

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0111.01 Jennifer Berman x3286

HOUSE BILL 22-1134

HOUSE SPONSORSHIP

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

SENATE SPONSORSHIP

Priola,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO REDUCE THE USE OF SINGLE-USE MEAL
102 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>.)

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

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

single-use condiment when offered, with limited exceptions.

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

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

11 **25-17-508. Local government regulation - preemption.** (1) On
12 and after July 1, 2024, a local government may enact, implement, or
13 enforce any ordinance, resolution, rule, or charter provision that is as
14 stringent as or more stringent than this part 5.

15 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, A LOCAL
16 GOVERNMENT THAT, ON OR BEFORE JANUARY 1, 2022, ENACTED ANY
17 ORDINANCE, RESOLUTION, RULE, OR CHARTER PROVISION THAT IS AS
18 STRINGENT AS OR MORE STRINGENT THAN SECTION 25-17-510 MAY
19 CONTINUE TO IMPLEMENT AND ENFORCE THE ORDINANCE, RESOLUTION,
20 RULE, OR CHARTER PROVISION.

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

23 **25-17-510. Provision of single-use condiments and single-use**
24 **food serveware for delivery or carryout upon request - exemptions**
25 **- enforcement - definitions.** (1) COMMENCING JANUARY 1, 2023, IF A

1 CUSTOMER ORDERS FOOD FROM A RETAIL FOOD ESTABLISHMENT OR
2 THROUGH A THIRD-PARTY FOOD DELIVERY SERVICE PLATFORM FOR
3 DELIVERY OR CARRYOUT, THE RETAIL FOOD ESTABLISHMENT OR SERVICE
4 MAY PROVIDE THE CUSTOMER WITH SINGLE-USE FOOD SERVICEWARE OR
5 A SINGLE-USE CONDIMENT ONLY IF:

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

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

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

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

1 CUSTOMER'S FOOD ORDER.

2 (4) THIS SECTION DOES NOT APPLY TO:

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

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

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

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

17 (5) NOTHING IN THIS SECTION AUTHORIZES THE PROVISION OF A
18 SINGLE-USE PLASTIC CARRYOUT BAG OR EXPANDED POLYSTYRENE IN A
19 MANNER THAT WOULD VIOLATE SECTION 25-17-504, 25-17-505, OR
20 25-17-506.

21 (6) AS USED IN THIS SECTION:

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

25 (b) (I) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET
26 FORTH IN SECTION 25-4-1602 (14); EXCEPT THAT "RETAIL FOOD
27 ESTABLISHMENT" ALSO INCLUDES:

1 (A) FARMERS' MARKETS AND ROADSIDE MARKETS;

2 (B) ESTABLISHMENTS PREDOMINATELY PREPARING AND SERVING
3 HOT COFFEE, HOT TEA, OR OTHER BEVERAGES;

4 (C) ESTABLISHMENTS THAT HANDLE ONLY PREPACKAGED FOOD
5 AND OPERATIONS SERVING ONLY COMMERCIALY PREPARED,
6 PREPACKAGED FOODS REQUIRING NO PREPARATION OTHER THAN THE
7 HEATING OF FOOD WITHIN ITS ORIGINAL CONTAINER OR PACKAGE; AND

8 (D) A HOME, COMMERCIAL, PRIVATE, OR PUBLIC KITCHEN IN
9 WHICH A PERSON PRODUCES FOOD PRODUCTS SOLD DIRECTLY TO
10 CONSUMERS PURSUANT TO THE "COLORADO COTTAGE FOODS ACT",
11 SECTION 25-4-1614.

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

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

17 (d) (I) "SINGLE-USE CONDIMENT" MEANS A PACKAGED,
18 SINGLE-SERVING CONDIMENT, SUCH AS RELISH, A SPICE, A SAUCE, A
19 CONFECTION, OR A SEASONING, THAT:

20 (A) DOES NOT REQUIRE ADDITIONAL PREPARATION;

21 (B) IS USED ON FOOD; AND

22 (C) IS INTENDED FOR A SINGLE USE.

23 (II) "SINGLE-USE CONDIMENT" INCLUDES KETCHUP, MUSTARD,
24 MAYONNAISE, SOY SAUCE, HOT SAUCE, SALSA, SYRUP, JAM, JELLY, SUGAR,
25 SALT, PEPPER, SWEETENER, OR CHILI PEPPER.

26 (e) (I) "SINGLE-USE FOOD SERVICEWARE" MEANS A SINGLE-USE
27 ITEM THAT A RETAIL FOOD ESTABLISHMENT OR THIRD-PARTY FOOD

1 DELIVERY SERVICE PROVIDES A CUSTOMER TO ASSIST THE CUSTOMER IN
2 CONSUMING FOOD THAT THE RETAIL FOOD ESTABLISHMENT OR
3 THIRD-PARTY FOOD DELIVERY SERVICE PROVIDED THE CUSTOMER.

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

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

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

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

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

22 **SECTION 4. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly; except
25 that, if a referendum petition is filed pursuant to section 1 (3) of article V
26 of the state constitution against this act or an item, section, or part of this
27 act within such period, then the act, item, section, or part will not take

1 effect unless approved by the people at the general election to be held in
2 November 2022 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.