

Question 19: How does this law apply to bagging live or cooked lobsters and other seafoods, meats, or other live or raw foods?

Answer: There are exemptions in this law for situations where a paper or reusable bag may not be practical, including: (2) Bags without handles used to protect items from being damaged or from damaging or contaminating other purchased items placed in a recycled paper bag or a reusable bag; (3) Bags used to contain or wrap frozen foods, meats or fish.

Question 20: How does this law apply to farm stands or orchards that require bags for containing produce and other goods?

Answer: There are exemptions in this law for collecting of small, loose, unpackaged goods, including: 2) Bags without handles used to protect items from being damaged or from damaging or contaminating other purchased items placed in a recycled paper bag or a reusable bag; (3) Bags used by customers inside a retail establishment to package loose items, such as fruits, vegetables, nuts, coffee, grains, bakery goods, candy, greeting cards or small hardware items; to contain or wrap frozen foods, meats or fish; or to contain or wrap flowers or potted plants;

This exemption allows for use of bags for any produce including apples at a pick-your-own orchard. Provided a bag is used only to collect and contain loose produce, it is not a carry-out bag, even if that produce bag is not placed within another bag to carry away from the retailer.

Question 21: What other exempted bags are allowed under this law?

Answer: In addition to the exemptions previously noted in this document, other exempted single-use bags include the following: Bags provided by a pharmacy to a customer for transporting a prescription medication away from the store; Laundry, dry cleaning or garment bags, including bags provided by a hotel to guests to contain wet or dirty clothing or bags provided to protect large garments like suits, jackets or dresses; Newspaper bags; Bags used to contain live animals, such as fish or insects sold in pet stores; Bags used for vehicle tires; Bags used to transport chemical pesticides, drain cleaning chemicals or other caustic chemicals sold at a retail establishment.



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GUIDANCE ON SINGLE-USE PLASTIC CARRY-OUT BAG BAN

This document describes [38 MRSA §1611](#), a statewide law intended to prompt a transition from single-use carry-out bags to reusable carry-out bags. This law bans single-use plastic carry-out bags and places a small fee on recycled paper bags and reusable bags made of plastic. The Department of Environmental Protection will update this guidance document as additional questions are received.

Question 1: What does the law do, and when did it take effect?

Answer: [38 MRSA §1611](#) establishes a statewide ban on single-use plastic carry-out bags. The law is being enforced as of **July 1, 2021**. If a single-use carry-out bag is provided, it must be a recycled paper bag. In addition, retail establishments must charge a fee of at least 5¢ per carry-out bag for recycled paper bags and any reusable carry-out bags that are made of plastic.

Question 2: Who needs to comply with this law?

Answer: All retail establishments must comply with this law. "Retail establishment" means a store, a restaurant or a temporary business, such as a farmers' market or fair where merchandise including food, goods, products or clothing is sold.

Question 3: Who does not need to comply with this law?

Answer: Hunger relief organization such as food pantries or soup kitchens that distribute food directly to the consumer at no charge are exempted from the single-use plastic bag ban and the requirement to charge a fee per bag.



Question 4: What carry-out bags can be used at point-of-sale now that single-use plastic bags are banned?

Answer: Retail establishments may provide only reusable or recycled paper carry-out bags, which are defined specifically in this law:

1. A reusable bag is a bag with handles that:
 - a) Is designed and manufactured to withstand a minimum of 75 repeated uses;
 - b) Is machine washable or made from a material that can be cleaned and disinfected regularly;
 - c) If made from plastic [film] is at least 4 mils thick; and
 - d) Has the capability of carrying a minimum of 18 pounds.
2. A "Recycled paper bag," which means a paper bag that:
 - (1) Is 100% recyclable; and
 - (2) Contains at least 20% post-consumer recycled material if it has a capacity to hold at least 8 pounds.

This means all paper bags that are large or sturdy enough to carry 8 pounds or more must contain at least 20% post-consumer recycled content and be 100% recyclable.

To be 100% recyclable, paper bags cannot have handles made from a different material, such as plastic string or ribbon. Paper bags that are not designed to hold 8 pounds or more but are intended to carry small or lightweight items need to be 100% recyclable, but do not need to contain post-consumer recycled content.

Question 6: Are compostable, biobased, or biodegradable single-use plastic carry-out bags acceptable substitutes?

Answer: No. All single-use plastic carry-out bags are prohibited under this law, regardless of whether those bags are made from petroleum or from biobased, biodegradable, or compostable plastic or plant-based materials.

Question 7: Are single-use plastic bags that were donated to a retailer by customers, friends, or store staff for reuse acceptable substitutes?

Answer: No. This law prohibits retailers from providing or otherwise making available any single-use plastic carry-out bags, including bags that the retailer did not purchase. However, customers may bring in any carry-out bag, box, or other container they have on hand to bring their purchases home, including single-use plastic carry-out bags that they have saved for reuse.

Question 8: Who needs to charge a carry-out bag fee, and for which types of carry-out bag should a fee be charged?

Answer: Retail establishments must charge a fee of at least 5¢ per bag for recycled paper carry-out bags and reusable carry-out bags made of plastic. Reusable carry-out bags that are not made of plastic may be given away at the retailer's discretion or the retailer may opt to charge a fee of 5¢ or more per bag.

Question 9: Who will not need to charge a fee for carry-out bags?

Answer: Stores with less than 2% of retail sales attributed to the sale of food and less than 10,000 square feet of retail area are exempt from the requirement to charge a fee for recycled paper bags or reusable bags made of plastic but may choose to do so.

- Retail area is defined as the space within the business where customers shop and does not include offices, warehouses, storage areas, restrooms and breakrooms.
- Restaurants are also exempt from the fee, but if a restaurant also provides prepackaged food items or other goods in the manner of a grocery store, convenience store or gift shop, they are not exempt.
- Maine's statutory definition of food includes chewing gum and food or drink for humans and other animals, therefore beverage and pet food sales are considered food when determining whether a retail establishment has less than 2% of retail sales from food.

Question 10: Are bag fees a refundable deposit, and if fees are not refundable, how will funds collected from bag fees be used?

Answer: Bag fees are not a deposit. The funds are kept by the retailer and may be used at the retail establishment's discretion.

Question 11: If customers bring their own bags to a retail establishment, should a fee be collected on those bags?

Answer: No. The bag fee is only imposed on bags provided by a retail establishment. No fee should be charged on any bags that customers bring in for their own use.

Question 12: Must a bag fee be charged to customers using Supplemental Nutrition Assistance Program (SNAP) or Special Supplemental Nutrition Program for Women, Infants and Children (WIC) benefits to make purchases?

Answer: Yes, the bag fee must be charged for all customers. There is no exemption provided for customers who make purchases with SNAP or WIC benefits. SNAP/WIC benefits do not include the bag fee.

Question 13: Are bags provided by restaurants for take-out meals or to contain leftover meals being taken with customers considered single-use plastic carry-out bags?

Answer: Yes. Restaurants must comply with the requirement to provide only reusable or recycled paper bags. Restaurants are not required to collect the 5¢ bag fee, although they may opt to do so.

Question 14: Will retail establishments still be allowed to sell packaged plastic bags, like garbage bags or storage bags?

Answer: Yes, bags sold for home or non-retail businesses such as food storage bags, garbage bags, or pet waste bags are exempt.

Question 15: Will retail establishments be able to provide customers with free single-use bags for loose produce, deli items, baked goods, greeting cards, or other small, unpackaged items like nails, screws, etc.?

Answer: Yes, retail establishments may provide or make available single-use plastic bags such as produce bags for containing loose items prior to purchase. These exempted single-use plastic bags may be made available to customers without a fee.

However, a retailer that provides exempted single-use plastic bags must serve as a recycling drop-off, as noted in the Q&A below.

Question 16: Do retail establishments still need to collect and recycle plastic bags?

Answer: All retail establishments that provide or make available exempted single-use plastic bags within the store for customers to contain loose items such as produce are required by law to serve as a public plastic bag recycling drop-off for all plastic bags, not just those provided by the retailer. Specifically, the retailer must:

- (1) Locate inside the retail establishment or within 20 feet of the main entrance to the retail establishment a receptacle for collecting any used single-use carry-out bags made of plastic; and
- (2) Ensure that single-use carry-out bags made of plastic that are collected by the retail establishment are recycled or delivered to a person engaged in recycling plastics.

Retail establishments that do not provide exempted single-use plastic bags within the store for customers to contain loose items are not required to collect and recycle single-use plastic bags.

Question 17: Do municipal bag ordinances remain in place now that the statewide law has been passed?

Answer: Effective April 22, 2020, existing municipal ordinances or regulations that violate the statewide law regulating single-use carry-out bags are void and no longer have force or effect.

Question 18: Should Maine sales tax be applied to the bag fee?

Answer: No. The bag fees are not taxable. See 36 M.R.S. § 1752(14)(B)(11).