

[First Reprint]

**SENATE, No. 3195**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED MAY 6, 2024

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator RAJ MUKHERJI**

**District 32 (Hudson)**

**Co-Sponsored by:**

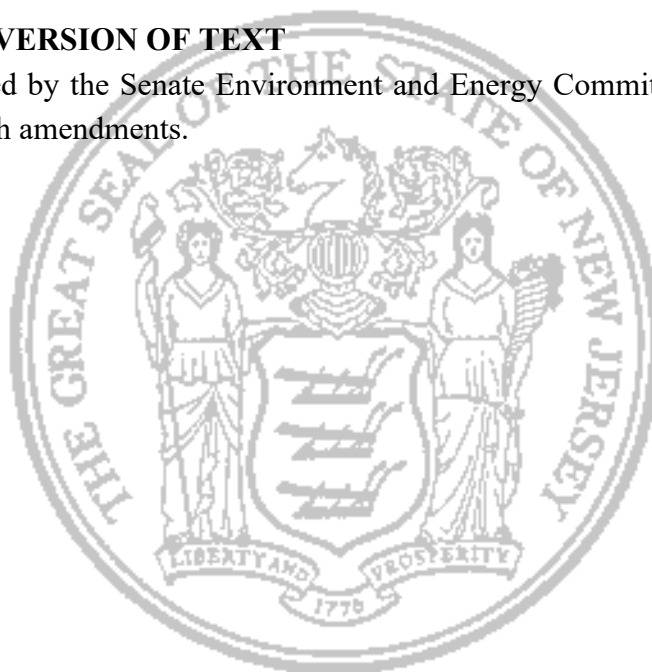
**Senators Greenstein, Zwicker, McKeon, Timberlake, Wimberly and Diegnan**

**SYNOPSIS**

Prohibits food service businesses from providing single-use utensils and condiments to customers, except upon request, and requires certain food service businesses to provide reusable, washable utensils to customers eating on site.

**CURRENT VERSION OF TEXT**

As reported by the Senate Environment and Energy Committee on October 10, 2024, with amendments.



**(Sponsorship Updated As Of: 11/10/2025)**

1 AN ACT concerning the provision, by food service businesses, of  
2 single-use <sup>1</sup>**[plastic]**<sup>1</sup> utensils and condiments to customers,  
3 amending P.L.2002, c.128 <sup>1</sup>and P.L.2020, c.117<sup>1</sup> , and  
4 supplementing Title 13 of the Revised Statutes.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. <sup>1</sup>**(New section)**<sup>1</sup> As used in P.L. , c. (C. ) (pending  
10 before the Legislature as this bill):

11 "Commissioner" means the Commissioner of Environmental  
12 Protection.

13 "Condiment" means packaged ketchup, mustard, mayonnaise, hot  
14 sauce, salt, pepper, or any other herb, spice, seasoning, sauce, or  
15 substance that is used to give a special flavor to food.

16 <sup>1</sup>**["Covered food service business"** means a food service business  
17 that does not exclusively provide customers with eco-friendly  
18 alternative utensils and condiments, and which, therefore, is not  
19 exempt from the provisions of P.L. , c. (C. ) (pending before  
20 the Legislature as this bill), as provided by subsection d. of section 2  
21 of P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>1</sup>

22 "Department" means the Department of Environmental Protection.

23 <sup>1</sup>**["Eco-friendly alternative utensils and condiments"** means and  
24 includes: utensils and condiment packets or packages which are  
25 composed of compostable material or another material approved, by  
26 the department or the United States Environmental Protection Agency,  
27 as an eco-friendly alternative to conventional plastics, regardless of  
28 whether such utensils and condiment packages are designed to be  
29 discarded, by the consumer, after a single use; utensils and condiment  
30 packets or packages which are designed to be used multiple times and  
31 are not intended to be discarded after a single use, regardless of  
32 whether such utensils and condiment packages are composed of  
33 conventional plastics; and any other utensils and condiment packets or  
34 packages that are approved, by the department or the United States  
35 Environmental Protection Agency, as eco-friendly alternatives to  
36 single-use plastic utensils or condiments.<sup>1</sup>

37 "Food service business" means and includes a restaurant, café,  
38 food truck, vendor station, cafeteria, or any other facility or premises,  
39 or section or part thereof, including, but not limited to, a section or part  
40 of a grocery store, convenience store, hospital, school, sports arena,  
41 entertainment venue, or other similar facility or venue, where meals  
42 are prepared and served to customers for immediate consumption  
43 thereby on or off the premises, whether on a take-out, eat-in, drive-  
44 thru, or delivery basis.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEN committee amendments adopted October 10, 2024.

1 "Single-use <sup>1</sup>**plastic**<sup>1</sup> utensils or condiments" means utensils or  
2 condiment packets or packages which are <sup>1</sup>**composed of conventional**  
3 **plastics and are**<sup>1</sup> designed to be discarded, by the consumer, after a  
4 single use.

5 "Utensil" means an instrument, including, but not limited to, a  
6 knife, fork, <sup>1</sup>chopstick,<sup>1</sup> or spoon, which is commonly used by humans  
7 to eat meals served thereto by a food service business.

8

9 2. <sup>1</sup>(New section)<sup>1</sup> a. Commencing on the effective date of  
10 P.L. , c. (C. ) (pending before the Legislature as this bill):

11 (1) no food service business operating in the State shall provide  
12 single-use <sup>1</sup>**plastic**<sup>1</sup> utensils or condiments to any customer, except  
13 upon, and in accordance with, the express request of that customer.  
14 The provisions of this paragraph shall be applicable regardless of  
15 whether a customer is receiving meals from the food service business  
16 on an eat-in, take-out, drive-thru, or delivery basis, and regardless of  
17 whether the customer's meal order is placed in person, over the phone,  
18 online, or using other available means or methods <sup>1</sup>. An online  
19 ordering application may allow customers to request single-use  
20 utensils or condiments, provided that the default selection is "no  
21 utensils or condiments," and that the food service business bears final  
22 responsibility for ensuring that no utensils or condiments are provided  
23 except upon request<sup>1</sup> ; and

24 (2) a food service business that has on-site seating capacity for 50  
25 or more customers shall provide its on-site customers with easy access  
26 to reusable, washable utensils for use thereby while consuming meals  
27 on the premises, and shall require each customer using such utensils to  
28 return those utensils to the food service business, for the purposes of  
29 cleaning and reuse, upon completion of the customer's on-site meal.

30 b. Any food service business that elects to supply customers with  
31 single-use <sup>1</sup>**plastic**<sup>1</sup> utensils or condiments, upon request, as  
32 authorized by paragraph (1) of subsection a. of this section:

33 (1) shall provide each customer with only those types and amounts  
34 of single-use <sup>1</sup>**plastic**<sup>1</sup> utensils and condiments that have been  
35 expressly requested thereby; and

36 (2) shall not create, acquire, or provide customers with bundled  
37 packages that contain more than one type of single-use <sup>1</sup>**plastic**<sup>1</sup>  
38 utensil or condiment, regardless of the nature of any customer request  
39 therefor.

40 c. Nothing in this section shall be deemed to <sup>1</sup>**:**

41 (1)<sup>1</sup> require a food service business to provide any single-use  
42 <sup>1</sup>**plastic**<sup>1</sup> utensils or condiments to customers, upon their request, as  
43 authorized by paragraph (1) of subsection a. of this section <sup>1</sup>**;** or

44 (2) in any way restrict a food service business' ability to provide its  
45 customers with eco-friendly alternative utensils and condiments, either

1 on an exclusive basis, as provided by subsection d. of this section, or  
2 otherwise<sup>1</sup> .

3 d. <sup>1</sup>~~Any food service business that exclusively provides eco-~~  
4 ~~friendly alternative utensils and condiments to its customers shall be~~  
5 ~~exempt from compliance with the provisions of this section~~ A school  
6 shall be exempt from the provisions of this section for a period of five  
7 years beginning on the effective date of P.L. , c. (C. )  
8 (pending before the Legislature as this bill)<sup>1</sup> .

9 <sup>1</sup>e. A health care facility licensed pursuant to P.L.1971, c.136  
10 (C.26:2H-1 et seq.) shall be exempt from the provisions of this  
11 section during a time of infectious outbreak or during outdoor  
12 recreational activities and family picnics.

13 f. A food service business located in a food court shall be  
14 exempt from the provisions of this section for a period of two years  
15 beginning on the effective date of P.L. , c. (C. ) (pending  
16 before the Legislature as this bill).<sup>1</sup>

17  
18 3. <sup>1</sup>(New section)<sup>1</sup> a. Any <sup>1</sup>~~covered~~<sup>1</sup> food service business that  
19 violates the provisions of section 2 of P.L. , c. (C. ) (pending  
20 before the Legislature as this bill) shall be <sup>1</sup>~~liable to a civil penalty of~~  
21 ~~\$1,000~~ subject to a warning<sup>1</sup> for the first offense, <sup>1</sup>a civil penalty of<sup>1</sup>  
22 \$2,500 for the second offense, and <sup>1</sup>a civil penalty of<sup>1</sup> \$5,000 for the  
23 third and each subsequent offense. Each day on which a violation  
24 occurs shall constitute a separate and distinct offense.

25 b. A penalty imposed pursuant to this section shall be collected,  
26 by the commissioner <sup>1</sup>, a municipality, or an entity certified pursuant  
27 to the "County Environmental Health Act," P.L.1977, c.443  
28 (C.26:3A2-21 et seq.)<sup>1</sup> , in a summary proceeding commenced,  
29 pursuant to the provisions of the "Penalty Enforcement Law of 1999,"  
30 P.L.1999, c.274 (C.2A:58-10 et seq.), before a court of competent  
31 jurisdiction. The Superior Court and municipal courts shall have  
32 jurisdiction to enforce the provisions of the "Penalty Enforcement Law  
33 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), for the purposes of  
34 this section. <sup>1</sup>Entities certified pursuant to the "County Environmental  
35 Health Act," P.L.1977, c.443 (C.26:3A2-21 et seq.) shall assume  
36 primary enforcement responsibility for violations of the provisions of  
37 section 2 of P.L. , c. (C. ) (pending before the Legislature as  
38 this bill).<sup>1</sup>

39 c. Any moneys collected from penalties imposed pursuant to this  
40 section shall be deposited into the "Clean Communities Program  
41 Fund," established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-  
42 217) <sup>1</sup>, except that a municipality or entity certified pursuant to the  
43 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et  
44 seq.) may retain 30 percent of any penalty it collects pursuant to this  
45 section<sup>1</sup> .

1 d. Notwithstanding any provision of P.L. , c. (C. )  
2 (pending before the Legislature as this bill) to the contrary, a food  
3 service business shall be authorized to acquire, and to maintain on its  
4 premises, an adequate supply of non-bundled single-use **'[plastic]'**  
5 utensils or condiments for the purposes of providing such single-use  
6 **'[plastic]'** utensils or condiments to customers, upon request, in  
7 accordance with the provisions of paragraph (1) of subsection a. of  
8 section 2 of P.L. , c. (C. ) (pending before the Legislature as  
9 this bill), and no food service business shall be subject to a penalty,  
10 pursuant to subsection a. of this section, for acquiring, possessing, or  
11 maintaining a supply of single-use **'[plastic]'** utensils or condiments  
12 for the limited purposes authorized by this subsection.  
13

14 4. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to  
15 read as follows:

16 5. The Clean Communities Program Fund is established as a  
17 nonlapsing, revolving fund in the Department of the Treasury. The  
18 Clean Communities Program Fund shall be administered by the  
19 Department of Environmental Protection and credited, in addition to  
20 any appropriations made thereto, with all user fees imposed  
21 pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) **[or]**,  
22 penalties imposed pursuant to section 10 of P.L.2002, c.128  
23 (C.13:1E-222), penalties imposed pursuant to P.L. , c. (C. )  
24 (pending before the Legislature as this bill), and any sums received  
25 as voluntary contributions from private sources. Interest received  
26 on moneys in the Clean Communities Program Fund shall be  
27 credited to the fund. Unless otherwise expressly provided by the  
28 specific appropriation thereof by the Legislature, which shall take  
29 the form of a discrete legislative appropriations act and shall not be  
30 included within the annual appropriations act, all available moneys  
31 in the Clean Communities Program Fund shall be appropriated  
32 annually and solely for the following purposes and no others:

33 a. 10 percent of the estimated annual balance of the Clean  
34 Communities Program Fund shall be used for a State program of  
35 litter pickup and removal and of enforcement of litter-related laws  
36 and ordinances in State owned places and areas that are accessible  
37 to the public. Moneys in the fund may also be used by the State to  
38 abate graffiti;

39 b. 50 percent of the estimated annual balance of the Clean  
40 Communities Program Fund shall be distributed as State aid to  
41 eligible municipalities with total housing units of 200 or more for  
42 programs of litter pickup and removal, including establishing an  
43 "Adopt-A-Highway" program, of public education and information  
44 relating to litter abatement and of enforcement of litter-related laws  
45 and ordinances. The amount of State aid due each municipality  
46 shall be solely calculated based on the proportion which the housing  
47 units of a qualifying municipality bear to the total housing units in  
48 the State. Total housing units shall be determined using the most

1 recent federal decennial population estimates for New Jersey and its  
2 municipalities, filed in the office of the Secretary of State. Moneys  
3 in the fund may also be used by an eligible municipality to abate  
4 graffiti;

5 c. 30 percent of the estimated annual balance of the Clean  
6 Communities Program Fund shall be distributed as State aid to  
7 eligible municipalities with total housing units of 200 or more for  
8 programs of litter pickup and removal, including establishing an  
9 "Adopt-A-Highway" program, of public education and information  
10 relating to litter abatement and of enforcement of litter-related laws  
11 and ordinances. The amount of State aid due each municipality  
12 shall be solely calculated based on the proportion which the  
13 municipal road mileage of a qualifying municipality bears to the  
14 total municipal road mileage within the State. For the purposes of  
15 this subsection, "municipal road mileage" means that road mileage  
16 under the jurisdiction of municipalities, as determined by the  
17 Department of Transportation. Moneys in the fund may also be  
18 used by an eligible municipality to abate graffiti;

19 d. 10 percent of the estimated annual balance of the Clean  
20 Communities Program Fund shall be distributed as State aid to  
21 eligible counties for programs of litter pickup and removal,  
22 including establishing an "Adopt-A-Highway" program, of public  
23 education and information relating to litter abatement and of  
24 enforcement of litter-related laws and ordinances. The amount of  
25 State aid due each county shall be solely calculated based on the  
26 proportion which the county road mileage of an eligible county  
27 bears to the total county road mileage within the State. For the  
28 purposes of this subsection, "county road mileage" means that road  
29 mileage under the jurisdiction of counties, as determined by the  
30 Department of Transportation. Moneys in the fund may also be  
31 used by an eligible county to abate graffiti;

32 e. No eligible municipality shall receive less than \$4,000 in  
33 State aid as apportioned pursuant to subsections b. and c. of this  
34 section. A municipality or county may use up to five percent of its  
35 State aid for administrative expenses;

36 f. Prior to the distribution of funds pursuant to subsections a.  
37 through d. of this section:

38 (1) \$375,000 of the estimated annual balance of the Clean  
39 Communities Program Fund shall be annually appropriated to the  
40 department and made available on July 1 of every year to the  
41 organization under contract with the department pursuant to section  
42 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public  
43 information and education program concerning antilittering  
44 activities and other aspects of responsible solid waste handling  
45 behavior, of which up to \$75,000 shall be used exclusively to  
46 finance an annual Statewide television, radio, newspaper and other  
47 media advertising campaign to promote antilittering and responsible  
48 solid waste handling behavior.

1 (2) in each of the first three years after the effective date of  
2 P.L.2020, c.117 (C.13:1E-99.126 et al.), \$500,000 of the estimated  
3 annual balance of the Clean Communities Program Fund shall be  
4 appropriated to the department and made available on July 1 of each  
5 year to the organization under contract with the department  
6 pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for the  
7 Statewide public information and education program developed  
8 pursuant to subsection b. of section of section 8 of  
9 P.L.2020, c.117 (C.13:1E-99.133).

10 The organization under contract with the department pursuant to  
11 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the  
12 date on which the contract period concludes, submit a report to the  
13 Governor and the Legislature concerning its activities during the  
14 contract period and any recommendations concerning improving the  
15 program. Every eligible municipality and county shall cooperate  
16 with the organization under contract with the department pursuant  
17 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing  
18 information concerning its program of litter pickup and removal.

19 No later than May 31, 2008, 25 percent of the estimated annual  
20 balance of the Clean Communities Program Fund shall be  
21 appropriated to the State Recycling Fund established pursuant to  
22 section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be  
23 used by the Department of Environmental Protection for direct  
24 recycling grants to counties and municipalities, up to a maximum  
25 appropriation of \$4,000,000.

26 g. As used in this section, "graffiti" means any inscription  
27 drawn, painted or otherwise made on a bridge, building, public  
28 transportation vehicle, rock, wall, sidewalk, street or other exposed  
29 surface on public property.

30 The department may carry forward any unexpended balances in  
31 the Clean Communities Program Fund as of June 30 of each year.  
32 (cf: P.L.2020, c.117, s.10)

33

34 <sup>1</sup>5. Section 6 of P.L.2020, c.117 (C.13:1E-99.131) is amended to  
35 read as follows:

36 6. a. Any person or entity that violates a provision of P.L.2020,  
37 c.117 (C.13:1E-99.126 et al.), or any rule or regulation adopted  
38 pursuant thereto, shall be subject to a warning for a first offense, up to  
39 \$1,000 for a second offense, and up to \$5,000 for a third or subsequent  
40 offense, to be collected in a civil action by a summary proceeding  
41 under the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
42 (C.2A:58-10 et seq.), or in any case before a court of competent  
43 jurisdiction wherein injunctive relief has been requested. If the  
44 violation is of a continuing nature, each day during which it continues  
45 shall constitute an additional, separate, and distinct offense. The  
46 Superior Court and the municipal court shall have jurisdiction to  
47 enforce the provisions of the "Penalty Enforcement Law of 1999" in  
48 connection with P.L.2020, c.117 (C.13:1E-99.126 et al.).

1       b. Any penalty collected pursuant to this section shall be remitted  
2 to the State Treasurer for deposit in the Clean Communities Program  
3 Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-  
4 217), except that a municipality or entity certified pursuant to the  
5 "County Environmental Health Act," P.L.1977, c.443 **[(C.26:3a2-21]**  
6 **(C.26:3A2-21 et seq.)** may retain 30 percent of any penalty it collects  
7 pursuant to subsection a. of this section.

8       c. The Department of Environmental Protection, a municipality,  
9 and any entity certified pursuant to the "County Environmental Health  
10 Act," P.L.1977, c.443 **[(C.26:3a2-21]** **(C.26:3A2-21 et seq.)** shall  
11 have the authority to enforce the provisions of P.L.2020, c.117  
12 (C.13:1E-99.126 et al.). Those entities may institute a civil action for  
13 injunctive relief to enforce P.L.2020, c.117 (C.13:1E-99.126 et al.) and  
14 to prohibit and prevent a violation thereof, and the court may proceed  
15 in the action in a summary manner. Entities certified pursuant to the  
16 "County Environmental Health Act," P.L.1977, c.443 (C.26:3A2-21 et  
17 seq.) shall assume primary enforcement responsibility for violations of  
18 the provisions of P.L.2020, c.117 (C.13:1E-99.126 et al.).<sup>1</sup>  
19 (cf: P.L.2020, c.117, s.6)

20  
21       <sup>1</sup>**[5.] 6.**<sup>1</sup> This act shall take effect on the first day of the  
22 seventh month next following the date of enactment.