

2019 -- S 0268

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO HEALTH AND SAFETY - PLASTIC WASTE REDUCTION ACT

Introduced By: Senators Miller, Sosnowski, McCaffrey, Ruggerio, and Goldin

Date Introduced: February 13, 2019

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 19.17

4 PLASTIC WASTE REDUCTION ACT

5 **23-19.17-1. Definitions.**

6 As used in this chapter, the following terms shall have the following meanings:

7 (1) "Department" means the department of environmental management.

8 (2) "Expanded polystyrene" means polystyrene that has been expanded into a solid foam.

9 (3) "Plastic checkout bag" means a carryout bag that is provided by a business to a  
10 customer for the purpose of transporting groceries or other retail goods, and is made from non-  
11 compostable plastic and not specifically designed and manufactured for multiple re-use.

12 The term "plastic checkout bag" does not include the following types of bags which are  
13 excluded from the ban and may continue in use:

14 (i) Bags used by customers inside a business to package loose items, such as fruits,  
15 vegetables, nuts, ground coffee, grains, candies, or small hardware items;

16 (ii) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or  
17 other items to contain dampness;

18 (iii) Bags provided by pharmacists to contain prescription medications;

19 (iv) Newspaper bags for home newspaper delivery;

- 1 (v) Door-hanger bags;  
2 (vi) Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests  
3 to contain wet or dirty clothing;  
4 (vii) Bags sold in packages containing multiple bags intended for use as garbage, pet  
5 waste, or yard waste bags;  
6 (viii) Bags used to contain live animals, such as fish or insects sold in pet stores;  
7 (ix) Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic  
8 chemicals sold at the retail level; provided that this exemption shall be limited to one bag per  
9 customer;  
10 (x) Compostable plastic bags.

11 (4) "Retail sales establishment" means any enterprise whereby the sale or transfer to a  
12 customer of goods in exchange for payment occurs in a retail store, flea market, or restaurant.  
13 This meaning does not include sales of goods at farmers' markets, yard sales, tag sales, other sales  
14 by residents at their homes, or sales by nonprofit organizations.

15 **23-19.17-2. Plastic waste reduction.**

16 Effective January 1, 2021, retail sales establishments are prohibited from making  
17 available any plastic checkout bag.

18 **23-19.17-3. Paper bag fee requirements.**

19 (a) For each paper bag provided to a customer, the retail sales establishment may collect  
20 from customers, at the time of purchase, a paper bag fee of up to twenty-five cents (\$0.25).

21 (b) A retail sales establishment which collects a paper bag fee may exempt a customer  
22 from the paper bag fee when that customer uses an electronic benefits transfer (EBT) card or is  
23 using a payment card or voucher issued by the state for the Supplemental Nutrition Assistance  
24 Program (SNAP) or Special Supplemental Nutrition Program for Women, Infants, and Children  
25 (WIC).

26 (c) All fees collected pursuant to this section shall be retained by the retail sales  
27 establishment.

28 **23-19.17-4. Expanded polystyrene reduction.**

29 (a) On and after July 1, 2021, no retail sales establishment shall possess, sell, or offer for  
30 use single service articles that consist of expanded polystyrene including, but not limited to,  
31 providing food in single service articles that consist of expanded polystyrene. This subsection  
32 shall not apply to:

33 (1) Expanded polystyrene containers used for prepackaged food that have been filled and  
34 sealed prior to receipt by the food service establishment, mobile food commissary, or store; or

1 (2) Expanded polystyrene containers used to store raw meat, pork, fish, seafood or  
2 poultry sold from a butcher case or similar retail appliance.

3 (b) Any not-for-profit corporation, regardless of its income, and any individually owned  
4 retail sales establishment that had a gross income under five hundred thousand dollars (\$500,000)  
5 per location on their annual income tax filing for the most recent tax year may request, in a  
6 manner and form established by the department, a financial hardship waiver of the requirements  
7 of this section. Such waiver request may apply to one or more single service articles possessed,  
8 sold, or offered for use by any such not-for-profit corporation or retail sales establishment. The  
9 department shall grant such waiver if such not-for-profit corporation or individually owned retail  
10 sales establishment proves:

11 (1) That there is no comparable alternative product not composed of expanded  
12 polystyrene that would cost the same as or less than the single service article composed of  
13 expanded polystyrene; and

14 (2) That the purchase or use of an alternative product not composed of expanded  
15 polystyrene would create an undue financial hardship. Such financial hardship waiver shall be  
16 valid for twelve (12) months and shall be renewable upon application to the department. A  
17 pending application for such financial hardship waiver shall be a defense to any notice of  
18 violation issued pursuant to this section to which such pending application relates and such notice  
19 of violation shall be dismissed.

20 **23-19.17-5. Enforcement penalty.**

21 (a) This chapter shall be implemented, administered and enforced by the municipal police  
22 departments, or any other department or division designated by their mayors or town managers.

23 (b) Upon being made aware of a potential violation of this chapter, the municipality's  
24 designee shall investigate and determine whether a violation has occurred.

25 (c) If the investigation confirms that a violation has occurred, the municipality's designee  
26 shall give written notice to the owner of the property, the owner's agent, or the person committing  
27 the violation that the violation is occurring and must immediately cease.

28 (d) The notice shall be in writing and shall be served upon the person to whom it is  
29 directed either by personal delivery or by posting the notice upon a conspicuous portion of the  
30 property and by sending a copy of the notice by certified mail to the person to whom the notice is  
31 directed.

32 **23-19.17-6. Ordinances.**

33 Municipalities are authorized to enact ordinances necessary to implement the purposes of  
34 this chapter.

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**23-19.17-7. Opt out election.**

A municipality may opt out of the provisions of this chapter by resolution of their governing body or local ballot referendum any time prior to the effective date of this chapter.

SECTION 2. This act shall take effect on January 1, 2022.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY - PLASTIC WASTE REDUCTION ACT

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1           This act would prohibit retail sales establishments from providing plastic checkout bags  
2 and all retail establishments from providing expanded polystyrene disposable food containers and  
3 would be enforced by municipal police departments or other municipal designees, with an opt out  
4 provision.

5           This act would take effect on January 1, 2022.

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