

More States Adopt Plastic Bag Bans

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Environmental and economic pressures are leading more states and local governments to adopt broad plastic bag bans. In an effort to curb water pollution and alleviate the inundation of plastic in landfills, several states are raising the bar on plastic bag bans with state-wide prohibitions, while more local governments pass bans on single-use plastics.

New York, New Jersey and Hawaii are poised to implement the most stringent single-use plastic bans, joining the ranks of California. Effective March 2020, New York's state-wide ban will prohibit stores from providing single-use plastic bags, though New York will provide exemptions for food takeout bags, deli wrap, bulk items, newspaper bags and garment bags. New Jersey's proposed law would ban Styrofoam food and beverage containers, plastic bags and plastic straws from all retailers and restaurants in the state. Hawaii's proposed legislation prohibits all individuals and businesses from selling, distributing or otherwise providing any form of a plastic bag after July 1, 2023. This state-wide ban includes Styrofoam containers, plastic bottles, utensils and straws.

In other states, local governments are heading the movement. Bar Harbor, New Castle, Rockland and Southwest Harbor, Maine have joined several other local governments with the passage of bans on single-use carry-out bags, other than those used exclusively to carry meats, seafood, produce, bulk items, and in some jurisdictions, pharmaceuticals. Each ordinance also contains an exception for a situation that is deemed an emergency by the local government. Southwest Harbor extends the ban beyond grocery retailers to also include convenience stores, markets, pharmacies, restaurants, takeout food, temporary and seasonal businesses, and other merchant retailers. Similarly, Belmar and Jersey City have joined several New Jersey local governments that have implemented a ban on single-use plastic carryout bags. Belmar provides an exception for businesses to use plastic bags to sell bait, and Jersey City permits the use of produce bags, newspaper bags, and pharmacist bags.

At the opposite end of the spectrum, effective March 29, 2019, North Dakota has prohibited local governments from regulating or taxing plastic bags and containers. Missouri, Mississippi, Oklahoma and Ohio have had similar prohibitions in place since 2018, and the Texas Supreme Court ruled in its July 2018 opinion, *City of Laredo v. Laredo Merchants Association*, that bans on single-use plastic bags violate state law, making existing local legislation unenforceable.

Significant penalties may be imposed under some of these laws for non-compliance. If you would like more information about how single-use plastic bans may affect you or your business, please contact us at contact@HartmanKingLaw.com.

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