

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0869.01 Clare Haffner x6137

SENATE BILL 26-146

SENATE SPONSORSHIP

Cutter,

HOUSE SPONSORSHIP

Froelich,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING RESTRICTING THE DISTRIBUTION OF SINGLE-USE FOOD
102 SERVICEWARE.

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>.)

Under current law, the "Plastic Pollution Reduction Act" includes restrictions on the use and distribution of single-use plastic carryout bags and expanded polystyrene food containers.

The bill expands the "Plastic Pollution Reduction Act" by prohibiting, on and after January 1, 2027, a retail food establishment or third-party food delivery service from providing single-use food

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

serviceware to a customer unless the customer requests single-use food serviceware or confirms that the customer wants single-use food serviceware when offered. The bill specifies certain exceptions.

The department of public health and environment (department) is required to, on or before January 1, 2027, establish a page on the department's public website that includes a description of the requirements set forth in the bill and the existing enforcement mechanism included in the "Plastic Pollution Reduction Act".

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

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

4 **25-17-502. Legislative declaration.**

5 (1) The general assembly finds, determines, and declares that
6 limiting the use of single-use plastic carryout bags and expanded
7 polystyrene products will mitigate the harmful effects on our state's
8 natural resources and our environment that result from disposing of these
9 products in our landfills.

10 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

11 (a) CUSTOMERS ARE INCREASINGLY FRUSTRATED WITH THE
12 AMOUNT OF SINGLE-USE ITEMS THEY RECEIVE WITH FOOD-SERVICE
13 ORDERS;

14 (b) MOST SINGLE-USE PLASTIC ITEMS, INCLUDING CONDIMENT
15 PACKAGES AND UTENSILS, ARE NOT RECYCLABLE OR COMPOSTABLE, YET
16 THEY ARE COMMONLY PLACED IN RECYCLING AND COMPOST STREAMS,
17 BECOMING CONTAMINANTS AND CREATING FINANCIAL HARDSHIP FOR
18 COLORADO RECYCLING AND COMPOSTING BUSINESSES. THIS CONFUSION
19 AND CONTAMINATION IS EXACERBATED WHEN RETAIL FOOD
20 ESTABLISHMENTS PROVIDE A MIXTURE OF RECYCLABLE, CERTIFIED
21 COMPOSTABLE, NONCOMPOSTABLE, AND NONRECYCLABLE SINGLE-USE

1 PRODUCTS TO CUSTOMERS.

2 (c) A STATEWIDE REQUIREMENT FOR RETAIL FOOD
3 ESTABLISHMENTS TO ASK BEFORE PROVIDING SINGLE-USE FOOD
4 SERVICEWARE, INCLUDING SINGLE-USE CONDIMENTS, WILL REDUCE THE
5 AMOUNT OF UNWANTED ITEMS PROVIDED TO CUSTOMERS, REDUCE PLASTIC
6 WASTE, AND SAVE FOOD RETAILERS HUNDREDS OR THOUSANDS OF
7 DOLLARS PER YEAR; AND

8 (d) ADOPTING A STATEWIDE "ASK FIRST FOR SINGLE-USE ITEMS"
9 POLICY WILL CREATE A MORE CONSISTENT FRAMEWORK FOR RETAIL FOOD
10 ESTABLISHMENTS THAT CAN DRIVE BEHAVIOR CHANGE ACROSS
11 COLORADO.

12 **SECTION 2.** In Colorado Revised Statutes, 25-17-503, **amend**
13 (9)(b) and (14)(c); and **add** (2.5), (4.5), (11.3), (11.5), (13.3), (13.5),
14 (14)(d), (15), and (16) as follows:

15 **25-17-503. Definitions.**

16 As used in this part 5, unless the context otherwise requires:

17 (2.5) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
18 AND ENVIRONMENT CREATED IN SECTION 25-1-102.

19 (4.5) "HOTEL" MEANS AN ESTABLISHMENT THAT HAS SLEEPING
20 ROOMS FOR THE ACCOMMODATION OF GUESTS AND RESTAURANT
21 FACILITIES.

22 (9) (b) ~~"Retail food establishment" does not include farmers~~
23 ~~markets and roadside markets as described in section 25-4-1602 (14)(j).~~
24 FOR THE PURPOSES OF SECTION 25-17-510, "RETAIL FOOD
25 ESTABLISHMENT" INCLUDES:

26 (I) FARMERS' MARKETS AND ROADSIDE MARKETS; AND

27 (II) A HOME, COMMERCIAL, PRIVATE, OR PUBLIC KITCHEN IN WHICH

1 A PERSON PRODUCES FOOD PRODUCTS SOLD DIRECTLY TO CONSUMERS
2 PURSUANT TO THE "COLORADO COTTAGE FOODS ACT", SECTION
3 25-4-1614.

4 (11.3) (a) "SINGLE-USE CONDIMENT" MEANS A
5 FACTORY-PACKAGED CONDIMENT, SUCH AS A RELISH, SPICE, SAUCE,
6 CONFECTION, OR SEASONING, THAT:

7 (I) DOES NOT REQUIRE ADDITIONAL PREPARATION;

8 (II) IS INTENDED FOR USE ON FOOD; AND

9 (III) IS INTENDED FOR A SINGLE USE.

10 (b) "SINGLE-USE CONDIMENT" INCLUDES KETCHUP, MUSTARD,
11 MAYONNAISE, CREAMER, BUTTER, SOY SAUCE, HOT SAUCE, SALSA, SYRUP,
12 JAM, JELLY, SUGAR, SALT, PEPPER, SWEETENER, OR CHILI PEPPER.

13 (11.5)(a) "SINGLE-USE FOOD SERVICEWARE" MEANS AN ITEM THAT
14 A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD DELIVERY SERVICE
15 PROVIDES TO A CUSTOMER TO ASSIST THE CUSTOMER IN CONSUMING FOOD
16 THAT THE RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD DELIVERY
17 SERVICE PROVIDES TO THE CUSTOMER, WHICH ITEM IS DESIGNED TO BE
18 USED ONCE AND THEN DISCARDED.

19 (b) "SINGLE-USE FOOD SERVICEWARE" INCLUDES A UTENSIL,
20 NAPKIN, SINGLE-USE CONDIMENT, STRAW, STIRRER, LID, CUP SLEEVE, SPILL
21 PLUG, SPLASH STICK, TRAY, COCKTAIL STICK, OR PAIR OF CHOPSTICKS.

22 (c) "SINGLE-USE FOOD SERVICEWARE" DOES NOT INCLUDE
23 PACKAGING, SUCH AS A BOWL, CUP, LID, OR CLAMSHELL CONTAINER, THAT
24 IS NECESSARY TO CONTAIN FOOD AT THE TIME THE FOOD IS PROVIDED TO
25 A CUSTOMER THROUGH A DELIVERY ORDER.

26 (13.3) "SPECIAL EVENT" MEANS AN ORGANIZED EVENT OR
27 CELEBRATION FOR WHICH A RETAIL FOOD ESTABLISHMENT PREPARES,

1 SERVES, OR OTHERWISE PROVIDES FOOD FOR HUMAN CONSUMPTION.

2 (13.5) "SPILL PLUG" OR "SPLASH STICK" MEANS A PIECE OF PLASTIC
3 THAT IS INSERTED INTO A BEVERAGE LID TO PREVENT SPILLS.

4 (14) (c) "Store" does not include a small store, EXCEPT AS
5 PROVIDED IN SUBSECTION (14)(d) OF THIS SECTION.

6 (d) FOR THE PURPOSES OF SECTION 25-17-510, FOR A RETAIL FOOD
7 ESTABLISHMENT THAT IS ALSO A STORE, "STORE" INCLUDES A SMALL
8 STORE.

9 (15) "THIRD-PARTY FOOD DELIVERY SERVICE" MEANS A COMPANY
10 OR WEBSITE, MOBILE APPLICATION, OR OTHER INTERNET SERVICE THAT
11 OFFERS OR ARRANGES FOR THE SALE AND DELIVERY OR CARRYOUT OF
12 PREPARED FOOD OR BEVERAGES FROM A RETAIL FOOD ESTABLISHMENT.

13 (16) "THIRD-PARTY FOOD DELIVERY SERVICE PLATFORM" OR
14 "PLATFORM" MEANS A THIRD-PARTY FOOD DELIVERY SERVICE'S ONLINE OR
15 MOBILE PLATFORM ON WHICH A CUSTOMER CAN VIEW AND ORDER
16 AVAILABLE PRODUCTS.

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

19 **25-17-510. Single-use food serviceware - exemptions -**
20 **department responsibilities - definition.**

21 (1) ON AND AFTER JANUARY 1, 2027:

22 (a) WHEN A CUSTOMER ORDERS FOOD FROM A RETAIL FOOD
23 ESTABLISHMENT OR THROUGH A THIRD-PARTY FOOD DELIVERY SERVICE
24 PLATFORM FOR DELIVERY OR CARRYOUT, THE RETAIL FOOD
25 ESTABLISHMENT OR THIRD-PARTY FOOD DELIVERY SERVICE SHALL NOT
26 PROVIDE THE CUSTOMER WITH SINGLE-USE FOOD SERVICWARE UNLESS
27 THE CUSTOMER:

1 (I) REQUESTS SINGLE-USE FOOD SERVICEWARE; OR

2 (II) CONFIRMS THAT THE CUSTOMER WANTS SINGLE-USE FOOD
3 SERVICEWARE AFTER BEING OFFERED SINGLE-USE FOOD SERVICEWARE BY
4 AN EMPLOYEE OF THE RETAIL FOOD ESTABLISHMENT OR THROUGH THE
5 THIRD-PARTY FOOD DELIVERY SERVICE PLATFORM;

6 (b) A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD
7 DELIVERY SERVICE SHALL NOT CREATE, ACQUIRE, OR PROVIDE A
8 CUSTOMER WITH A BUNDLED PACKAGE THAT CONTAINS MORE THAN ONE
9 TYPE OF SINGLE-USE FOOD SERVICEWARE ITEM; AND

10 (c) A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD
11 DELIVERY SERVICE SHALL ENABLE A CUSTOMER THAT USES A THIRD-PARTY
12 FOOD DELIVERY SERVICE PLATFORM TO SELECT THE SINGLE-USE FOOD
13 SERVICEWARE OFFERED BY THE RETAIL FOOD ESTABLISHMENT THAT THE
14 CUSTOMER WANTS INCLUDED WITH THE CUSTOMER'S FOOD ORDER.

15 (2) A THIRD-PARTY FOOD DELIVERY SERVICE IS IN COMPLIANCE
16 WITH THIS SECTION IF:

17 (a) THE DEFAULT OF THE THIRD-PARTY FOOD DELIVERY SERVICE'S
18 PLATFORM IS NOT TO PROVIDE SINGLE-USE FOOD SERVICEWARE;

19 (b) THE ONLINE ORDERING PROCESS ALLOWS FOR A CUSTOMER TO
20 CLEARLY INDICATE WHICH SINGLE-USE FOOD SERVICEWARE THE
21 CUSTOMER WANTS; AND

22 (c) THE THIRD-PARTY FOOD DELIVERY SERVICE'S PLATFORM
23 CLEARLY COMMUNICATES TO THE RETAIL FOOD ESTABLISHMENT
24 FULFILLING THE ORDER WHICH SINGLE-USE FOOD SERVICEWARE ITEMS, IF
25 ANY, THE CUSTOMER REQUESTED.

26 (3) THIS SECTION DOES NOT APPLY TO THE FOLLOWING, THOUGH
27 ALL FOOD ESTABLISHMENTS ARE ENCOURAGED TO COMPLY WITH THIS

1 SECTION:

2 (a) SINGLE-USE FOOD SERVICEWARE PROVIDED AT A SELF-SERVICE
3 STATION LOCATED WITHIN A RETAIL FOOD ESTABLISHMENT OR AT A
4 SPECIAL EVENT. A RETAIL FOOD ESTABLISHMENT OR SPECIAL EVENT WITH
5 A SELF-SERVICE STATION IS ENCOURAGED TO OFFER BULK CONDIMENT
6 DISPENSERS AT THE SELF-SERVICE STATION, PROVIDE ONLY SINGLE-USE
7 FOOD SERVICEWARE THAT IS LIKELY TO BE NECESSARY FOR THE FOOD
8 SERVED, AND NOT BUNDLE SINGLE-USE FOOD SERVICEWARE.

9 (b) MEALS PROVIDED AS PART OF A SOCIAL SERVICE PROGRAM
10 DIRECTED AT SERVING ONE OR MORE VULNERABLE POPULATIONS, SUCH AS
11 SCHOOLCHILDREN IN INCOME-ELIGIBLE HOUSEHOLDS, INDIVIDUALS
12 EXPERIENCING HOMELESSNESS, OR ELDERLY INDIVIDUALS;

13 (c) A RETAIL FOOD ESTABLISHMENT LOCATED WITHIN A PUBLIC
14 AIRPORT;

15 (d) MEALS PROVIDED TO GUESTS STAYING AT A HOTEL, LODGING
16 HOUSE, OR ROOMING HOUSE; OR

17 (e) SINGLE-USE FOOD SERVICEWARE INTENDED TO PREVENT SPILLS
18 THAT IS PROVIDED BY A RETAIL FOOD ESTABLISHMENT AT A
19 DRIVE-THROUGH OR FOR CARRYOUT FOR A CUSTOMER'S TRANSPORT OF
20 FOOD FOR OFF-SITE CONSUMPTION OR PROVIDED FOR DELIVERY OF FOOD
21 BY A RETAIL FOOD ESTABLISHMENT OR A THIRD-PARTY FOOD DELIVERY
22 SERVICE.

23 (4) NOTHING IN THIS SECTION:

24 (a) AUTHORIZES THE DISTRIBUTION OF SINGLE-USE PLASTIC
25 CARRYOUT BAGS OR EXPANDED POLYSTYRENE PRODUCTS IN A MANNER
26 THAT VIOLATES THIS PART 5; OR

27 (b) PROHIBITS AN EMPLOYEE OF A RETAIL FOOD ESTABLISHMENT

1 OR THIRD-PARTY FOOD DELIVERY SERVICE FROM OFFERING A CUSTOMER
2 SINGLE-USE FOOD SERVICEWARE.

3 (5) ON OR BEFORE JANUARY 1, 2027, THE DEPARTMENT SHALL
4 ESTABLISH A PAGE ON THE DEPARTMENT'S PUBLIC WEBSITE THAT
5 INCLUDES A DESCRIPTION OF THE REQUIREMENTS OF THIS SECTION AND
6 THE ENFORCEMENT MECHANISM SET FORTH IN SECTION 25-17-507.

7 (6) AS USED IN THIS SECTION, "BULK CONDIMENT DISPENSER"
8 MEANS A REFILLABLE, SELF-SERVICE CONTAINER OR APPARATUS DESIGNED
9 TO HOLD AND DISPENSE TO A CUSTOMER, ON AN AS-NEEDED BASIS,
10 CONDIMENTS SUCH AS SAUCES, SPICES, OR SEASONINGS.

11 **SECTION 4. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2026 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.