

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 959

Short Title: Ban Single-Use and Non-Recyclable Products. (Public)

Sponsors: Representatives Hawkins and Harrison (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Rules, Calendar, and Operations of the House

May 12, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROHIBIT THE USE OF NON-RECYCLABLE, NON-COMPOSTABLE, OR  
3 SINGLE-USE PLASTIC FOOD SERVICE WARE AND SINGLE-USE PLASTIC BAGS  
4 AND TO DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO STUDY  
5 AND REPORT ON PRODUCT STEWARDSHIP PLANS TO INCREASE RECYCLING  
6 OF CERTAIN RECYCLABLE PRODUCTS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** G.S. 130A-309.14 is amended by adding a new subsection to read:

9 "(n) No State agency, department, and institution or political subdivision of the State that  
10 receives State funds shall sell or provide food or beverages, for consumption on or off the  
11 premises, in or with disposable food service ware, unless such food service ware is reusable or  
12 compostable. For the purposes of this subsection, "disposable food service ware" means  
13 single-use disposable products used by a food provider for serving or transporting prepared,  
14 ready-to-consume food or beverages, including, but not limited to, plates, cups, bowls, trays,  
15 utensils, plastic straws, cup lids, and hinged or lidded containers, and the terms "compostable"  
16 and "reusable" shall be defined as provided in G.S. 130A-309.237."

17 **SECTION 1.(b)** There is appropriated from the General Fund to the Department of  
18 Administration the sum of twenty-five thousand dollars (\$25,000) in nonrecurring funds for the  
19 2021-2022 fiscal year to provide technical assistance and education to State agencies,  
20 departments, and institutions in compliance with the procurement requirements set forth in this  
21 section.

22 **SECTION 2.(a)** Article 9 of Chapter 130A of the General Statutes is amended by  
23 adding a new Part to read:

24 "Part 2J. Management of Disposable Food Service Ware.

25 **"§ 130A-309.235. Findings.**

26 The General Assembly makes the following findings:

- 27 (1) Distribution of disposable food service ware by retailers to consumers for use  
28 in carrying or consuming purchased food and beverages has a detrimental  
29 effect on the environment of the State.  
30 (2) Discarded disposable food service ware contributes to overburdened landfills,  
31 threatens wildlife and marine life, degrades the State's environment, and, in  
32 many cases, requires consumption of oil and natural gas during the  
33 manufacturing process.  
34 (3) It is in the best interest of the citizens of this State to gradually reduce the  
35 distribution and use of disposable food service ware.



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**"§ 130A-309.237. Definitions.**

As used in this Part, the following definitions apply:

- (1) Compostable. – Meets American Society of Testing and Materials (ASTM) standard D6400-19, "Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities."
- (2) Disposable food service ware. – Single-use disposable products used by a food provider for serving or transporting prepared, ready-to-consume food or beverages, including, but not limited to, plates, cups, bowls, trays, utensils, plastic straws, cup lids, and hinged or lidded containers.
- (3) Prepared foods retailer. – A retailer primarily engaged in the business of selling prepared foods, as that term is defined in G.S. 105-164.3, to consumers.
- (4) Recyclable. – Capable of being collected, separated, or otherwise recovered from the waste stream through an established recycling program in this State for reuse or use in manufacturing or assembling another item.
- (5) Reusable. – Capable of being used again for its original purpose or for a similar purpose without significantly altering the physical form of the item.

**"§ 130A-309.239. Certain disposable food service ware banned.**

No prepared food retailer shall sell or provide food or beverages, for consumption on or off the premises, in or with disposable food service ware, unless such food service ware is reusable or compostable."

**SECTION 2.(b)** G.S. 130A-309.10(d)(1) reads as rewritten:

- "(1) No person shall distribute, sell, or offer for sale in this State any polystyrene foam product that is to be used in conjunction with food for human consumption unless the ~~product is composed of material that is recyclable.~~ city or county where the food is sold offers a polystyrene foam product recycling program."

**SECTION 3.** Part 2G of Article 9 of Chapter 130A of the General Statutes is reenacted as it existed immediately before its repeal and reads as rewritten:

"Part 2G. Plastic Bag Management.

**"§ 130A-309.120. Findings.**

The General Assembly makes the following findings:

- (1) Distribution of plastic bags by retailers to consumers for use in carrying, transporting, or storing purchased goods has a detrimental effect on the environment of the State.
- (2) Discarded plastic bags contribute to overburdened landfills, threaten wildlife and marine life, degrade the beaches and other natural landscapes of ~~North Carolina's coast,~~ North Carolina, and, in many cases, require consumption of oil and natural gas during the manufacturing process.
- (3) It is in the best interest of the citizens of this State to gradually reduce the distribution and use of plastic bags.
- (4) ~~Environmental degradation is especially burdensome in counties with barrier islands where soundside and ocean pollution are more significant, where removing refuse from such isolated places is more difficult and expensive, where such refuse deters tourism, and where the presence of a National Wildlife Refuge or National Seashore shows that the federal government places special value on protecting the natural environment in that vicinity.~~
- (5) ~~The barrier islands are most relevant in that they are where sea turtles come to nest. North Carolina has some of the most important sea turtle nesting areas on the East Coast, due to the proximity of the islands to the Gulf Stream. Plastic bag debris can be harmful to sea turtles and other land and marine life.~~

1 The waters adjacent to the barrier islands, because they serve as habitat for the  
2 turtles, are particularly sensitive to waterborne debris pollution.

3 ~~(6) Inhabited barrier islands are visited by a high volume of tourists and  
4 therefore experience a high consumption of bags relative to their permanent  
5 population due to large numbers of purchases from restaurants, groceries,  
6 beach shops, and other retailers by the itinerant tourist population.~~

7 ~~(7) Barrier islands are small and narrow, and therefore the comparative impact of  
8 plastic bags on the barrier islands is high.~~

9 **"§ 130A-309.121. Definitions.**

10 As used in this Part, the following definitions apply:

11 (1) Plastic bag. – A carryout bag composed primarily of thermoplastic synthetic  
12 polymeric material, which is provided by a store to a customer at the point of  
13 sale and incidental to the purchase of other goods.

14 (2) Prepared foods retailer. – A retailer primarily engaged in the business of  
15 selling prepared foods, as that term is defined in G.S. 105-164.3, to  
16 consumers.

17 ~~(2a)~~(3) Recycled content. – Content that is either postconsumer, postindustrial, or a  
18 mix of postconsumer and postindustrial.

19 ~~(3)~~(4) Recycled paper bag. – A paper bag that meets all of the following  
20 requirements:

21 a. The bag is manufactured from at least forty percent (40%) recycled  
22 content.

23 b. The bag displays the words "made from recycled material" and  
24 "recyclable."

25 (5) Retailer. – A person who offers goods for sale in this State to consumers and  
26 who provides a single-use plastic bag to the consumer to carry or transport the  
27 goods for free or for a nominal charge.

28 (6) Reusable bag. – A bag with handles that is specifically designed and  
29 manufactured for multiple reuse and is made of one of the following materials:

30 a. Nonwoven polypropylene or other plastic material with a minimum  
31 weight of 80 grams per square meter.

32 b. Cloth or other machine washable fabric.

33 **"§ 130A-309.122. Certain plastic bags banned.**

34 No retailer shall provide customers with plastic bags unless the bag is a reusable bag, or the  
35 bag is used solely to hold sales to an individual customer of otherwise unpackaged portions of  
36 the following items:

37 (1) Fresh fish or fresh fish products.

38 (2) Fresh meat or fresh meat products.

39 (3) Fresh poultry or fresh poultry products.

40 (4) Fresh produce.

41 **"§ 130A-309.123. Substitution of paper bags restricted.**

42 (a) A retailer subject to G.S. 130A-309.122 may substitute paper bags for the plastic bags  
43 banned by that section, but only if all of the following conditions are met:

44 (1) The paper bag is a recycled paper bag.

45 (2) The retailer offers a cash refund to any customer who uses the customer's own  
46 reusable bags instead of the bags provided by the retailer. The amount of the  
47 refund shall be equal to the cost to the retailer of providing a recycled paper  
48 bag, multiplied by the number of reusable bags filled with the goods purchased  
49 by the customer. For purposes of this subdivision, "cash refund" includes a  
50 credit against the cost of goods purchased.

1 (b) Nothing in this Part shall prevent a retailer from providing customers with reused  
2 packaging materials originally used for goods received from the retailer's wholesalers or  
3 suppliers.

4 (c) Notwithstanding subsection (a) of this section, a prepared foods retailer may package  
5 prepared foods in a recycled paper bag, regardless of the availability of a reusable bag, in order  
6 to comply with food sanitation or handling standards or best practices.

7 **"§ 130A-309.124. Required signage.**

8 A retailer subject to G.S. 130A-309.122 other than a prepared foods retailer shall display a  
9 sign in a location viewable by customers containing the following notice: "[county name] County  
10 discourages the use of single-use plastic and paper bags to protect our environment from excess  
11 litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you  
12 are not able to, a 100% recycled paper bag will be furnished for your use." The name of the  
13 county where the retailer displaying the sign is located should be substituted for "[county name]"  
14 in the language set forth in this section.

15 ~~**"§ 130A-309.125. Applicability.**~~

16 ~~(a) This Part applies only in a county which includes a barrier island or barrier peninsula,  
17 in which the barrier island or peninsula meets both of the following conditions:~~

- 18 ~~(1) It has permanent inhabitation of 200 or more residents and is separated from  
19 the North Carolina mainland by a sound.~~  
20 ~~(2) It contains either a National Wildlife Refuge or a portion of a National  
21 Seashore.~~

22 ~~(b) Within any county covered by subsection (a) of this section, this Part applies only to  
23 an island or peninsula that both:~~

- 24 ~~(1) Is bounded on the east by the Atlantic Ocean.~~  
25 ~~(2) Is bounded on the west by a coastal sound."~~

26 **SECTION 4.** For purposes of this section, "product stewardship plan" means a plan  
27 developed by a producer of covered single-use products either individually or as part of an  
28 organization of product producers to meet specified goals for increases in recycling and  
29 composting of recyclable and compostable covered single-use products. No later than March 1,  
30 2022, the Department of Environmental Quality shall report to the Environmental Review  
31 Commission with findings and a proposal for legislation to establish a system for producers of  
32 certain products other than those regulated in this act to create and carry out product stewardship  
33 plans. In creating the report, the Department shall consult with stakeholders that include, at a  
34 minimum, local governments, the State's recycling industry, manufacturers and wholesalers of  
35 single-use products, and retailers that utilize single-use products. The report shall include, at a  
36 minimum, recommendations for the following:

- 37 (1) The types of products that should be subject to product stewardship plans. In  
38 reaching its recommendation, the Department shall consider categories of  
39 products not already managed under this act which entities processing  
40 recyclable materials do not currently purchase or purchase a quantity that is  
41 less than the supply of full bales of that type of fully sorted material available  
42 in the State from existing recycling programs.  
43 (2) The goals and time line achievable for increasing of postconsumer content in  
44 covered products, creating market demand for recycling of covered products,  
45 and, if no market can be established, for transition to compostable products.

46 **SECTION 5.** Notwithstanding G.S. 130A-309.14(n), as enacted by Section 1 of this  
47 act, State agencies and agencies of political subdivisions of the State may continue to use stocks  
48 of food service ware purchased prior to October 1, 2023, until such stocks are exhausted.  
49 Notwithstanding G.S. 130A-309.239, as enacted by Section 2 of this act, prepared foods retailers  
50 in the State may continue to use stocks of food service ware purchased prior to October 1, 2023,  
51 until the earlier of July 1, 2024, or when such stocks are exhausted. Notwithstanding Part 2G of

1 Article 9 of Chapter 130A of the General Statutes, as reenacted by Section 3 of this act, a retailer  
2 may continue to use stocks of plastic bags subject to the ban enacted by that Part until the earlier  
3 of July 1, 2024, or when such stocks are exhausted.

4 **SECTION 6.** Sections 1, 2, and 3 of this act become effective October 1, 2023, and  
5 apply to retail sales on or after that date. The remainder of this act is effective when it becomes  
6 law.