



# FRUITA COLORADO

## CITY COUNCIL WORKSHOP MEETING

Fruita Civic Center

Tuesday, August 23, 2022 at 6:45 PM

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### AGENDA

#### AGENDA ITEMS

- [1.](#) DISCUSSION OF PLASTIC POLLUTION REDUCTION ACT (HB21-1162) (6:45 - 7:00 PM)
- [2.](#) BUILDING DEPARTMENT SERVICES (7:00 - 7:30 PM)
3. OTHER ITEMS (7:30 PM)



# FRUITA

## COLORADO

## AGENDA ITEM COVER SHEET

**TO:** Fruita City Council and Mayor

**FROM:** Margaret Sell, Finance Director

**DATE:** August 23, 2022

**AGENDA TEXT:** DISCUSSION OF PLASTIC POLLUTION REDUCTION ACT (HB21-1162)

### BACKGROUND

The purpose of this agenda item is to provide information on the upcoming implementation of the plastic and paper bag fee, future restrictions on provision of plastic bags and expanded polystyrene containers, and begin discussion on education and outreach efforts, penalty and enforcement provisions, and fees.

House Bill 21-1162, Plastic Pollution Reduction Act (CRS 25-17-501 et seq), was signed into law by the Governor on July 6, 2021. House Bill 21-1162. This bill:

1. imposes a minimum fee of ten cents per recycled paper carryout bag or single use plastic carryout bag of which 60% is remitted to the city and 40% is retained by the store
2. sets forth the purposes for which revenue received by the city may be used
3. phases out the provision of single-use plastic carryout bags and expanded polystyrene (styrofoam) products;
4. repeals the state preemption that prohibits local governments from regulating the use or sale of specific plastic materials or products; and
5. authorizes local governments to enforce violations and impose civil penalties.

A copy of the House Bill and Final Fiscal Note from the Legislative Council Staff is attached for your information and review.

### Implementation Timeline

January 1, 2023	Carryout bag fee enacted in stores; local governments may enforce and assess civil penalties
January 1, 2024	Single-use plastic carryout bags prohibited in stores and retail food establishments, excluding current inventory
January 1, 2024	Expanded polystyrene prohibited in retail food establishments, excluding current inventory
June 1, 2024	Retail stores may no longer use plastic bags. Restaurants may continue using plastic bags after this date.

- April 1, 2024: Fee remittance begins for previous quarter, due quarterly.
- July 1, 2024 Local governments may enact, implement, or enforce more stringent regulations

### **Key Provisions**

Carryout bag fees. Beginning January 1, 2023, a store may provide a customer with one or more single-use plastic or recycled paper carryout bags for a fee of ten cents per bag, or a higher fee adopted by the municipality or county in which the store is located. Customers who provide evidence of participating in a federal or state food assistance program are exempt from the carryout bag fee. Stores are required to provide customers with a transaction receipt for the fee, conspicuously display a sign that alerts customers to the fee and are prohibited from refunding customers any portion of the fee.

Single-use plastic carryout bags. This bill prohibits stores and retail food establishments from providing single-use plastic carryout bags beginning January 1, 2024. Subject to the carryout bag fees discussed above, a store or retail food establishment may distribute, until June 1, 2024, any remaining inventory of single-use plastic carryout bags purchased prior to January 1, 2024.

Expanded polystyrene products. Effective January 1, 2024, this bill prohibits retail food establishments from providing an expanded polystyrene product for use as a container for ready-to-eat food in this state, except that retail food establishments may distribute any remaining inventory of products purchased prior to January 1, 2024.

Enforcement and penalties. The bill authorizes local governments to enforce against violations of the bill in a manner that they choose, except that they may not enforce violations against retail food establishments located within a school.

Use of revenues. Revenues received by the city shall be used for administrative and enforcement costs and any recycling, composting, or other waste diversion programs and related outreach and education activities

### **Definitions**

"SMALL STORE" means a store that operates solely in Colorado, has three or fewer locations in the state, and is not part of a franchise, corporation, or partnership that has physical locations outside of Colorado.

"STORE" means a grocery store, supermarket, convenience store, liquor store, dry cleaner, pharmacy, drug store, clothing store, or other type of retail establishment at which carryout bags are traditionally provided to customers. "STORE" includes a farmers' market, roadside market or stand, festival, or other temporary vendor or event that includes temporary vendors.

# An Act

HOUSE BILL 21-1162

BY REPRESENTATIVE(S) Valdez A. and Cutter, Amabile, Bernett, Hooton, Kipp, Sirota, Woodrow, Bacon, Bird, Boesenecker, Caraveo, Duran, Froelich, Jackson, Jodeh, Kennedy, Lontine, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Tipper, Titone, Gonzales-Gutierrez, McCluskie;  
also SENATOR(S) Gonzales and Garcia, Bridges, Buckner, Danielson, Fenberg, Ginal, Jaquez Lewis, Lee, Story.

CONCERNING THE MANAGEMENT OF PLASTIC PRODUCTS.

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

**SECTION 1.** In Colorado Revised Statutes, **repeal** 25-17-104 as follows:

**25-17-104. Local government preemption.** ~~No unit of local government shall require or prohibit the use or sale of specific types of plastic materials or products or restrict or mandate containers, packaging, or labeling for any consumer products.~~

**SECTION 2.** In Colorado Revised Statutes, **add** part 5 to article 17 of title 25 as follows:

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

PART 5  
MANAGEMENT OF PLASTIC PRODUCTS

**25-17-501. Short title.** THE SHORT TITLE OF THIS PART 5 IS THE "PLASTIC POLLUTION REDUCTION ACT".

**25-17-502. Legislative declaration.** THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT LIMITING THE USE OF SINGLE-USE PLASTIC CARRYOUT BAGS AND EXPANDED POLYSTYRENE PRODUCTS WILL MITIGATE THE HARMFUL EFFECTS ON OUR STATE'S NATURAL RESOURCES AND OUR ENVIRONMENT THAT RESULT FROM DISPOSING OF THESE PRODUCTS IN OUR LANDFILLS.

**25-17-503. Definitions - rules.** AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "CARRYOUT BAG" MEANS A BAG THAT IS FURNISHED TO A CUSTOMER AT A STORE OR RETAIL FOOD ESTABLISHMENT AT THE POINT OF SALE FOR USE BY THE CUSTOMER TO TRANSPORT OR CARRY PURCHASED ITEMS.

(b) "CARRYOUT BAG" DOES NOT INCLUDE:

(I) A BAG MADE OF PAPER WHEN THE PAPER HAS A BASIS WEIGHT OF THIRTY POUNDS OR LESS;

(II) A BAG THAT A PHARMACY PROVIDES TO A CUSTOMER PURCHASING PRESCRIPTION MEDICATION;

(III) A BAG THAT A CUSTOMER USES INSIDE A STORE TO:

(A) PACKAGE LOOSE OR BULK ITEMS, SUCH AS FRUITS, VEGETABLES, NUTS, GRAINS, CANDY, OR GREETING CARDS; NAILS, BOLTS, SCREWS, OR OTHER SMALL HARDWARE ITEMS; LIVE INSECTS, FISH, CRUSTACEANS, MOLLUSKS, OR OTHER SMALL SPECIES; AND BULK SEED, BULK LIVESTOCK FEED, OR BULK PET FEED;

(B) CONTAIN OR WRAP FROZEN FOODS, MEAT, SEAFOOD, FISH, FLOWERS, POTTED PLANTS, OR OTHER ITEMS THAT, IF THEY WERE TO COME

IN CONTACT WITH OTHER ITEMS, COULD DAMPEN OR CONTAMINATE THE OTHER ITEMS; OR

(C) CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY GOODS; OR

(IV) A LAUNDRY, DRY CLEANING, OR GARMENT BAG.

(2) "CONTAINER" MEANS A RECEPTACLE UPON WHICH OR INSIDE WHICH FOOD MAY BE PLACED FOR CONSUMPTION, WHETHER OR NOT THE RECEPTACLE CAN BE FULLY CLOSED. "CONTAINER" INCLUDES HINGED FOOD CONTAINERS, PLATES, BOWLS, CUPS, AND TRAYS.

(3) "EXPANDED POLYSTYRENE" MEANS BLOWN POLYSTYRENE, COMMONLY KNOWN AS STYROFOAM™, AND ANY OTHER EXPANDED OR EXTRUDED FOAM CONSISTING OF THERMOPLASTIC PETROCHEMICAL MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY TECHNIQUES THAT MAY INCLUDE:

(a) FOR EXPANDABLE BEAD POLYSTYRENE, FUSION OF POLYMER SPHERES;

(b) INJECTION MOLDING;

(c) FOAM MOLDING; AND

(d) FOR EXTRUDED FOAM POLYSTYRENE, EXTRUSION BLOW MOLDING.

(4) (a) "FOOD" MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE SUBSTANCE, ICE, BEVERAGE, OR INGREDIENT USED OR INTENDED FOR USE OR FOR SALE, IN WHOLE OR IN PART, FOR HUMAN CONSUMPTION.

(b) "FOOD" DOES NOT INCLUDE A DRUG, AS THAT TERM IS DEFINED IN SECTION 25-5-402 (9).

(5) "PLASTIC" MEANS A SYNTHETIC MATERIAL MADE FROM LINKING MONOMERS THROUGH A CHEMICAL REACTION TO CREATE A POLYMER CHAIN THAT CAN BE MOLDED OR EXTRUDED AT HIGH HEAT INTO VARIOUS SOLID FORMS THAT RETAIN THEIR DEFINED SHAPES DURING THEIR LIFE CYCLE AND AFTER DISPOSAL.

(6) "POINT OF SALE" MEANS A CHECK-OUT STAND, CASH REGISTER, OR OTHER POINT AT WHICH A SALES TRANSACTION OCCURS IN A STORE OR RETAIL FOOD ESTABLISHMENT OR, FOR PRODUCTS THAT ARE ORDERED REMOTELY FROM A STORE OR RETAIL FOOD ESTABLISHMENT AND DELIVERED, THE LOCATION WHERE THE PRODUCTS ARE DELIVERED.

(7) "READY-TO-EAT FOOD" MEANS FOOD THAT IS COOKED OR OTHERWISE PREPARED IN ADVANCE FOR IMMEDIATE CONSUMPTION.

(8) "RECYCLED PAPER CARRYOUT BAG" MEANS A CARRYOUT BAG MADE FROM ONE HUNDRED PERCENT:

(a) RECYCLED MATERIAL; OR

(b) OTHER POST-CONSUMER CONTENT.

(9) (a) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET FORTH IN SECTION 25-4-1602 (14) EXCEPT AS PROVIDED IN SUBSECTION (9)(b) OF THIS SECTION.

(b) "RETAIL FOOD ESTABLISHMENT" DOES NOT INCLUDE FARMERS MARKETS AND ROADSIDE MARKETS AS DESCRIBED IN SECTION 25-4-1602 (14)(j).

(10) (a) "REUSABLE CARRYOUT BAG" MEANS A CARRYOUT BAG THAT IS DESIGNED AND MANUFACTURED FOR AT LEAST ONE HUNDRED TWENTY-FIVE USES, CAN CARRY AT LEAST TWENTY-TWO POUNDS OVER A DISTANCE OF ONE HUNDRED SEVENTY-FIVE FEET, HAS STITCHED HANDLES, AND IS MADE OF CLOTH, FIBER, OR OTHER FABRIC OR A RECYCLED MATERIAL SUCH AS POLYETHYLENE TEREPHTHALATE (PET).

(b) "REUSABLE CARRYOUT BAG" DOES NOT INCLUDE BAGS MADE OF BIOLOGICALLY BASED POLYMERS SUCH AS CORN OR OTHER PLANT SOURCES; EXCEPT THAT A CARRYOUT BAG MADE OF HEMP IS A REUSABLE CARRYOUT BAG IF IT IS DESIGNED AND MANUFACTURED IN ACCORDANCE WITH SUBSECTION (10)(a) OF THIS SECTION.

(11) "SCHOOL" HAS THE MEANING SET FORTH IN SECTION 23-3.9-101 (6).

(12) (a) "SINGLE-USE PLASTIC CARRYOUT BAG" MEANS A CARRYOUT BAG THAT IS A SINGLE-USE PLASTIC PRODUCT MADE PREDOMINANTLY OF PLASTIC DERIVED FROM NATURAL GAS, PETROLEUM, OR A BIOLOGICALLY BASED SOURCE, SUCH AS CORN OR OTHER PLANT SOURCES, AND THAT IS PROVIDED TO A CUSTOMER AT THE POINT OF SALE.

(b) "SINGLE-USE PLASTIC CARRYOUT BAG" DOES NOT INCLUDE A REUSABLE CARRYOUT BAG.

(13) "SMALL STORE" MEANS A STORE THAT OPERATES SOLELY IN COLORADO, HAS THREE OR FEWER LOCATIONS IN THE STATE, AND IS NOT PART OF A FRANCHISE, CORPORATION, OR PARTNERSHIP THAT HAS PHYSICAL LOCATIONS OUTSIDE OF COLORADO.

(14) (a) "STORE" MEANS, EXCEPT AS PROVIDED IN SUBSECTION (14)(c) OF THIS SECTION, A GROCERY STORE, SUPERMARKET, CONVENIENCE STORE, LIQUOR STORE, DRY CLEANER, PHARMACY, DRUG STORE, CLOTHING STORE, OR OTHER TYPE OF RETAIL ESTABLISHMENT AT WHICH CARRYOUT BAGS ARE TRADITIONALLY PROVIDED TO CUSTOMERS.

(b) "STORE" INCLUDES A FARMERS' MARKET, ROADSIDE MARKET OR STAND, FESTIVAL, OR OTHER TEMPORARY VENDOR OR EVENT THAT INCLUDES TEMPORARY VENDORS.

(c) "STORE" DOES NOT INCLUDE A SMALL STORE.

**25-17-504. Restrictions on use of single-use plastic carryout bag - inventory exception - repeal.** (1) SUBJECT TO SECTION 25-17-505 (1), ON AND AFTER JANUARY 1, 2024, A STORE OR RETAIL FOOD ESTABLISHMENT SHALL NOT PROVIDE A SINGLE-USE PLASTIC CARRYOUT BAG TO A CUSTOMER; EXCEPT THAT A RETAIL FOOD ESTABLISHMENT NEED NOT COMPLY WITH THIS SECTION IF THE RETAIL FOOD ESTABLISHMENT:

(a) PREPARES OR SERVES FOOD IN INDIVIDUAL PORTIONS FOR IMMEDIATE ON- OR OFF-PREMISES CONSUMPTION; AND

(b) IS NOT A GROCERY STORE OR CONVENIENCE STORE.

(2) (a) SUBJECT TO THE CARRYOUT BAG FEE APPLIED TO SINGLE-USE PLASTIC CARRYOUT BAGS IN SECTION 25-17-505, A STORE OR RETAIL FOOD



ESTABLISHMENT MAY PROVIDE A SINGLE-USE PLASTIC CARRYOUT BAG TO A CUSTOMER ON OR BEFORE JUNE 1, 2024, IF THE SINGLE-USE PLASTIC CARRYOUT BAG WAS PART OF THE STORE'S OR RETAIL FOOD ESTABLISHMENT'S INVENTORY BEFORE JANUARY 1, 2024.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

**25-17-505. Carryout bag fee - disposition of money - repeal.**

(1) (a) ON AND AFTER JANUARY 1, 2023, AND BEFORE JANUARY 1, 2024, A STORE MAY PROVIDE A CUSTOMER WITH ONE OR MORE RECYCLED PAPER CARRYOUT BAGS OR SINGLE-USE PLASTIC CARRYOUT BAGS AT THE POINT OF SALE ONLY IF THE CUSTOMER PAYS A CARRYOUT BAG FEE OF TEN CENTS PER RECYCLED PAPER CARRYOUT BAG OR SINGLE-USE PLASTIC CARRYOUT BAG, OR A HIGHER FEE IF A MUNICIPALITY OR COUNTY IN WHICH THE STORE IS LOCATED RAISES THE FEE AMOUNT BY ORDINANCE OR RESOLUTION. FOR EACH CARRYOUT BAG FEE COLLECTED PURSUANT TO THIS SUBSECTION (1)(a), THE STORE SHALL:

(I) REMIT, IN ACCORDANCE WITH SUBSECTION (3)(d) OF THIS SECTION, SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH THE STORE IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO THE COUNTY WITHIN WHICH THE STORE IS LOCATED, WHICH MUNICIPALITY OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

(A) ITS ADMINISTRATIVE AND ENFORCEMENT COSTS INCURRED AS A RESULT OF THIS SECTION; AND

(B) FOR ANY RECYCLING, COMPOSTING, OR OTHER WASTE DIVERSION PROGRAMS AND RELATED OUTREACH AND EDUCATION ACTIVITIES; AND

(II) RETAIN FORTY PERCENT, WHICH PORTION OF THE FEE DOES NOT COUNT AS REVENUE FOR THE PURPOSE OF CALCULATING SALES TAX.

(b) THE CARRYOUT BAG FEE SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY TO A CUSTOMER THAT PROVIDES EVIDENCE TO THE STORE THAT THE CUSTOMER IS A PARTICIPANT IN A FEDERAL OR STATE FOOD ASSISTANCE PROGRAM.

(c) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE SEPTEMBER 1,

2024.

(2) (a) ON AND AFTER JANUARY 1, 2024, A STORE MAY PROVIDE A CUSTOMER WITH ONE OR MORE RECYCLED PAPER CARRYOUT BAGS AT THE POINT OF SALE ONLY IF THE CUSTOMER PAYS A CARRYOUT BAG FEE OF TEN CENTS PER RECYCLED PAPER CARRYOUT BAG, OR A HIGHER FEE IF A MUNICIPALITY OR COUNTY IN WHICH THE STORE IS LOCATED RAISES THE FEE AMOUNT BY ORDINANCE OR RESOLUTION. FOR EACH CARRYOUT BAG FEE COLLECTED PURSUANT TO THIS SUBSECTION (2), THE STORE SHALL:

(I) REMIT, IN ACCORDANCE WITH SUBSECTION (3)(d) OF THIS SECTION, SIXTY PERCENT TO THE MUNICIPALITY WITHIN WHICH THE STORE IS LOCATED OR, IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO THE COUNTY WITHIN WHICH THE STORE IS LOCATED, WHICH MUNICIPALITY OR COUNTY SHALL USE THE REMITTED FEE TO PAY:

(A) ITS ADMINISTRATIVE AND ENFORCEMENT COSTS INCURRED AS A RESULT OF THIS SECTION; AND

(B) FOR ANY RECYCLING, COMPOSTING, OR OTHER WASTE DIVERSION PROGRAMS AND RELATED OUTREACH AND EDUCATION ACTIVITIES; AND

(II) RETAIN FORTY PERCENT, WHICH PORTION OF THE FEE DOES NOT COUNT AS REVENUE FOR THE PURPOSE OF CALCULATING SALES TAX.

(b) THE CARRYOUT BAG FEE SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO A CUSTOMER THAT PROVIDES EVIDENCE TO THE STORE THAT THE CUSTOMER IS A PARTICIPANT IN A FEDERAL OR STATE FOOD ASSISTANCE PROGRAM.

(c) (I) BEGINNING JANUARY 1, 2024, AND ENDING JUNE 1, 2024, A STORE MAY PROVIDE A CUSTOMER WITH A SINGLE-USE PLASTIC CARRYOUT BAG AT THE POINT OF SALE FOR THE CARRYOUT BAG FEE DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION ONLY IF THE SINGLE-USE PLASTIC CARRYOUT BAG IS WITHIN THE STORE'S REMAINING INVENTORY PURSUANT TO SECTION 25-17-504 (2)(a). THE STORE SHALL REMIT THE FEE COLLECTED PURSUANT TO THIS SUBSECTION (2)(c) IN ACCORDANCE WITH SUBSECTION (2)(a) OF THIS SECTION.

(II) THIS SUBSECTION (2)(c) IS REPEALED, EFFECTIVE JULY 1, 2024.

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(3) IN PROVIDING CARRYOUT BAGS FOR A FEE PURSUANT TO THIS SECTION, A STORE SHALL:

(a) FOR EACH CUSTOMER PROVIDED A CARRYOUT BAG FOR A FEE, PROVIDE ON THE CUSTOMER'S TRANSACTION RECEIPT A RECORD OF THE NUMBER OF CARRYOUT BAGS PROVIDED AS PART OF THE TRANSACTION AND THE TOTAL AMOUNT OF FEES CHARGED FOR THE CARRYOUT BAGS PROVIDED, ITEMIZED BY TYPE OF CARRYOUT BAG;

(b) NOT REFUND TO THE CUSTOMER ANY PORTION OF THE CARRYOUT BAG FEE, EITHER DIRECTLY OR INDIRECTLY, OR ADVERTISE OR OTHERWISE CONVEY TO CUSTOMERS THAT ANY PORTION OF THE CARRYOUT BAG FEE WILL BE REFUNDED;

(c) CONSPICUOUSLY DISPLAY A SIGN IN A LOCATION INSIDE OR OUTSIDE THE STORE, WHICH SIGN ALERTS CUSTOMERS ABOUT THE CARRYOUT BAG FEE; AND

(d) (I) ON A QUARTERLY BASIS STARTING APRIL 1, 2024, REMIT FROM THE TOTAL AMOUNT OF CARRYOUT BAG FEES COLLECTED IN THE PREVIOUS QUARTER THE AMOUNT THAT IS OWED TO THE MUNICIPALITY OR COUNTY:

(A) TO THE FINANCE DEPARTMENT OR DIVISION OR EQUIVALENT AGENCY OF THE MUNICIPALITY WITHIN WHICH THE STORE IS LOCATED; OR

(B) IF THE STORE IS NOT LOCATED WITHIN A MUNICIPALITY, TO THE FINANCE DEPARTMENT OR DIVISION OR EQUIVALENT AGENCY OF THE COUNTY WITHIN WHICH THE STORE IS LOCATED.

(II) A STORE NEED NOT REMIT CARRYOUT BAG FEES COLLECTED IN ANY QUARTER IN WHICH THE COLLECTED FEES TOTAL LESS THAN TWENTY DOLLARS. THE STORE SHALL RETAIN THOSE COLLECTED FEES UNTIL THE STORE HAS MORE THAN TWENTY DOLLARS WORTH OF COLLECTED FEES TO REMIT AND SHALL REMIT THOSE FEES AS PART OF THE NEXT QUARTERLY REMITTANCE.

**25-17-506. Prohibition on use of expanded polystyrene food containers.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, EFFECTIVE JANUARY 1, 2024, A RETAIL FOOD ESTABLISHMENT SHALL NOT DISTRIBUTE AN EXPANDED POLYSTYRENE PRODUCT FOR USE AS A CONTAINER

FOR READY-TO-EAT FOOD IN THIS STATE.

(2) IF A RETAIL FOOD ESTABLISHMENT PURCHASED EXPANDED POLYSTYRENE PRODUCTS BEFORE JANUARY 1, 2024, THE RETAIL FOOD ESTABLISHMENT MAY DISTRIBUTE ANY REMAINING INVENTORY OF THE EXPANDED POLYSTYRENE PRODUCTS THEN PURCHASED FOR USE AS CONTAINERS FOR READY-TO-EAT FOOD IN THIS STATE UNTIL THE INVENTORY IS DEPLETED.

**25-17-507. Enforcement - possible penalties.** (1) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (1)(b) AND (1)(c) OF THIS SECTION, A LOCAL GOVERNMENT MAY ENFORCE A VIOLATION OF THIS PART 5 AGAINST A STORE OR RETAIL FOOD ESTABLISHMENT THAT IS LOCATED WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT IN THE MANNER THAT THE LOCAL GOVERNMENT CHOOSES.

(b) (I) A COUNTY THAT CHOOSES TO ENFORCE A VIOLATION OF THIS PART 5 AGAINST A STORE OR RETAIL FOOD ESTABLISHMENT LOCATED WITHIN THE UNINCORPORATED BOUNDARIES OF THE COUNTY MAY SEEK INJUNCTIVE RELIEF AGAINST THE STORE OR RETAIL FOOD ESTABLISHMENT OR MAY ASSESS THE FOLLOWING CIVIL PENALTIES AGAINST THE STORE OR RETAIL FOOD ESTABLISHMENT:

(A) UP TO FIVE HUNDRED DOLLARS FOR A SECOND VIOLATION; OR

(B) UP TO ONE THOUSAND DOLLARS FOR A THIRD OR SUBSEQUENT VIOLATION.

(II) A COUNTY THAT CHOOSES TO ENFORCE A VIOLATION OF THIS PART 5 MAY BOTH SEEK INJUNCTIVE RELIEF AND IMPOSE A CIVIL PENALTY IN ACCORDANCE WITH THIS SUBSECTION (1)(b).

(c) A LOCAL GOVERNMENT SHALL NOT ENFORCE A VIOLATION OF THIS PART 5 AGAINST A RETAIL FOOD ESTABLISHMENT LOCATED WITHIN A SCHOOL.

(2) FOR PURPOSES OF THIS SECTION, EACH RETAIL SALES TRANSACTION IN WHICH A VIOLATION OF THIS PART 5 IS COMMITTED, REGARDLESS OF WHETHER MULTIPLE VIOLATIONS OF THIS PART 5 ARE COMMITTED IN ONE RETAIL SALES TRANSACTION, CONSTITUTES A SINGLE

VIOLATION OF THIS PART 5.


**25-17-508. Local government regulation - preemption.** ON AND AFTER JULY 1, 2024, A LOCAL GOVERNMENT MAY ENACT, IMPLEMENT, OR ENFORCE ANY ORDINANCE, RESOLUTION, RULE, OR CHARTER PROVISION THAT IS AS STRINGENT AS OR MORE STRINGENT THAN THIS PART 5.

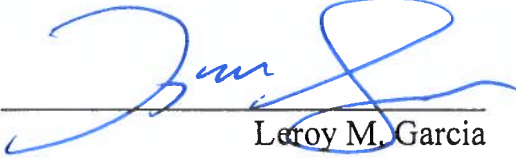
**25-17-509. Exemption for medical products.** NOTHING IN THIS PART 5 PROHIBITS OR LIMITS THE USE OF ANY MATERIAL USED IN THE PACKAGING OF A PRODUCT THAT IS REGULATED AS A DRUG, MEDICAL DEVICE, OR DIETARY SUPPLEMENT BY THE FOOD AND DRUG ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE "FEDERAL FOOD, DRUG, AND COSMETIC ACT", 21 U.S.C. SEC. 321 ET SEQ., AS AMENDED, OR ANY EQUIPMENT AND MATERIALS USED TO MANUFACTURE SUCH PRODUCTS.

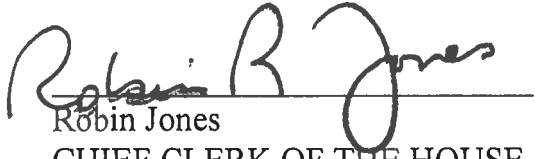
**SECTION 3. Effective date.** This act takes effect upon passage; except that section 1 of this act takes effect July 1, 2024.

**SECTION 4. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

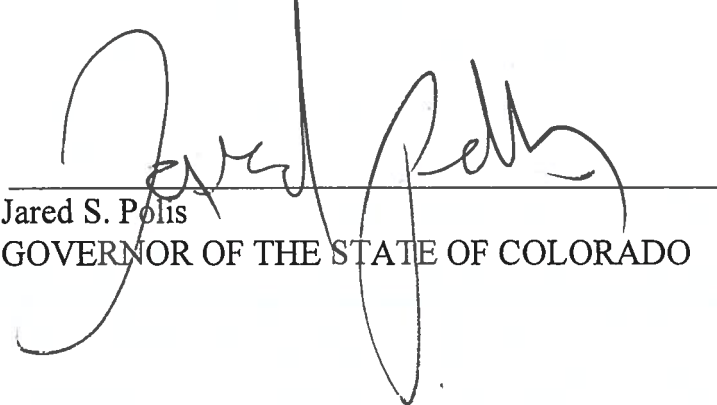
  
Alec Garnett  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

  
Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

  
Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

  
Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED July 6, 2021 at 2:20pm  
(Date and Time)

  
Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO



Legislative Council Staff  
Nonpartisan Services for Colorado's Legislature

# Final Fiscal Note

**Drafting Number:** LLS 21-0395      **Date:** August 27, 2021  
**Prime Sponsors:** Rep. Valdez A.; Cutter      **Bill Status:** Signed into Law  
 Sen. Gonzales; Garcia      **Fiscal Analyst:** Christina Van Winkle | 303-866-6289  
 Christina.VanWinkle@state.co.us

**Bill Topic:**      **MANAGEMENT OF PLASTIC PRODUCTS**

- Summary of Fiscal Impact:**
- State Revenue
  - State Expenditure
  - State Transfer
  - TABOR Refund
  - School District/Local Government
  - Statutory Public Entity

This bill phases out single-use plastic carryout bags and expanded polystyrene food containers. It authorizes local governments to enforce violations and impose civil penalties. This bill increases state expenditures beginning in FY 2024-25, and local government revenue and expenditures beginning in FY 2022-23.

**Appropriation Summary:**      No appropriation is required.

**Fiscal Note Status:**      The fiscal note reflects the enacted bill.

**Table 1**  
**State Fiscal Impacts Under HB 21-1162**

		Budget Year FY 2021-22	Out Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-	
Expenditures	General Fund	-	\$51,838	\$103,675
Transfers		-	-	
TABOR Refund		-	-	

## Summary of Legislation

This bill phases out the provision of single-use plastic carryout bags and expanded polystyrene products; repeals the state preemption that prohibits local governments from regulating the use or sale of specific plastic materials or products; and authorizes local governments to enforce violations and impose civil penalties. Table 2 below provides a timeline of when various provisions in the bill begin, followed by a narrative explanation.

**Table 2**  
**Implementation Timeline**

Effective Date	Provision
January 1, 2023	carryout bag fee enacted in stores; local governments may enforce and assess civil penalties
January 1, 2024	single-use plastic carryout bags prohibited in stores and retail food establishments, excluding current inventory
January 1, 2024	expanded polystyrene prohibited in retail food establishments, excluding current inventory
July 1, 2024	Local governments may enact, implement, or enforce more stringent regulations

**Carryout bag fees.** Beginning January 1, 2023, a store may provide a customer with one or more single-use plastic or recycled paper carryout bags for a fee of ten cents per bag, or a higher fee adopted by the municipality or county in which the store is located. Customers who provide evidence of participating in a federal or state food assistance program are exempt from the carryout bag fee. Stores are required to provide customers with a transaction receipt for the fee, conspicuously display a sign that alerts customers to the fee, and are prohibited from refunding customers any portion of the fee.

Stores are required to remit 60 percent of the carryout bag fee revenue to the municipality or county in which the store is located on a quarterly basis beginning on April 1, 2024. Municipalities and counties must use the carryout bag fee revenue to pay for administrative and enforcement costs and any recycling, composting, or other waste diversion programs and related outreach and education activities.

**Single-use plastic carryout bags.** This bill prohibits stores and retail food establishments from providing single-use plastic carryout bags beginning January 1, 2024. Subject to the carryout bag fees discussed above, a store or retail food establishment may distribute, until June 1, 2024, any remaining inventory of single-use plastic carryout bags purchased prior to January 1, 2024.

**Expanded polystyrene products.** Effective January 1, 2024, this bill prohibits retail food establishments from providing an expanded polystyrene product for use as a container for ready-to-eat food in this state, except that retail food establishments may distribute any remaining inventory of products purchased prior to January 1, 2024.



**Enforcement and penalties.** The bill authorizes local governments to enforce against violations of the bill in a manner that they choose, except that they may not enforce violations against retail food establishments located within a school. Counties are authorized to seek injunctive relief against a store or retail food establishment and impose a civil penalty of up to \$500 for a second violation and up to \$1,000 for a third or subsequent violation.

## State Expenditures

This bill will increase state expenditures beginning in FY 2024-25 as described below.

**Department of Corrections.** The Department of Corrections is subject to the bill and currently uses expanded polystyrene in their food service operations under certain situations (e.g. for kosher meals and during lock downs). The increased cost to replace the expanded polystyrene with paper products is estimated to be \$103,675 per year, prorated for half a year to \$51,838 in FY 2023-24. The exact amount will depend on the future need to serve meals on disposable containers and the existing inventory prior January 1, 2024. Food service operational costs are paid from the General Fund, and will be requested through the annual budget process.

**Department of Public Health and Environment.** The department may have an increase in workload to respond to inquiries about the prohibitions. This workload increase can be addressed within existing appropriations.

## School Districts

This bill is expected to increase costs for school districts that currently use expanded polystyrene trays for food service beginning in FY 2023-24. According to one estimate, it will cost an additional \$5.80 per pupil per school year to replace expanded polystyrene with alternative products. For informational purposes, there are approximately 890,000 pupils in the state. The amount of the increase will depend on the type of food service facility located in the school, the number of student meals served per day, and the cost of alternative solutions. Some school districts may also have already put policies in place to limit the use of plastic products.

## Other Local Governments

Other local governments, including cities and counties, will have fiscal impacts under the bill, as described below.

**Local revenue.** This bill is expected to increase revenue for local governments from the percentage of bag fees remitted beginning in FY 2023-24. Local governments may also have an increase in revenue from penalties collected from stores and retail food establishments for violations. To the extent that revenue increases have not been exempted from TABOR limits by voters in affected local jurisdictions, the amount required to be refunded to taxpayers under TABOR will increase.

**Local expenditures.** The bill affects local government expenditures in several areas. Local governments may have an increase in workload and related expenses to enforce and investigate compliance with the bill. Also, to the extent local governments use single-use plastics in food service operations, including county jails and other facilities, costs will increase to switch to alternative products. Finally, this bill may reduce local government costs associated with the clean-up of disposable plastics that become litter or are deposited into stormwater drainage systems.

### **Effective Date**

The bill was signed into law by the Governor and took effect on July 6, 2021, except for Section 1 which repeals the state preemption that prohibits local governments from regulating the use or sale of specific plastic materials or products, which takes effect on July 1, 2024.

### **State and Local Government Contacts**

Corrections  
District Attorneys  
Judicial  
Municipalities  
School Districts

Counties  
Information Technology  
Law  
Public Health and Environment



# FRUITA

## COLORADO

## AGENDA ITEM COVER SHEET

**TO:** Mayor & City Council

**FROM:** Dan Caris, Planning and Development Director

**DATE:** August 23, 2022

**AGENDA TEXT:** Building Department Services

### BACKGROUND

The purpose of this discussion is to review implications of bringing building department services internal as a City department versus continuing to contract with Mesa County to provide these services. Staff has prepared sample positions and salaries for the Council to review with a 75 percent cost recovery (fee revenue for service) as the targeted goal. Staff is not requesting an increase in fees to what is already being charged by Mesa County at the time of building permit. Staff presently has access to software that is being used by the Planning Department which will function sufficiently for permitting purposes and will be implemented in January of 2023.

### FISCAL IMPACT

*N/A currently – but will impact future budgets with new revenues and expenses to staff a building department internally, which will be considered prior to any decision.*

### APPLICABILITY TO CITY GOALS AND OBJECTIVES

Economic Health (EH) The City of Fruita strives to be financially sustainable by enabling a stable economy and supporting a diversity of businesses that offer well-paying jobs that attract educated employees. The City works to be fiscally responsible and continuously seeks ways to allocate resources to services and projects that have the highest impact on the City's priorities. We are the innovative leader for economic development in the Grand Valley. The City wants to ensure the same values and service delivery offered by the Planning & Development Department are seamless with building inspections in the most efficient way possible.

### OPTIONS AVAILABLE TO THE COUNCIL

This item is for the purpose of discussion and direction by the City Council.