

# Plastic Carryout Bag Ban and At-Store Recycling Program Regulations

Delaware's Regulations Governing Solid Waste  
1301 Section 14

<http://de.gov/recycling>

Virtual Public Hearing  
October 21, 2020 6:00 p.m.



# Plastic Carryout Bag Ban and At Store Recycling Program

TITLE 7

Conservation

Natural Resources

CHAPTER 60. Environmental  
Control

Subchapter IX. Recycling and  
Waste Reduction

**§ 6099A At-store recycling  
program**



# Plastic Carryout Bag Ban and At Store Recycling Program

## Error in the Definitions

### Proposed Definition:

**Plastic carryout bag** - means a plastic bag provided by a store to a customer at the point of sale made from plastic which meets the recycled content plastic requirements, is not compostable or biodegradable, and not specifically designed and manufactured to be reusable.

### Final Definition:

**Plastic carryout bag** - means a plastic carryout bag provided by a store to a customer at the point of sale made from plastic and not specifically designed and manufactured to be reusable.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Statutory Definition Changes (app. 7/1/2019)

**Store** - means a retail establishment, excluding a restaurant, engaged in the business of selling or exchanging goods and/or services for cash, barter or any form of consideration on the assumption that the purchaser of such goods and/or services has acquired the goods and/or services for ultimate consumption or use and not resale that provides carryout bags to its customers in conjunction with the sale of such goods and/or services and that meets either of the following requirements:

- a. Has at least 7,000 square feet of retail sales space, or
- b. Has 3 or more stores or retail locations, each having at least 3,000 square feet of retail sales space, in the State.

**Effective January 1, 2021**, a “store” .....shall not provide any single-use plastic carryout bag, as defined in subsection (a) of this section.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Statutory Definition Changes (app. 7/1/2019)

**Reusable bag** - means a fabric or plastic carryout bag which meets all of the following requirements:

- a. Is either a bag made of cloth or other fabric that has handles or is a durable plastic bag with handles that is at least 2.25 mils thick.
- b. Is designed and manufactured to be used for at least 125 uses.
- c. Has a volume capacity of at least 4 gallons (equivalent to 15 liters or 924 cubic inches).
- d. Is machine washable or made from a material that can be cleaned and disinfected.
- e. Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health. A reusable bag manufacturer may demonstrate compliance with this requirement by obtaining a no objection letter from the federal Food and Drug Administration.
- f. Complies with 16 C.F.R. § 260.12 related to recyclable claims if the reusable grocery bag producer makes a claim that the reusable grocery bag is recyclable.
- g. A reusable carryout bag made from plastic film shall also meet the following requirements: it shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses and be at least 2.25 mils thick, measured according to the American Society of Testing and Materials (ASTM) Standard D6988-13.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Statutory Definition Changes (app. 7/1/2019)

**An at-store recycling program provided by a store shall include all of the following:**

(2) A plastic bag and film collection bin shall be placed at each store and shall be visible, easily accessible to the consumer, and clearly marked that the collection bin is available for the purpose of collecting and recycling plastic carryout bags.

(3) All plastic bags and film collected by the store shall be collected and recycled in a manner consistent with the intent of this section. In no instance, shall a store permit collected plastic bags and film to be disposed of or to further any act other than the recycling of such bags.

(4) The store shall maintain records describing the collection and recycling of plastic bags and film collected by such store and shall make the records available to the Department of Natural Resources and Environmental Control (DNREC), upon request, to demonstrate compliance with this section.

(5) The store shall make reusable bags available to customers within the store, which bags may be purchased by such customer and used in lieu of using a plastic carryout bag or paper bag. This subsection is not applicable to a retail establishment specified pursuant to subsection (c) of this section above.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Statutory Definition Changes (app. 7/1/2019)

### **Effective January 1, 2021**

- (1) A store may make available for purchase or distribution at the point of sale a reusable grocery bag that meets the requirements of paragraph (a)(4) of this section.
- (2) A store may make paper bags available for no cost or charge any price at their discretion.
- (3) A store may provide plastic carryout bags for any of the following purposes:
  - a. Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness.
  - b. Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste.
  - c. Bags used to contain live animals such as fish or insects sold in pet stores.
  - d. Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals.
  - e. Nonhandled bags used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag or a reusable grocery bag.
  - f. Bags provided to contain an unwrapped food item.
  - g. Nonhandled bags that are designed to be placed over articles of clothing on a hanger.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Statutory Definition Changes (app. 7/1/2019)

### **“Stores”**

Any store which provides plastic bags for exemptions listed in paragraph (e)(3) of this section....shall establish an at-store recycling program pursuant to this section that permits a customer of the store to return clean and dry plastic bags and film to the store.

Stores that have adopted practices which eliminate the need for plastic carry out bags as outlined in this subsection do not need to participate in an at-store recycling program as of March 31, 2021.





# Plastic Carryout Bag Ban and At Store Recycling Program

## Statutory Definition Changes (app. 7/1/2019)

### **“Manufacturer”**

The manufacturer of a plastic carryout bag shall provide educational materials to all stores required to comply with this section to encourage the reduction, reuse, and recycling of plastic carryout bags and the stores shall place such materials in a conspicuous location, visible to the customers of such store.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Statutory Definition Changes (app. 7/1/2019)

### **“Municipality”**

Any municipality with a population in excess of 50,000 may enact a law requiring stores in excess of 500 square feet to comply with this section.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Regulations added to *DRGSW 1301 Section 14.0*

- 14.1 The purposes of these regulations are to ensure the following:
- 14.1.1 Plastic carryout bags, as defined by 7 **Del.C.** §6099A, are banned;
  - 14.1.2 At-store collection of plastic carryout bags and film are implemented, maintained, and consistent with 7 **Del.C.** Ch. 60 Subchapter IX, Recycling and Waste Reduction;
  - 14.1.3 Plastic bags and film enter the marketplace and are not disposed; and
  - 14.1.4 Stores collect and report data to support the intent of 7 **Del.C.** §6099A.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Regulations added to *DRGSW 1301 Section 14.0*

14.2 Applicability. These regulations apply to:

- 14.2.1 All stores in the State of Delaware.
- 14.2.2 All manufacturers of plastic bags sold to a store in Delaware.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Regulations added to *DRGSW 1301* Section 3.0 Definitions

### **“Marketplace”**

means a person or persons that utilize the majority, if not all, of the recyclable materials it receives to produce a marketable product. Incinerators, landfills, and other methods of disposal are disqualified as an acceptable marketplace.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Regulations added to *DRGSW 1301* Section 3.0 Definitions

### **“Paper bag”**

means a bag provided at check-out made of paper that meets all of the following requirements:

- a. is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) postconsumer recycled material;
- b. is capable of being composted, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard 06400;
- c. is accepted for recycling in the State;
- d. has printed on the bag the name of the manufacturer, the location (country) where the bag was manufactured, and the percentage of postconsumer recycled material used;
- e. displays the word "Recyclable" and “Reusable” in a highly visible manner on the outside of the bag; and,
- f. does not contain plastic lining or plastic handles.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Regulations added to *DRGSW 1301* Section 3.0 Definitions

### **“Retail Sales Space”**

means total space within a Store, leased or owned, for the purposes of promoting, selling, or distributing goods and services to consumers.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Regulations added to *DRGSW 1301* Section 3.0 Definitions

### **“Store”**

means an entity in Delaware, with a business license issued by the Delaware Department of Finance, Division of Revenue whose business activity includes the category “Retailer” and operates a physical location within Delaware consisting of a single location that has at least 7,000 square feet of retail space or three (3) or more locations each having at least of 3,000 square feet of retail space; stores that carry multiple business activity licenses are bound by this regulation; stores that carry a single business activity license of “Retailer – Restaurant” are exempt from these regulations.





# Plastic Carryout Bag Ban and At Store Recycling Program

## Regulations added to *DRGSW 1301 Section 14.0*

### 14.3 General Provisions

- 14.3.1 Stores shall:
  - 14.3.1.1 Establish an at-store recycling program pursuant to 7 **Del.C.** Ch. 60 Subchapter IX, Recycling and Waste Reduction, that permits a customer of the store to return clean and dry plastic bags and film to the store.
  - 14.3.1.2 Place a plastic bag and film collection bin at each store that is visible upon entering the store and that is easily accessible to the customer, clearly marked with the following language: "Please recycle plastic bags and film here," and that the collection bin is available for the purpose of collecting and recycling plastic carryout bags and film.
  - 14.3.1.3 Provide clear information on what types of plastic bags or film that can be recycled within that location's at-store plastic bag recycling program.
  - 14.3.1.4 Not commingle source-separated plastic bags and film with other solid waste.
  - 14.3.1.5 Ensure the plastic bags and film enter the marketplace.
  - 14.3.1.6 Adopting practices to eliminate the need for plastic carry out bags as outlined in 7 **Del.C.** §6099A, allows stores to remove an at store recycling program and can cease the collection as of March 31, 2021; and
  - 14.3.1.7 Document the measurement of the plastic bag and film collected at the location's at-store plastic bag recycling program; perform an annual review and create an annual report summarizing the measurement documentation; and maintain the records related to the annual review and report and measurement documentation for three years; stores that supply this data as part of the Universal Recycling program reporting do not need to submit a separate report.



# Plastic Carryout Bag Ban and At Store Recycling Program

## Regulations added to *DRGSW 1301 Section 14.0*

### 14.3 General Provisions, cont.

- 14.3.2 A retail establishment that does not meet the definition of a store and that provides plastic carryout bags to customers at the point of sale may adopt a similar at-store recycling program, as specified in 7 **Del.C.** Ch. 60 Subchapter IX, Recycling and Waste Reduction.
- 14.3.3 Manufacturers of plastic carryout bags shall:
  - 14.3.3.1 Assist stores and ensure that all reusable bags sold within the state meet the requirements outlined in 7 **Del.C.** Ch. 60 Subchapter IX, Recycling and Waste Reduction.
  - 14.3.3.2 Ensure that plastic bags classified as reusable contain a label that includes the following language, "This plastic bag is reusable and should be returned to stores for recycling and not recycled curbside."
  - 14.3.3.3 Provide stores with recycling opportunities for reusable plastic bags and film to help increase diversion of this material where such programs exist and support store education efforts to educate consumers about plastic bag and film recycling programs.



# Plastic Carryout Bag Ban and At Store Recycling Program

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