

1 HOUSE BILL 392

2 57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

3 INTRODUCED BY

4 Tara L. Lujan and Elizabeth "Liz" Stefanics and Andrea Romero
5 and Jeff Steinborn
6
7
8
9

10 AN ACT

11 RELATING TO THE ENVIRONMENT; ENACTING THE SINGLE-USE PLASTIC
12 BAG ACT; PROHIBITING RETAIL ESTABLISHMENTS FROM MAKING OR
13 DELIVERING GOODS USING SINGLE-USE PLASTIC BAGS; CREATING
14 EXCEPTIONS; PROVIDING PENALTIES.
15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. A new section of Chapter 74 NMSA 1978 is
18 enacted to read:

19 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
20 "Single-Use Plastic Bag Act"."

21 SECTION 2. A new section of Chapter 74 NMSA 1978 is
22 enacted to read:

23 "[NEW MATERIAL] DEFINITIONS.--As used in the Single-Use
24 Plastic Bag Act:

25 A. "carryout bag" means a bag that is furnished to

.229141.4GLG

underscored material = new
[bracketed material] = delete

underscoring material = new
~~[bracketed material] = delete~~

1 a customer at a retail establishment at the point of sale for
2 use by the customer to transport or carry purchased items;

3 B. "department" means the department of
4 environment;

5 C. "plastic" means a synthetic material made from
6 linking monomers through a chemical reaction to create a
7 polymer chain that can be molded or extruded at high heat into
8 various solid forms, including material derived from petroleum
9 or a biologically based polymer such as corn or other plant
10 sources;

11 D. "recyclable cardboard box" means a box made of
12 non-coated cardboard, corrugated paper or paper;

13 E. "recycled content carryout bag" means a carryout
14 bag that contains a minimum of forty percent post-consumer
15 recycled content and is one hundred percent recyclable;

16 F. "retail establishment" means a retail business
17 that sells merchandise or dry goods to consumers or is a goods
18 or service delivery provider;

19 G. "reusable carryout bag" means a carryout bag
20 that is designed and manufactured for multiple uses, is made of
21 cloth or fiber or is a polypropylene or recycled-content
22 polyethylene terephthalate bag; and

23 H. "single-use plastic bag" means a carryout bag
24 made from plastic that is provided to a customer at a point of
25 sale for the purpose of transporting groceries, food or other

.229141.4GLG

underscoring material = new
~~[bracketed material] = delete~~

1 goods that is made predominantly of plastic derived from
2 natural gas, petroleum or a biologically based source, such as
3 corn or other plant sources, and is not specifically designed
4 for or manufactured for multiple uses."

5 SECTION 3. A new section of Chapter 74 NMSA 1978 is
6 enacted to read:

7 "[NEW MATERIAL] PROHIBITIONS ON THE USE OF SINGLE-USE
8 PLASTIC BAGS--EXCEPTIONS.--

9 A. A retail establishment shall not provide a
10 single-use plastic bag or other bag or box that is not a
11 reusable carryout bag, recycled content carryout bag,
12 recyclable cardboard box or recycled corrugated paper box to
13 carry groceries, food or other goods from the point of sale in
14 a retail establishment.

15 B. This section does not apply to single-use
16 plastic bags:

17 (1) provided to customers for use with loose
18 or bulk products, produce, meat or fish or when provided for
19 separating items to avoid contamination or prevent damage from
20 moisture or for sanitary, public health or environmental
21 protection purposes;

22 (2) provided for prepared takeout food with a
23 potential for leakage, as determined by the retail
24 establishment, that is not intended for consumption on the
25 retail establishment's premises;

.229141.4GLG

underscored material = new
[bracketed material] = delete

1 (3) provided by pharmacists or veterinarians
2 to contain prescription drugs or medical necessities;

3 (4) provided by laundries or dry cleaning
4 establishments;

5 (5) used to transport or contain live animals;

6 (6) used to transport chemical pesticides or
7 drain-cleaning or other toxic chemicals sold at retail
8 establishments;

9 (7) used to protect newspapers from inclement
10 weather;

11 (8) distributed by manufacturers for packaging
12 or preparing goods for display prior to sale; or

13 (9) that are similar to those exempted by this
14 subsection, as determined by the department."

15 SECTION 4. A new section of Chapter 74 NMSA 1978 is
16 enacted to read:

17 "[NEW MATERIAL] DEPARTMENT RULES.--No later than December
18 31, 2025, the department shall promulgate rules for the
19 implementation of the provisions of the Single-Use Plastic Bag
20 Act."

21 SECTION 5. A new section of Chapter 74 NMSA 1978 is
22 enacted to read:

23 "[NEW MATERIAL] PAPER CARRYOUT BAGS ALLOWED--FEE--
24 DISPOSITION OF MONEY.--

25 A. A retail establishment may provide a customer

.229141.4GLG

underscored material = new
~~[bracketed material] = delete~~

1 with one or more paper carryout bags at the point of sale only
2 if the customer pays a carryout bag fee of not less than ten
3 cents (\$.10) per paper carryout bag or a higher fee if a
4 municipality or county in which the retail establishment is
5 located raises the fee by ordinance, except that retail
6 establishments shall not collect the fee from a person with a
7 voucher or electronic benefits card issued under the women,
8 infants and children program, the emergency food assistance
9 program, the temporary assistance for needy families program or
10 the federal supplemental nutrition assistance program.

11 B. Retail establishments shall indicate on the
12 customer transaction receipt the number of paper carryout bags
13 provided.

14 C. Retail establishments shall not refund the
15 customer any portion of the fee, either directly or indirectly,
16 or advertise or otherwise convey to customers that a portion of
17 the fee will be refunded.

18 D. Seven cents (\$.07) of the fee collected by a
19 retail establishment shall be transmitted to the municipality
20 in which the retail establishment is located, or if not located
21 in a municipality, the county in which the retail establishment
22 is located, for use in outreach efforts for education on waste
23 and litter reduction, except that if the municipality or county
24 in which the retail establishment is located implements a
25 higher fee pursuant to Subsection A of this section, the amount

.229141.4GLG

underscored material = new
[bracketed material] = delete

1 retained by the retail establishment shall not exceed three
2 cents (\$.03) per bag.

3 E. A retail establishment shall, on a quarterly
4 basis starting January 1, 2026, remit from the total amount of
5 carryout bag fees collected in the previous quarter the amount
6 that is owed to the municipality or county to the finance
7 department or division or equivalent agency of the local
8 government entity within which the retail establishment is
9 located. A retail establishment need not remit carryout bag
10 fees collected in any quarter in which the collected fees total
11 less than twenty dollars (\$20.00). The retail establishment
12 shall retain those collected fees until the retail
13 establishment has more than twenty dollars (\$20.00) of
14 collected fees to remit and shall remit those fees as part of
15 the next quarterly remittance."

16 SECTION 6. A new section of Chapter 74 NMSA 1978 is
17 enacted to read:

18 "[NEW MATERIAL] ENFORCEMENT--COMPLIANCE ORDERS--
19 PENALTIES.--

20 A. Except as provided in Section 7 of the Single-
21 Use Plastic Bag Act, a local government may enforce a violation
22 of the Single-Use Plastic Bag Act against a retail
23 establishment that is located within the boundaries of the
24 local government in the manner that the local government
25 chooses.

.229141.4GLG

underscored material = new
[bracketed material] = delete

1 B. A county or municipality that chooses to enforce
2 a violation of the Single-Use Plastic Bag Act against a retail
3 establishment may seek injunctive relief against the retail
4 establishment or may assess civil penalties, or both. The
5 county or municipality may assess penalties of up to:

6 (1) five hundred dollars (\$500) for a second
7 violation; or

8 (2) one thousand dollars (\$1,000) for a third
9 or subsequent violation.

10 C. A local government may enforce but shall not
11 assess a civil penalty for the first violation of the Single-
12 Use Plastic Bag Act.

13 D. The department may enforce a violation of the
14 Single-Use Plastic Bag Act against the owner or operator of a
15 retail establishment if the local government fails to do so.

16 E. For the purposes of this section, each retail
17 sales transaction in which a violation of the Single-Use
18 Plastic Bag Act is committed, regardless of whether multiple
19 violations of that act are committed in one retail sales
20 transaction, constitutes a single violation of this section."

21 SECTION 7. A new section of Chapter 74 NMSA 1978 is
22 enacted to read:

23 "[NEW MATERIAL] LOCAL GOVERNMENT REGULATION--
24 PREEMPTION.--

25 A. Beginning January 1, 2026, a local government
.229141.4GLG

underscoring material = new
~~[bracketed material] = delete~~

1 may enact, implement or enforce any ordinance that is as
2 stringent as or more stringent than the Single-Use Plastic Bag
3 Act.

4 B. Beginning January 1, 2026, the department may
5 enforce the Single-Use Plastic Bag Act. Civil penalties
6 collected by the department shall be deposited in the recycling
7 and illegal dumping fund."

8 SECTION 8. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is January 1, 2026.