

SENATE, No. 864

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 14, 2020

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

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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.