, and now for signing the nation’s strongest waste reduction law. It was well worth the wait. New Jersey is now leading the paradigm shift away from single use disposables to reusables.”

“Today is an historic day for New Jersey’s waterways, 130-mile coastline, and open spaces. This nation-leading single-use plastics and paper reduction policy will do exactly what we need it to—reduce the 4.4 billion single-use plastic and 1,300 football fields of trees worth of paper bags that New Jerseyans use every year,” **said Ed Potosnak, Executive Director, New Jersey LCV**. “As the political voice for the environment in New Jersey, we have even more to celebrate - this is the third of our five bold Common Agenda for the Environment legislative priorities signed into law this session. We are thankful to Governor Murphy, bill sponsors Senator Bob Smith and Assemblywoman Nancy Pinkin, and our partners at ANJEC, the Coalition for the Delaware River Watershed, and New Jersey Audubon who have helped us lead the charge for this nation-leading legislation.”

“It’s a good day for marine critters and the power of the people,” **said Cindy Zipf, Executive Director of Clean Ocean Action**. “For over 35 years, thousands of COA’s Beach Sweep volunteers have collected over 7.2 million pieces of trash, mostly plastic, off NJ’s beaches. Thanks to Governor Murphy and the NJ Legislature, we’ve successfully drawn a line in the sand and made NJ a world leader in reducing the plastic plague on this marvel of a planet.”

“Kudos to Governor Murphy and Senator Smith for having the guts to do something big to help clean-up our waterways. Barnegat Bay and our beaches will be cleaner for people to enjoy and wildlife to thrive. We are grateful for your leadership especially during these challenging times,” **said Britta Forsberg-Wenzel, Executive Director, Save Barnegat Bay**.

“The Surfrider Foundation applauds the Governor’s decision to sign this bill. New Jersey regains some leadership on environmental issues by taking on single-use bags, foamed plastic, and plastic straws all at once with this legislation,” **said John Weber, Mid Atlantic Regional Manager for the Surfrider Foundation**.

“This is a great day. New Jersey has now become a national leader in going after plastics and protecting our environment. This statewide plastic ban will help protect our rivers and streams from plastic that has been known to kill whales, get into our environment, and into us. This comprehensive plastic ban not only bans plastic bags, but also polystyrene and the offering of plastic straws. This is a critical step forward when it comes to protecting our environment from plastics,” **said Jeff Tittel, Director of the New Jersey Sierra Club**. “There were those who wanted legislation that only put a fee on plastic and fought for a weak bill 2 years ago. We want to thank the Governor for all he did signing this bill and vetoing the weaker bill. Now we have the strongest plastic ban in the nation.”

“Gov. Murphy signed the strongest single-use ban on plastics in the country to prioritize our wildlife and our communities over endless plastic waste polluting our waterways,” **said Doug O’Malley, Director of Environment New Jersey**. “Plastic and polystyrene items we use for 15 minutes should not end up in our environment and communities for endless generations. Polystyrene cannot be cost-effectively recycled on a mass scale and we need to transition to reusable bags. We are deeply thankful for Gov. Murphy’s leadership vetoing a half-measure plastics bill two years ago and his support for a more comprehensive ban and we are thrilled that New Jersey can be a national leader in reducing single-use waste.”

“Hats off to Governor Murphy for signing this sweeping plastic reduction law. This is exactly the type of law we need to reverse the projection that in the next decade, there will be one pound of plastic in the ocean for every three pounds of fish. This never would have happened without broad public support and local governments first adopting

their own plastic reduction laws. Now is a good time for all residents of New Jersey to start using reusable bags and avoid polystyrene and not even wait for the new law to kick in,” **said Judith Enck, President of Beyond Plastics and former EPA Region 2 Regional Administrator.**

“This is an historic day for New Jersey,” **said Jennifer Coffey, Executive Director of the Association of New Jersey Environmental Commissions (ANJEC).** “This law marks a monumental step forward in the fight against the fossil fuel industry and their production of disposable plastics, and a win for wildlife, clean rivers, and our ocean. After years of local officials taking steady, incremental steps towards banning single-use plastic by passing 130 local ordinances, we are finally doing away with polluting plastic bags and polystyrene food containers for good. This law is a product of many stakeholders and legislators working together to ensure all voices are heard, and we thank Governor Murphy for signing this bill into law.”

## This Week in New Jersey: November 6th, 2020

11/6/2020



### Governor Murphy Announces Appointments to Cannabis Regulatory Commission

Governor Murphy announced his appointments of Dianna Houenou as Chair of the Cannabis Regulatory Commission, and Jeff Brown will serve as Executive Director of the Commission. The Governor will also appoint Krista Nash as a member of the Commission, upon the recommendation of Senate President Steve Sweeney.

"Dianna has been a critical voice for social justice and equity on my team for the past year and a half after spending several years working on the fight to legalize marijuana with the ACLU," **said Governor Murphy**. "Her commitment to doing what is right and to leaving no one behind has powered our criminal justice reform agenda, and I am immensely proud that she will be continuing that commitment as Chair of the Cannabis Regulatory Commission. Since day one, we have said that the legalization of recreational marijuana must prioritize the communities marginalized and decimated by the failed War on Drugs. I know that Dianna is the perfect person to lead our state's effort to create a marketplace for recreational marijuana that is equitable, fair, and inclusive of all communities."

"Jeff's leadership overseeing the state's Medicinal Marijuana program has contributed greatly to our efforts to expand access to those who need it," **continued Governor Murphy**. "He will bring the same integrity, care, and expertise that have led to the success of our Medicinal Marijuana program to his new role as Executive Director of the Cannabis Regulatory Commission, where he will play a key role in establishing our recreational marijuana marketplace."

"These are excellent appointments who will help ensure the success and integrity of the new cannabis industry in New Jersey," **said Senate President Steve Sweeney**. "Once we have the commission in place, we can move forward with the legalization process that will deliver social justice reforms and create a new business sector that offers economic opportunities. The commission will have the responsibility of creating the organizational and regulatory system to oversee the safe use of cannabis products by adults. They will play an important role in guiding New Jersey's leadership role in the reform process."

"I am incredibly humbled and honored to have been chosen by Governor Murphy for this important position. New Jerseyans have long supported expansions of the medicinal cannabis program and now have raised their voices in support of legalized personal use for adults," **said Dianna Houenou, incoming Chair of the Cannabis Regulatory Commission**. "Governor Murphy has been steadfast in his commitment to promoting equity and social justice in the cannabis market, and I am especially grateful for the opportunity to put those values to work as part of the Cannabis Regulatory Commission. From promoting inclusion in the permit holders to making affirmative investments in the future of our communities of color, New Jersey is poised to mark its position as a leader in advancing racial and social justice. The opportunities for equity that lay ahead are limitless, and I look forward to seizing them for the benefit of New Jersey's communities that have been disproportionately harmed by failed past policies."

"New Jersey voters have said definitively that they are ready to end cannabis prohibition," **said Jeff Brown, incoming Executive Director of the Cannabis Regulatory Commission.** "I am beyond honored to accept this role and to be able play a key role in enacting the will of those voters, and commit to doing so in a way that is safe, equitable, fair, and ensures that our medical cannabis patients always have the access they need."

"I am humbled and excited to serve on this very important commission," **said Krista Nash, an incoming member of the Cannabis Regulatory Commission.** "I thank Senate President Sweeney for this opportunity. I look forward to bringing my education and experience as a social worker to the table in order to provide thoughtful input during this process to benefit the residents of New Jersey."

[READ MORE](#)

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"From our cities to our shores, single-use plastic bags unnecessarily litter New Jersey's most treasured spaces and pollute our ecosystems," **said New Jersey Department of Environmental Protection Commissioner Catherine R. McCabe.**

"By banning single-use plastic bags, Governor Murphy and our legislature continue to make a New Jersey a national leader in environmental protection and the DEP stands ready to implement these new measures and educate the public."

"Environmental activists and supporters of this bill have been waiting years for this moment. Plastic pollution has caused untold damage to the environment and to our public health," **said Senator Bob Smith, chair of the Senate Environment and Energy Committee.** "Taking action to fight plastic pollution now is key to moving towards a plastic-free future. I want to thank the Governor for being a strong partner on this legislation."

"If you go to the shore, you see plastic buried in the sand and floating in the ocean. There are an estimated 150 million metric tons of plastics currently in our oceans and about eight million metric tons are added each year," **said Senator Linda Greenstein, vice-chair of the Senate Environment and Energy Committee.** "We have heard from countless activists and residents around the state, and they have made it clear that they are sick of plastics polluting our ecosystem. Now that this bill is signed by the Governor, New Jersey is closer than ever to a cleaner, greener future."

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## Governor Murphy Proposes Awardees for Library Construction Bond Act

Governor Phil Murphy delivered to the Legislature a list of proposed projects for the first round of funding from the Library Construction Bond Act (LCBA). The Library Construction Bond Act authorized \$125 million in state bonds to fund critical improvements to New Jersey public libraries. The bond issuance was approved by New Jersey voters in November 2017 and all applicants were required to identify a 50 percent match to fund their proposed projects.

38 highly-rated projects from 16 counties across the state were recommended to the Legislature to receive funding from the Act. Currently, \$87.5 million is available to be distributed among these projects during this initial round. More than 129 applications were reviewed by a committee comprised of experts from across relevant State agencies, including the New Jersey Economic Development Authority, the New Jersey Department of Environmental Protection, the Department of Community Affairs, the New Jersey Treasury, and the New Jersey Historical Commission, among others.

"From major building renovations to vital technology upgrades, this bond program will transform our libraries to better serve and be more accessible to their local communities," **said Governor Murphy.** "I want to thank the State Librarian and President Hancock at Thomas Edison State University, as well as our partner agencies, on their collaborative work toward this effort."

"New Jersey libraries continue to respond to the needs of our communities and are working tirelessly to bridge the digital divide and keep residents connected to

many critical services which have become all the more essential in recent months,” said **Mary Chute, New Jersey State Librarian**. “We are eager to see local libraries break ground on these much-needed projects, which will make library facilities safer, more efficient, and more accessible for all people.”

**READ MORE:** Governor Murphy Proposes Awardees for Library Construction Bond Act

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## NJ Labor Department to Offer Additional Chance to Certify for FEMA \$300 Payments

The New Jersey Department of Labor and Workforce Development, which has distributed \$1.2 billion in FEMA payments to 778,000 New Jerseyans, announced this week that an additional 88,000 potentially eligible claimants would get an additional opportunity to certify for the \$300 limited-time benefit.

The Labor Department will notify people who meet the eligibility requirements via email and text message in coming weeks of this additional chance to attest that their unemployment during the eligible weeks was COVID-19 related, which is required by federal law for this benefit. There is no need to call or email the Department.

“Since the payments made to New Jerseyans to date did not exhaust our FEMA Lost Wage Assistance, we are developing a process for remaining claimants who may be eligible but did not select a COVID-related reason for their unemployment to do so,” said **Labor Commissioner Robert Asaro-Angelo**. “We’re pleased to be able to offer this opportunity to people who missed the original certification deadline, in hopes that many will meet the federal requirements for eligibility.”

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## DCA Spotlights Restaurant Outdoor Seating Initiative in Roselle Borough’s Downtown Business District

The New Jersey Department of Community Affairs (DCA) is highlighting a project to create and beautify outdoor seating in front of restaurants along Chestnut Street in Roselle Borough’s downtown business district. Through the initiative, which was made possible with grant funding awarded to the Borough in 2019 by DCA’s Neighborhood Preservation Program, green planters of different sizes and varieties now decorate Chestnut Street’s wide sidewalks to provide people with designated spaces to safely and enjoyably eat outside.

The planters are part of a long-term plan to energize Chestnut Street’s 24-foot-wide sidewalks to create a sense of place that attracts residents and visitors to the business district. With the onset of the COVID-19 pandemic and the subsequent economic recession in spring 2020, the local Neighborhood Preservation Program (NPP) team in Roselle revised its five-year NPP implementation plan to focus even more attention on giving customers safe, attractive outdoor dining spaces in order to support local restaurants.



"Roselle Borough saw a need in the community and acted quickly, decisively, and creatively to address it. This is local government at its best and DCA is proud to have been in a position to help," said **Lt. Governor Sheila Oliver, who serves as DCA Commissioner**. "The Murphy Administration decided to reinvest in programs such as NPP for this very reason – to give local governments the resources they need to positively impact the communities they serve whether in times of well-being or times of crisis."

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