



FAQs: for Retail Stores: Plastic Carryout Bag Ban and At-Store Recycling Program

Q: How can I comply with the new law as a retail store?

A: For you to be compliant with this law, any bags distributed at point of sale after Jan. 1, 2021 must meet the reusable bag standard outlined in the Statute and regulations:

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 mm thick;
- b. Is designed and manufactured to be used for at least 125 uses;
- c. Has a volume capacity of at least four 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. Has a tag or label attached to or printed on the bag with content information. 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 bag producer makes a claim that the reusable grocery bag is recyclable; and
- g. A reusable 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 mm thick, in addition to those specified in 7 Del.C. Ch. 60 Subchapter IX, Recycling and Waste Reduction.

The law does not specify any one of these as long as the bag is reusable per the above list of requirements. We suggest working with your bag distributor. These specifications are similar to those of the state of California, so manufacturers that provide reusable bags there can provide those bags for retail stores in Delaware as well.

Q: These bags are more expensive. Can I charge a fee?

A: The law allows retail stores to assess a fee for the reusable bags or paper bags that are provided at checkout.

Q: What do I do with my old inventory of bags?

A: DNREC understands that stores purchase items in advance of needing them. This law, which was passed in July 2019, was explicit in its implementation date of Jan. 1, 2021, providing ample time to reduce inventory and get a supply of reusable bags in place. Plastic carryout bags are banned as of Jan. 1, 2021 at the point of sale. Stores will need to best assess how to manage their remaining inventory of plastic carryout (single-use plastic) bags.

Q: Can I put the plastic bags and film I collect with my other recycling?

A: No. Delaware's Universal Recycling program, which governs commercial customers, does not accept plastic bags or film as recyclable material. Bags and film need to be kept separate and sent to a recycler that can properly recycle them. DNREC has contact information for several companies that offer small-scale or mail-back programs as well as drop-off opportunities. Stores should consult with their company environmental team to see if film/bags can be back-hauled to distribution centers and consolidated for recycling as well. Several recycling companies take truckload quantities of material.

Q: What type of box should I use to collect bags?

A: Any type of container can be used to collect bags. As a best practice to reduce concerns about public health implications of bag recycling, DNREC suggests that you line any container with a larger plastic bag before recycling bags in that container. All the bags you recycle will then get deposited into this larger bag, which can be tied off and removed from your collec-

tion bin. You can then line the bin with a new bag. This process helps to minimize employee interaction with the material, and the larger bag can be recycled with the other material. Similarly, if you participate in a “mail-back” recycling program, DNREC suggests using a similar approach to line the box with a larger bag, which can be disinfected without damaging the cardboard. Again, this bag can be “tied off” and placed inside the box when it’s ready to be shipped to the recycler.

Q: We have heard that reusable bags can contain diseases? How do we protect our employees and customers?

A: There have been several studies done on reusable bags, all of which concluded that cleaning and disinfecting bags eliminates the risk. Because your employees can’t know if a customer has done this, we encourage the following steps to facilitate customers’ use of reusable bags during this time:

1. Let customers know that they must bag merchandise themselves if they use their own reusable bags.
2. Designate the end of checkout lanes or carts as the location where reusable bags have to be filled by the customer.
3. Once the transaction has concluded, disinfect the checkout area (as per CDC guidance) before the next customer is helped. If carts are used, they should be cleaned according to your established cart disinfecting policy.

This minimizes your staff’s interaction with reusable bags while also protecting your customers. There is nothing in the law that prohibits stores from not allowing reusable bags to be used, it is the retailer’s decision to be made on whether or not to allow them.

Q: What must a store do so as not to have to have an At-Store Recycling program?

A: The law requires stores that provide exempt bags continue to provide an At-Store Recycling program. If a store can eliminate the bags outlined below, in addition to plastic carryout bags or reusable film bags, an At-Store Recycling program will not be required:

- Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness.
- Bags used to contain live animals such as fish or insects sold in pet stores.
- Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals.
- Non-handled 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.
- Bags provided to contain an unwrapped food item.
- Nonhandled bags that are designed to be placed over articles of clothing on a hanger.

Q: Can DNREC provide any assistance to help stores attain compliance with the new law?

A: Yes. Stores that need assistance complying with Plastic Carryout Bag Ban and At-Store Recycling program should contact DNREC’s Recycling Program at 302-739-9403 or recycle@delaware.gov and technical assistance will be provided by the Department.

Q: What if I can’t comply by Jan. 1, 2021? Are there penalties?

A: DNREC understands that stores purchase supplies in advance of needing them. This law was passed in July 2019 with an implementation date of Jan. 1, 2021, for stores to achieve compliance. Under the law, DNREC has the authority to assess penalties for non-compliance. DNREC’s Compliance and Permitting Section utilizes a model of initial inspection/follow-up inspection before any violations are assessed. DNREC recommends stores be proactive and reach out to the Permitting and Compliance Section at 302-739-9403 or recycle@delaware.gov if they feel that their location(s) will not achieve compliance with the new law so that the Department can provide any necessary technical assistance.