# A BILL FOR AN ACT

## CONCERNING MEASURES TO REDUCE THE USE OF SINGLE-USE MEAL ACCESSORIES.

### Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at [http://leg.colorado.gov](http://leg.colorado.gov).)

The bill specifies that, commencing January 1, 2023, a retail food establishment or third-party food delivery service (service) may provide a customer with single-use food serviceware or a single-use condiment that accompanies food ordered for delivery or carryout only if the customer requests single-use food serviceware or a single-use condiment or confirms that the customer wants single-use food serviceware or a

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**House Sponsorship**

Titone, Boesenecker, Cutter, Hooton, Lontine, Woodrow, Young

**Senate Sponsorship**

Priola,
single-use condiment when offered, with limited exceptions.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, amend 25-17-502 as follows:

25-17-502. Legislative declaration. The general assembly finds, determines, and declares that limiting the use of single-use plastic carryout bags and expanded polystyrene products will mitigate the harmful effects on our state's natural resources and our environment that result from disposing of these products in our landfills.

SECTION 2. In Colorado Revised Statutes, amend 25-17-508 as follows:

25-17-508. Local government regulation - preemption. (1) On and after July 1, 2024, a local government may enact, implement, or enforce any ordinance, resolution, rule, or charter provision that is as stringent as or more stringent than this part 5.

(2) Notwithstanding subsection (1) of this section, a local government that, on or before January 1, 2022, enacted any ordinance, resolution, rule, or charter provision that is as stringent as or more stringent than section 25-17-510 may continue to implement and enforce the ordinance, resolution, rule, or charter provision.

SECTION 3. In Colorado Revised Statutes, add 25-17-510 as follows:

25-17-510. Provision of single-use condiments and single-use food serviceware for delivery or carryout upon request - exemptions - enforcement - definitions. (1) Commencing January 1, 2023, if a
CUSTOMER ORDERS FOOD FROM A RETAIL FOOD ESTABLISHMENT OR THROUGH A THIRD-PARTY FOOD DELIVERY SERVICE PLATFORM FOR DELIVERY OR CARRYOUT, THE RETAIL FOOD ESTABLISHMENT OR SERVICE MAY PROVIDE THE CUSTOMER WITH SINGLE-USE FOOD SERVICEWARE OR A SINGLE-USE CONDIMENT ONLY IF:

(a) THE CUSTOMER REQUESTS SINGLE-USE FOOD SERVICEWARE OR A SINGLE-USE CONDIMENT; OR

(b) THE CUSTOMER CONFIRMS WHEN OFFERED SINGLE-USE SERVICEWARE OR A SINGLE-USE CONDIMENT THAT THE CUSTOMER WANTS THE SINGLE-USE SERVICEWARE OR SINGLE-USE CONDIMENT.

(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, A RETAIL FOOD ESTABLISHMENT MAY PROVIDE A CUSTOMER WITH SINGLE-USE FOOD SERVICEWARE USED FOR THE PREVENTION OF SPILLS, WHETHER AT A DRIVE-THROUGH FOR THE CUSTOMER’S TRANSPORT OF FOOD FOR OFF-SITE CONSUMPTION OR THROUGH DELIVERY OF FOOD BY A RETAIL FOOD ESTABLISHMENT OR BY A THIRD-PARTY FOOD DELIVERY SERVICE. IN ALL OTHER CIRCUMSTANCES, A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD DELIVERY SERVICE MAY PROVIDE A CUSTOMER WITH SINGLE-USE FOOD SERVICEWARE USED FOR THE PREVENTION OF SPILLS ONLY UPON REQUEST.

(3) COMMENCING JANUARY 1, 2023, A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD DELIVERY SERVICE, WITH RESPECT TO A CUSTOMER’S USE OF A THIRD-PARTY FOOD DELIVERY SERVICE PLATFORM, SHALL PROVIDE THE CUSTOMER THE ABILITY TO SELECT FROM THE RETAIL FOOD ESTABLISHMENT’S MENU THE SINGLE-USE FOOD SERVICEWARE OR SINGLE-USE CONDIMENTS THAT ARE MADE AVAILABLE TO CUSTOMERS AND THAT THE CUSTOMER WANTS INCLUDED WITH THE
CUSTOMER’S FOOD ORDER.

(4) THIS SECTION DOES NOT APPLY TO:

(a) SINGLE-USE FOOD SERVICEWARE OR SINGLE-USE CONDIMENTS PROVIDED AT A SELF-SERVICE STATION THAT IS LOCATED WITHIN A RETAIL FOOD ESTABLISHMENT OR IS LOCATED AT A SPECIAL EVENT; EXCEPT THAT A RETAIL FOOD ESTABLISHMENT OR SPECIAL EVENT WITH A SELF-SERVICE STATION IS ENCOURAGED TO OFFER BULK DISPENSERS FOR CONDIMENTS AT THE SELF-SERVICE STATION;

(b) MEALS PROVIDED AS PART OF A SOCIAL SERVICE PROGRAM DIRECTED AT SERVING ONE OR MORE VULNERABLE POPULATIONS, SUCH AS SCHOOL CHILDREN IN INCOME-ELIGIBLE HOUSEHOLDS, PERSONS EXPERIENCING HOMELESSNESS, OR THE ELDERLY;

(c) A RETAIL FOOD ESTABLISHMENT LOCATED WITHIN AN AIRPORT IF THE AIRPORT IS OPEN TO THE PUBLIC; AND

(d) MEALS PROVIDED TO GUESTS STAYING IN A HOTEL, LODGING HOUSE, OR ROOMING HOUSE.

(5) NOTHING IN THIS SECTION AUTHORIZES THE PROVISION OF A SINGLE-USE PLASTIC CARRYOUT BAG OR EXPANDED POLYSTYRENE IN A MANNER THAT WOULD VIOLATE SECTION 25-17-504, 25-17-505, OR 25-17-506.

(6) AS USED IN THIS SECTION:

(a) "HOTEL" MEANS ANY ESTABLISHMENT WITH SLEEPING ROOMS FOR THE ACCOMMODATION OF GUESTS AND HAVING RESTAURANT FACILITIES.

(b) (I) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET FORTH IN SECTION 25-4-1602 (14); EXCEPT THAT "RETAIL FOOD ESTABLISHMENT" ALSO INCLUDES:
(A) FARMERS' MARKETS AND ROADSIDE MARKETS;
(B) ESTABLISHMENTS PREDOMINATELY PREPARING AND SERVING
HOT COFFEE, HOT TEA, OR OTHER BEVERAGES;
(C) ESTABLISHMENTS THAT HANDLE ONLY PREPACKAGED FOOD
AND OPERATIONS SERVING ONLY COMMERCIAL PrePARED,
PREPACKAGED FOODS REQUIRING NO PREPARATION OTHER THAN THE
HEATING OF FOOD WITHIN ITS ORIGINAL CONTAINER OR PACKAGE; AND
(D) A HOME, COMMERCIAL, PRIVATE, OR PUBLIC KITCHEN IN
WHICH A PERSON PRODUCES FOOD PRODUCTS SOLD DIRECTLY TO
CONSUMERS PURSUANT TO THE "COLORADO COTTAGE FOODS ACT",
SECTION 25-4-1614.

(II) TO THE EXTENT A RETAIL FOOD ESTABLISHMENT IS ALSO A
STORE, THE EXEMPTION FOR SMALL STORES SET FORTH IN SECTION
25-17-503 (14)(c) DOES NOT APPLY TO THIS SECTION.

(c) "SINGLE USE" MEANS DESIGNED TO BE USED ONCE AND THEN
DISCARDED.

(d) (I) "SINGLE-USE CONDIMENT" MEANS A PACKAGED,
SINGLE-SERVING CONDIMENT, SUCH AS RELISH, A SPICE, A SAUCE, A
CONFECTION, OR A SEASONING, THAT:
(A) DOES NOT REQUIRE ADDITIONAL PREPARATION;
(B) IS USED ON FOOD; AND
(C) IS INTENDED FOR A SINGLE USE.
(II) "SINGLE-USE CONDIMENT" INCLUDES KETCHUP, MUSTARD,
MAYONNAISE, SOY SAUCE, HOT SAUCE, SALSA, SYRUP, JAM, JELLY, SUGAR,
SALT, PEPPER, SWEETENER, OR CHILI PEPPER.
(e) (I) "SINGLE-USE FOOD SERVICEWARE" MEANS A SINGLE-USE
ITEM THAT A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD
DELIVERY SERVICE PROVIDES A CUSTOMER TO ASSIST THE CUSTOMER IN
CONSUMING FOOD THAT THE RETAIL FOOD ESTABLISHMENT OR
THIRD-PARTY FOOD DELIVERY SERVICE PROVIDED THE CUSTOMER.

(II) "SINGLE-USE FOOD SERVICeware" INCLUDES A SINGLE-USE
UTENSIL, NAPKIN, CONDIMENT CUP OR PACKET, STRAW, STIRRER, LID, CUP,
SLEEVE, SPILL PLUG, TRAY, COCKTAIL STICK, OR SET OF CHOPSTICKS.

(f) "SPECIAL EVENT" MEANS AN ORGANIZED EVENT OR
CELEBRATION AT WHICH RETAIL FOOD ESTABLISHMENTS PREPARE, SERVE,
OR OTHERWISE PROVIDE FOOD FOR HUMAN CONSUMPTION.

(g) "SPILL PLUG", ALSO KNOWN AS A "SPLASH STICK", MEANS A
PIECE OF PLASTIC THAT IS INSERTED INTO A BEVERAGE LID TO PREVENT
SPILLS.

(h) "THIRD-PARTY FOOD DELIVERY SERVICE" OR "SERVICE" MEANS
ANY COMPANY OR WEBSITE, MOBILE APPLICATION, OR OTHER INTERNET
SERVICE THAT OFFERS OR ARRANGES FOR THE SALE AND SAME-DAY
DELIVERY OR SAME-DAY CARRYOUT OF PREPARED FOOD OR BEVERAGES
FROM A RETAIL FOOD ESTABLISHMENT.

(i) "THIRD-PARTY FOOD DELIVERY SERVICE PLATFORM" OR
"PLATFORM" MEANS A THIRD-PARTY FOOD DELIVERY SERVICE’S ONLINE OR
MOBILE PLATFORM ON WHICH A CONSUMER CAN VIEW AND ORDER
AVAILABLE PRODUCTS.

SECTION 4. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly; except
that, if a referendum petition is filed pursuant to section 1 (3) of article V
of the state constitution against this act or an item, section, or part of this
act within such period, then the act, item, section, or part will not take
effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.