LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5157

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JANUARY 15, 2026

SUMMARY

Synopsis: Prohibits food service business from providing single-use utensils and condiments to customers under certain circumstances and requires DEP to establish education campaign on benefits of reducing single-use utensils and condiments.

Type of Impact: Annual State and local expenditure increases and savings. Annual State and local revenue increases.

Agencies Affected: Department of Environmental Protection; State Departments and Agencies; County and Municipal Governments; School Districts.

Office of Legislative Services Estimate

Fiscal Impact	Annual
Net State Expenditure Impact	Indeterminate
State Revenue Increase	Indeterminate
Net Local Expenditure Impact	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) determines that the bill would result in an indeterminate impact on State and local expenditures and an indeterminate annual increase in State and local revenues.

- The OLS finds that a reduction in the use of single-use utensils would likely impact State and local expenditures. There may be increases, particularly in the short term if more costly alternatives to single-use utensils are purchased, and there may also be savings, particularly in the long term if there is a sustained reduction in single-use utensil usage.

- The OLS also finds that State and local expenditures would increase due to additional administrative and enforcement responsibilities under the bill. The State would also incur additional expenditures to conduct the educational campaign required by the bill.

- The OLS estimates there will be State and local revenue increases from penalties collected for violations of the bill's provisions, but cannot predict the frequency of violations nor the ensuing enforcement actions and penalty collections.

BILL DESCRIPTION

This bill would prohibit food service businesses in the State from providing customers with single-use utensils or condiments, and except upon request if the food service business is a casual dining establishment or an online ordering application.

Specifically, the bill would provide that, commencing on the first day of the seventh month after the bill's enactment: (1) no full-service restaurant that has on-site seating capacity for 10 or more customers operating in the State would be authorized to provide single use utensils or condiments to its on-site customers, (2) casual dining establishments operating in the State would be authorized to provide single-use utensils or condiments to a customer only upon the express request of that customer, and (3) an online ordering application for any food service business may allow customers to request single-use utensils or condiments for take-out meals, provided that the default selection is "no utensils or condiments," and the food service business would bear final responsibility for ensuring that no utensils or condiments are provided except upon request.

The bill would exempt pre-packaged food items delivered to a food service business, which have a single-use utensil attached to it as a part of the item's manufacturing process. Additionally, public or nonpublic elementary or secondary schools in the State offering K-12 education, health care facilities licensed pursuant to P.L.1971, c.136, and county and State correctional facilities would be exempt from the bill's provisions.

Any food service business that elects to supply customers with single-use utensils or condiments, upon customer request, as authorized by the bill, would be required to provide each customer with only those types and amounts of single-use utensils and condiments that have been expressly requested by the customer. A food service business would also be prohibited from creating, acquiring, or providing customers with bundled utensil or condiment packages that contain more than one type of single-use utensil or condiment.

Any food service business that violates the bill's provisions would be subject to a warning for the first offense, a civil penalty of $100 for the second offense, and a civil penalty of $250 for the third and each subsequent offense, to be collected through a summary proceeding, and each day on which a violation occurs would constitute a separate and distinct offense. Schools offering education to students in kindergarten through grade 12, health care facilities, and correctional facilities are exempt from the provisions of the bill. Any moneys collected from penalties imposed pursuant to the bill would be deposited into the Clean Communities Program Fund for use in financing litter pickup, removal, education, and enforcement programs at the State and local levels, except that municipalities and county environmental enforcement agencies would be permitted to retain 30 percent of the moneys.

The bill would require the Department of Environmental Protection to develop a 180-day education campaign to educate citizens of the State on the financial and environmental benefits of reducing the amount of single-use utensils and condiments offered without necessity, and to encourage responsible use by reminding individuals not to take more items than needed from a self-serve condiment station or utensil dispenser.

The bill would prohibit municipalities and counties from adopting a rule, regulation, code or ordinance concerning the regulation or prohibition of single-use utensils or condiments after the bill's effective date and the bill's provisions would supersede any municipal or county rule,

regulation, code, or ordinance concerning the regulation or prohibition of single-use utensils or condiments that was enacted prior to the effective date of the bill.

Finally, the bill would amend P.L.2020, c.117, which prohibits the distribution of plastic bags and polystyrene food serviceware, to provide that entities certified pursuant to the County Environmental Health Act, P.L.1977, c.443, would have primary enforcement responsibility for P.L.2020, c.117.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received on this bill. However, in response to FY 2026 OLS Discussion Points in April 2025, the Department of Environmental Protection indicated regarding a previous version of the identical bill that it "has reviewed the proposed single-use plastic utensil and condiments prohibition found in Senate Bill No. 3195 (1R). This bill would only permit the provision of single-use plastic utensils and condiments upon request of the customer and also prohibits the provision of bundled plastic utensils to customers. The Department anticipates that, if enacted, implementation of this bill has the potential to reduce costs for small businesses. Moreover, as currently drafted, the bill does not require provision of an alternative when a customer requests single-use plastic utensils and condiments. Some alternatives to single-use plastic utensils could be more costly depending on multiple factors. Nonetheless, with no alternative required, the Department does not expect an adverse financial impact on small businesses. Moreover, the online ordering element of the bill restricts the provision of single-use plastic utensils and condiments by requiring the default selection to be set to 'no utensils or condiments.' In short, the bill in and of itself should reduce costs for food service businesses."

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that the bill would result in an indeterminate impact on State and local expenditures and an indeterminate increase in State and local revenues.

The OLS finds that a reduction in the use of single-use utensils would likely impact State and local expenditures. There may be increases, particularly in the short term. As noted by the Department of Environmental Protection in its response above, some alternatives to single-use utensils may be more costly. The OLS cannot predict how the bill will impact the purchases of food service businesses, including those operated by or on behalf of the State or local governments, such as cafeterias in public schools or a public hospital.

The OLS notes there may also be savings, particularly in the long term if there is a sustained reduction in usage. Municipalities in the State such as Maplewood and Red Bank have passed ordinances with similar prohibitions. In 2020, Maplewood prohibited food providers from offering single-use food and beverage accessories, except upon a customer's request. In 2024, Red Bank prohibited the provision of plastic utensils, condiment packets, napkins, and extra containers to take-out or delivery customers, unless requested by the customer. In 2021, similar statewide prohibitions were enacted by the states of Washington and California, respectively. Based on OLS research, however, it appears there is little empirical evidence available on the fiscal effects of these recently enacted local ordinances and state laws.

Solely for purposes of illustration, the OLS provides the following information on reported savings from pertinent nonprofit initiatives in New Jersey. Skip the Stuff, a Clean Water Action program, organizes a Rethink Disposable campaign to support elimination of plastic trash in the

State. Rethink Disposable publishes case study findings on local businesses and organizations that participate in efforts to curb voluntary distribution of disposable plastic items. According to these case studies, Interfaith Neighbors in Monmouth County saved approximately $72,000 by reducing plastic and other packaging in its Meals on Wheels program. The same organization saved $27,000 by reducing single-use plastic cutlery at its six Senior Centers. Franciscan Charities of Newark partnered with Rethink Disposable to reduce disposable foodware in its hot lunch program, eliminating 10,750 pounds of trash and saving $48,000 annually.

The OLS finds that State and local expenditures would increase due to additional administrative and enforcement responsibilities under the bill. The OLS also estimates that there will be State and local revenue increases from penalties collected for violations of the bill's provisions. Food service businesses that violate the bill's provisions would be subject to a warning for the first offense, a civil penalty of $100 for the second offense, and a civil penalty of $250 for subsequent offenses, to be collected through a summary proceeding, and each day on which a violation occurs would constitute a separate and distinct offense. Any moneys collected from penalties imposed pursuant to the bill would be deposited into the Clean Communities Program Fund for use in financing litter pickup, removal, education, and enforcement programs at the State and local levels. Municipalities and county environmental enforcement agencies would be permitted to retain 30 percent of these moneys. The OLS cannot predict the frequency of violations nor the ensuing enforcement actions and penalty collections. As such, the OLS cannot estimate the magnitude of the workload increases for the Department of Environmental Protection and local governments.

The State would also incur additional expenditures to develop and conduct the 180-day educational campaign required by the bill.

Finally, the OLS notes that the bill would amend the 2020 State law that prohibits the distribution of plastic bags and polystyrene food serviceware, to provide that entities certified pursuant to the County Environmental Health Act would have primary enforcement responsibility for that law. This change may have the effect of increasing county expenditures and reducing State expenditures.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).