

**SENATE . . . . . No. 2833**

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Senate, June 20, 2024 -- Text of the Senate Bill to reduce plastics (Senate, No. 2833) (being the text of Senate, No. 2830, printed as amended)

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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An Act to reduce plastics.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. The General Laws are hereby amended by inserting after chapter 21O the  
2 following chapter:-

3           CHAPTER 21P.

4           MASSACHUSETTS PLASTICS REDUCTION ACT

5           Section 1. As used in this chapter, the following words shall have the following meanings  
6 unless the context clearly requires otherwise:

7           “Bag”, a container made of flexible material with an opening at the top, commonly used  
8 to carry things.

9           “Carryout bag”, a bag provided to a customer to hold items purchased from or serviced  
10 by a business, retailer, organization or other entity; provided, however, that “carryout bag” shall  
11 not include a non-handled bag: (i) provided by a pharmacy to a customer purchasing prescription

12 medication; (ii) used to protect items from damaging or contaminating other purchased items  
13 placed in a recycled paper bag or a reusable grocery bag; (iii) provided to contain an unwrapped  
14 food item; (iv) used to protect articles of clothing on a hanger; (v) used to prevent frozen food  
15 items from thawing; (vi) provided or made available to a customer purchasing raw meat,  
16 uncooked seafood or other similar products; or (vii) used to protect small items from loss.

17 “Customer”, a person who purchases or otherwise receives goods, services or materials  
18 from a business, organization, corporation or other entity.

19 “Department”, the department of environmental protection.

20 “Disposable”, designed to be discarded after a single or limited number of uses and not  
21 designed or manufactured for long-term multiple reuse.

22 “Food service ware”, disposable products used for serving or transporting foods or  
23 beverages for human consumption, including, but not limited to, plates, bowls, trays, cups,  
24 cartons, hinged or lidded containers, straws, stirrers, cup spill plugs, cup sleeves, condiments  
25 containers, utensils, cocktail sticks or picks, toothpicks, film wrap and napkins; provided,  
26 however, that “food service ware” shall not include detachable lids for beverage cups or food  
27 containers, coolers or ice chests.

28 “Plastic”, any synthetic or semi-synthetic material made partially or entirely from fossil  
29 fuel-based petrochemical polymers that retains its shape during its lifecycle, including, but not  
30 limited to, polystyrene, polyethylene, polypropylene and polycarbonate.

31 “Postconsumer recycled material”, material used in a recycled paper bag that would  
32 otherwise be destined for solid waste disposal, having completed its intended end use and

33 product life cycle, and that does not comprise any material or byproduct generated from, and  
34 commonly reused within, an original manufacturing and fabrication process.

35 “Recycle”, to separate, dismantle or process the materials, components or commodities in  
36 materials for the purpose of preparation for use or reuse in new products or components;  
37 provided, however, that “recycle” shall not include energy recovery or energy generation by  
38 means of combustion, such as pyrolysis, gasification or other heat chemical conversion  
39 processes, or landfill disposal.

40 “Recycled paper bag”, a paper bag that is 100 per cent recyclable and contains not less  
41 than 50 per cent postconsumer recycled material.

42 “Reusable bag”, a bag that: (i) is made of machine-washable cloth, fabric, hemp or other  
43 woven or non-woven fibers; (ii) has handles that are stitched with thread and not heat-fused; and  
44 (iii) is designed and manufactured for multiple uses; provided, however, that a “reusable bag”  
45 shall not include a bag made of plastic film of any thickness.

46 “Serviced” or “Servicing”, the past or present act of cleaning, repairing, improving,  
47 refinishing or altering an item owned by a customer by a person engaged in a retail business of  
48 customarily providing such services, including, but not limited to, dry cleaning and tailoring  
49 articles of clothing, jewelry repair and shoe and leather repair.

50 Section 2. (a) A retailer or charging entity shall not provide a customer with a carryout  
51 bag unless such carryout bag is a recycled paper bag or a reusable bag; provided, however, that a  
52 customer shall be charged not less than 10 cents per recycled paper bag; and provided further,  
53 that a recycled paper bag purchased under this section shall not be subject to taxation pursuant to  
54 chapter 64H or 64I.

55 (b) Five cents per recycled paper bag sold shall be remitted by the retailer or charging  
56 entity to the department of revenue at the same time and in the same manner as sales taxes are  
57 due to the commonwealth. The department of revenue shall deposit such amounts into the  
58 Plastics Environmental Protection Fund established under section 2EEEEEE of chapter 29. The  
59 department of revenue may promulgate regulations to facilitate the collection of the fee set forth  
60 in this paragraph. The retailer or charging entity shall retain the remainder of the amount charged  
61 to customers.

62 (c) Nothing in this section shall prohibit the sale or offering for sale of packages  
63 containing several bags, products or goods with a protective or other bag received from a  
64 manufacturer or distributor or bags offered for sale as a product or merchandise that are not  
65 carryout bags.

66 (d) This section shall not apply to: (i) bags otherwise required to be used under state or  
67 federal law; or (ii) a nonprofit organization, charity or religious institution in the provision or  
68 distribution of food, clothing or other items at no cost or substantially reduced cost.

69 (e) A business with only 1 store location of not more than 4,000 square feet of retail  
70 selling space and not more than 10 employees, and which provided not more than 10,000  
71 carryout bags in total during the previous calendar year, shall not be required to collect or remit  
72 bag fees as otherwise set forth in this section.

73 Section 3. (a) Except as provided in subsection (b), a retailer or charging entity shall not  
74 provide a customer with disposable food service ware unless requested by the customer.

75 (b) A retailer or charging entity may make disposable food service ware available to a  
76 consumer for self-service to allow for non-bundled, single-use food service ware to be obtained.

77 Section 4. (a) For the purposes of this section, “state agency” shall mean any department  
78 of the executive branch, the legislative branch, the judicial branch and any independent state  
79 authority, quasi-public authority, board, district, commission, instrumentality or agency.

80 (b) State agencies shall not procure single-use plastic bottles that have a capacity of not  
81 more than 21 fluid ounces; provided, however, that state agencies shall be exempt from this  
82 requirement if such exemption is required to provide for disability or accessibility related  
83 accommodations.

84 (c) Subsection (b) shall not apply: (i) when no alternative is available or practicable; (ii)  
85 when necessary to protect health, safety and welfare; (iii) when compliance with this section  
86 would conflict with contract requirements or labor agreements in existence as of the effective  
87 date of this section or agreements solicited before the effective date of this section; and (iv) to  
88 prepare for or respond to an emergency.

89 Section 5. The department shall establish a statewide program to provide for the recycling  
90 of bulk plastic materials, including, but not limited to child passenger restraints as defined in  
91 section 1 of chapter 90, and may: (i) implement local or regional bulk plastic recycling programs;  
92 (ii) accept applications from municipalities for grants and to award grants to assist in the  
93 development or establishment of local and regional bulk plastic recycling projects; and (iii)  
94 partner or contract with private organizations to assist in the development or establishment of a  
95 bulk plastic recycling program.

96 Section 6. A municipality shall not pass, adopt, promulgate or otherwise effectuate an  
97 ordinance, by-law or other rule or regulation inconsistent with this chapter.

98 Section 7. Except as otherwise provided, the department shall promulgate regulations to  
99 implement and enforce this chapter. The department may promulgate regulations to increase the  
100 minimum postconsumer recycled material required for recycled paper bags.

101 Section 8. The department shall establish and assess civil administrative penalties  
102 pursuant to section 16 of chapter 21A for violations of this chapter.

103 The superior court department of the trial court may assess civil penalties as set forth in  
104 this section and enjoin violations of, and grant such additional relief as it deems necessary or  
105 appropriate to secure compliance with, the provisions of this chapter, or any regulation, rule or  
106 other order or action adopted or issued pursuant to this section. The attorney general and district  
107 attorneys may bring enforcement actions under this section in the superior court department of  
108 the trial court or any other court of competent jurisdiction.

109 SECTION 2. Section 3 of chapter 21P of the General Laws, as appearing in section 1, is  
110 hereby amended by inserting the following subsection:-

111 (c) No food service ware provided consistent with this section shall be made from black  
112 plastic; provided, however, that the provisions of this subsection shall not apply to prepared food  
113 packaged outside of the commonwealth.

114 SECTION 3. Chapter 29 of the General Laws is hereby amended by inserting after  
115 section 2DDDDDD the following section:-

116 Section 2EEEEEE. (a) There shall be a Plastics Environmental Protection Fund to be  
117 expended, without prior appropriation, by the department of environmental protection. The fund  
118 shall consist of: (i) revenue from appropriations or other money authorized by the general court

119 and specifically designated to be credited to the fund; (ii) interest earned on such revenues; (iii)  
120 funds from public and private sources, including, but not limited to, gifts, grants, donations and  
121 settlements received by the commonwealth that are designated to be credited to the fund; (iv)  
122 federal funds paid to the commonwealth designated to be credited to the fund; and (v) monies  
123 paid to the commonwealth pursuant to chapter 21P, including all funds collected by the  
124 department of revenue pursuant to section 2 of said chapter 21P. The fund shall be expended to:  
125 (i) improve the air, water, soil or other environmental conditions for low and moderate income  
126 communities; (ii) provide reusable bags to low and moderate income communities and  
127 individuals receiving benefits administered by the department of transitional assistance at no  
128 cost; (iii) issue grants to small businesses that are incorporated and have principal places of  
129 business in the commonwealth to assist in the reduction of plastic use within each business,  
130 including, but not limited to, small businesses in the food service and production industries; and  
131 (iv) provide multilingual, culturally competent educational materials and programming,  
132 including, but not limited to, experiential education regarding bag reuse and recycling and other  
133 aspects of environmental protection. Any bond proceeds deposited into the fund shall be kept  
134 separate from any and all other funds deposited into the fund. No expenditure from the fund shall  
135 cause the fund to be in deficiency at the close of a fiscal year. Monies deposited into the fund  
136 that are unexpended at the end of a fiscal year shall not revert to the General Fund and shall be  
137 available for expenditure in the subsequent fiscal year.

138 (b) The department of environmental protection shall administer the fund. Annually, not  
139 later than March 1, the department shall report on the activities of the fund from the previous  
140 calendar year to the clerks of the senate and house of representatives, the senate and house  
141 committees on ways and means and the joint committee on environment and natural resources.

142 The department may promulgate regulations or issue other guidance to implement this section.  
143 The department shall consult with the department of transitional assistance to equitably  
144 implement the provision of no-cost reusable bags as set forth in subsection (a). The department  
145 shall consult with the Massachusetts Growth Capital Corporation to equitably implement the  
146 provision of grants to small businesses to assist in the reduction of plastic use.

147 SECTION 4. Chapter 94 of the General Laws is hereby amended by inserting after  
148 section 329 the following section:-

149 Section 330. (a) As used in this section, the following words shall have the following  
150 meanings unless the context clearly requires otherwise:

151 “Covered entity”, a person, corporation, business or other entity that manufactures,  
152 produces or packages a covered product and shall include, but not be limited to, a wholesaler,  
153 supplier or retailer that is responsible for labeling a covered product.

154 “Covered product”, a premoistened, nonwoven disposable wipe composed in part or  
155 entirely of petrochemical-derived fibers that is reasonably likely to be flushed down a toilet or  
156 otherwise caused to enter a plumbing, septic or sewer system; provided, however, that a  
157 “covered product” shall include, but not be limited to, baby wipes, disinfecting wipes and facial  
158 wipes; provided further, that a “covered product” shall not include wipes composed entirely of  
159 wood pulp fibers and engineered to lose strength and degrade after disposal.

160 (b) A covered entity shall clearly label a covered product that the entity produces,  
161 manufactures, packages, offers for sale or sells in the commonwealth with the phrase “Do Not  
162 Flush”.

163 (c) Whoever violates this section, or any regulation, rule or other order or action adopted  
164 or issued pursuant to this section, shall be subject to a fine, civil penalty or, notwithstanding the  
165 limitations set forth in section 16 of chapter 21A, civil administrative penalty of not more than  
166 \$2,500 per violation. Producing, manufacturing, packaging, offering for sale or selling 1 or more  
167 units of the same covered product in violation of this section shall constitute a single violation  
168 for each day such violation occurs. This shall be in addition to any other penalty or remedy  
169 prescribed by law.

170 The attorney general and district attorneys shall enforce this section. The office of  
171 consumer affairs and business regulation may refer violations of this section to a district attorney  
172 or the attorney general for enforcement, including, but not limited to, for actions to assess  
173 monetary penalties and injunction. The superior court department of the trial court shall have  
174 jurisdiction to assess civil penalties as set forth in this section and to enjoin violations of, and  
175 grant such additional relief as it deems necessary or appropriate to secure compliance with, this  
176 section, or any regulation, rule or other order or action adopted or issued pursuant to this section.

177 (d) The office of consumer affairs and business regulation may promulgate regulations to  
178 implement and enforce this section.

179 SECTION 5. The department of environmental protection shall conduct a culturally  
180 competent and linguistically diverse outreach and education program regarding non-flushable  
181 wipes consistent with section 330 of chapter 94 of the General Laws. In preparing and delivering  
182 the outreach and education program, the department shall consult with the Massachusetts Water  
183 Resources Authority, the Greater Lawrence Sanitary District, Upper Blackstone Clean Water, the  
184 city of Springfield water and sewer commission, the city of Pittsfield wastewater treatment plant

185 division, the city of New Bedford department of public infrastructure wastewater division, the  
186 city of Fall River sewer commission, the city of Brockton department of public works sewer  
187 division, the town of Franklin water and sewer division, the city of Attleboro wastewater  
188 department and the Barnstable county Alternative Septic System Tracking program.

189 SECTION 6. Not later than December 31, 2024, the department of environmental  
190 protection shall publish on its website and submit to the clerks of the senate and house of  
191 representatives, the senate and house committees on ways and means and the joint committee on  
192 environment and natural resources a report stating its progress on implementing the composting  
193 and other components of the department’s Organics Action Plan of November 2023. The report  
194 shall clearly indicate any legislative changes or resources necessary to increase the rate at which  
195 food and organic waste is composted and reduce the contamination of waste and recycling  
196 streams by compostable materials.

197 SECTION 7. There shall be a special legislative commission for the purpose of  
198 recommending to the general court an extended producer responsibility plan for the  
199 commonwealth. The commission shall include: the commissioner of environmental protection or  
200 a designee, who shall serve as chair; the commissioner of agricultural resources or a designee;  
201 the director of the Massachusetts office of business development or a designee; 1 person to be  
202 appointed by the attorney general, who shall have expertise in consumer protection; 1 person to  
203 be appointed by the senate chair of the joint committee on environment and natural resources; 1  
204 person to be appointed by the minority leader of the senate; 1 person to be appointed by the  
205 house chair of the joint committee on environment and natural resources; 1 person to be  
206 appointed by the minority leader of the house of representatives; 1 person to be appointed by the  
207 Massachusetts Association of Regional Planning Agencies; and 12 additional persons to be

208 appointed by the chair, 1 of whom shall be a packaging producer, 1 of whom shall be a retailer, 1  
209 of whom shall be a waste hauler or material recovery facility operator, 1 of whom shall be a  
210 municipal official or employee, 1 of whom shall be a food producer or farmer, 1 of whom shall  
211 represent a statewide environmental protection organization, 1 of whom shall represent a  
212 statewide or community environmental justice organization, 1 of whom shall represent a regional  
213 or community environmental protection organization, 1 of whom shall represent a freshwater or  
214 marine litter program, 1 of whom shall represent a regional wastewater management entity, 1 of  
215 whom shall be an environmental health scientist and 1 of whom shall be a human health  
216 scientist. The chair shall consider geographic diversity in making appointments to the  
217 commission. The chair may select a third-party facilitator for the commission. The extended  
218 producer responsibility plan shall include: (i) recommendations on specific extended producer  
219 responsibility goals and strategies for product categories including, but not limited to, paint,  
220 mattresses, electronics and packaging; (ii) recommendations on a material cost differentiation  
221 system; (iii) a proposed structure for producer payments and collector reimbursements; (iv)  
222 information on net costs of residential curbside collection or transfer station operations, on-site  
223 processing costs for each readily recyclable material type, management costs of non-readily  
224 recyclable materials and other cost factors; and (v) methods for incentivizing packaging  
225 production and waste stream contamination reduction, which may include reuse and lifespan  
226 extensions. Not later than March 1, 2026, the commission shall submit its recommendations and  
227 related factual findings to the senate and house committees on ways and means and the joint  
228 committee on environment and natural resources and the department of environmental protection  
229 shall publish said recommendations and related factual findings on its website.

230 SECTION 8. The department of environmental protection shall study and make  
231 recommendations on the feasibility and benefits of banning foam and solid polystyrene in the  
232 commonwealth. The study shall include, but not be limited to, an analysis of the: (i)  
233 environmental and other benefits of banning foam and solid polystyrene products; (ii) health  
234 impacts of foam and solid polystyrene use; (iii) reasonable and affordable alternatives to foam  
235 and solid polystyrene; and (iv) cost impacts of banning foam and solid polystyrene products on  
236 retailers, consumers and municipalities.

237 Not later than June 30, 2025, the department shall file a report on their findings and  
238 recommendations with the clerks of the senate and the house of representatives and the joint  
239 committee on environment and natural resources.

240 SECTION 9. Except as otherwise provided herein, this act shall take effect on January 1,  
241 2025.

242 SECTION 10. Section 2 shall take effect on January 1, 2027.

243 SECTION 11. Section 4 shall take effect on January 1, 2026