March 11, 2019

Statement of the Connecticut Food Association – Environment Committee

In opposition of raised Bill 1003: AN ACT CONCERNING THE USE OF SINGLE-USE PLASTIC AND PAPER BAGS.

The Connecticut Food Association (CFA) proudly advocates on behalf of the food retail industry. Our mission is to promote the growth of Connecticut’s grocery community and its supplier network.

Over twenty Connecticut communities have passed ordinances or, are considering legislation requiring retail stores to either ban or charge a fee on carryout bags. Westport, Greenwich, Hamden and the 4th largest city in the state Stamford, have already passed local ordinances. Newtown, Norwalk, Milford, Stonington and Waterford are considering local solutions to plastic bags. With 169 towns and cities in Connecticut, a one-by-one plan doesn’t make much sense. This scenario is not broad enough, makes it difficult for retailers to comply and is confusing for consumers.

The Connecticut Food Association’s position is that fees have proven to be effective in reducing the proliferation of single use bags and protecting the environment. We know this from ordinances passed in California, Washington DC, Montgomery County MD, various Colorado communities, Portland, Maine, Brownsville, Texas and most recently right next door in Suffolk County NY. All of these communities were reacting to the environmental hazards of single use bags as well as major challenges these bags are putting on the recycling system due to the enormous volume being collected at curbside. In lieu of enacting a total ban of plastic bags, we propose the state of Connecticut should instead require stores to charge a fee on all carryout bags. Our goal is to reduce the use of front end plastic bags by at least 80% over three years.

We want to debunk the myth that paper bags are a better solution as well. Paper bags are more costly to recycle than plastic bags and don’t biodegrade easily in landfills. Additionally, they are less likely than plastic bags to be reused and have a higher cost and larger carbon footprint associated with their production and distribution.

Over the last year or so we have been working with legislators, recyclers and environmental groups to solve this problem via state wide legislation. The purpose of this law would be to significantly reduce the amount of single use bags distributed at retail and to encourage consumers in Connecticut to use their own reusable bags for shopping by requiring not less than a $0.05 charge on carryout bags that are provided at retail stores.

Behavioral change is a challenge in this convenience-driven era, but the prospect of retail, government, consumers and environmental advocates working together to diminish the production, distribution and disposal of bag waste has great merit, now and into the future.
Connecticut grocers fully supports this effort and are committed to investing our resources in changing the way we purchase, stock, distribute, promote, sign and pack reusable bags in an effort to help our customers transition to whichever long term solution best suits them.

Respectfully,

Wayne Pesce
Connecticut Food Association
I. DEFINITIONS

a) “Business” shall mean an establishment engaged in the retail sale of personal, consumer or household items including but not limited to drug stores, pharmacies, grocery stores, supermarkets, convenience stores, food marts, apparel stores, home center and hardware stores, stationary and office supply stores, and food service establishments located within grocery stores, supermarkets, convenience stores or food marts, that provide carryout bags to customers in which to place purchased items. This term includes food service establishments located outside of grocery stores, supermarkets, convenience stores or food marts, but does not include emergency food providers or 501C(3) organizations, church groups or private citizens selling goods directly to the consumer via tag sale or other means;

b) “Carryout Bag” means any bag that is provided by a business to a customer at the point of sale and is used to carry goods purchased at such business, provided, however that such term shall not include any of the following:

   i. A bag without handles used to carry produce, meats, poultry, fish, dairy, dry goods or other non-prepackaged food items to the point of sale within a business;

   ii. A bag provided by a pharmacy to carry prescription drugs; or

   iii. A dry cleaning garment bag;

c) “Department” means the Department of Energy and Environmental Protection for the State of Connecticut;

d) “Reusable Bag” means a bag:

   i. with handles that are woven or stitched and not heat-fused; and,

   ii. that is specifically designed and manufactured for multiple reuse with a handle and shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses,
measured according to the American Society of Testing and Materials (ASTM) Standard D6988-13; and,

iii. that shall hold a volume capacity of at least 15 liters; and,

iv. that shall have printed on the bag, or on a tag attached to the bag that is not intended to be removed, and in a manner visible to the consumer, all of the following information:

a. The name of the manufacturer.

b. The country where the bag was manufactured.

c. A statement that the bag is a reusable bag and designed for at least 125 uses.

The bag must be made of washable cloth, or other durable woven or nonwoven fabric that can be easily washed and disinfected.

A “reusable bag” does not include any bag made primarily of paper or plastic film, compostable, degradable or biodegradable bags of any thickness.

e) “Recyclable Paper Carryout Bag” means a paper bag that:

i. Is one hundred percent recyclable,

ii. Contains a minimum of 40 percent post-consumer recycled content and be conspicuously labeled with the amount of post-consumer recycled content.

iii. Is accepted for recycling in a majority of facilities in the State.

iv. Has printed on the bag the name of the manufacturer, the country where the bag was manufactured, and a statement that the bag is a paper carryout bag intended for reuse and is recyclable.

f) “Plastic Carryout Bag” means a plastic bag that:

i. Is at least 3 ml thick; and,

ii. that is specifically designed and manufactured for multiple reuse with a handle and shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses,
measured according to the American Society of Testing and Materials (ASTM) Standard D6988-13; and,

iii. that shall hold a volume capacity of at least 15 liters; and,

iv. that shall have printed on the bag in a manner visible to the consumer, all of the following information:
   a. The name of the manufacturer.
   b. The country where the bag was manufactured.
   c. A statement that the bag is plastic carryout bag intended for reuse and designed for at least 125 uses.

g) A “Single-Use Plastic Carryout Bag” means a plastic bag that:
   i. Is any thickness under 3 ml and not otherwise exempt under the Definitions set forth herein.

II. CARRYOUT BAG REQUIREMENTS FOR BUSINESSES:

a) Commencing six months from enactment of this bill and for two years thereafter or until such time as an 80% reduction of Single-Use Plastic Carryout Bags and Plastic Carryout Bags as defined herein, as demonstrated through receipts required in this Section compared to historic purchasing records for Plastic Carryout Bags is obtained, whichever happens first: a business shall be prohibited from providing Single-Use Plastic Carryout Bags and any other type of carryout bags that are not Reusable Carryout Bags, Recyclable Paper Carryout Bags or Plastic Carryout Bags as defined herein to customers at the point of checkout for the purpose of transporting items purchased by or provided to the consumer.

b) A business may provide, at the point of sale, Reusable Carryout Bags, Recyclable Paper Carryout Bags or Plastic Carryout Bags to customers for the purpose of transporting goods, provided that they charge the customer a minimum of 15 cents per bag, which must be displayed on the customer and store receipts to include the type of bag purchased.
c) All monies collected for pursuant to this Section are to be retained by the business for any permissible purpose deemed appropriate by that business, including but not limited to recuperation of bag costs, costs associated with compliance with this section, and education of employees and the public.

d) Nothing in this section shall be interpreted as prohibiting businesses from providing non-recyclable paper carryout bags, with or without charge, to protect or transport prepared foods, beverages, or bakery goods, as defined in section I, subsection b.

e) No business shall charge a fee for bags of any kind provided by the customer in lieu of a Carryout Bag of any kind provided for sale by any such business.

f) No business shall prevent a person from using a bag, box or container of any kind that they have brought to any such business for purposes of carrying goods from such business.

g) Two years after enactment, or when an 80% reduction of Single-Use Plastic Carryout Bags and Plastic Carryout Bags as defined herein is met, as demonstrated through receipts required in this Section compared to historic purchasing records for Plastic Carryout Bags is obtained, whichever happens first, a business shall be prohibited from providing Single-Use Plastic Carryout Bags, Plastic Carryout Bags as defined herein, and any other type of carryout bags that are not Reusable Carryout Bags, or Recyclable Paper Carryout Bags to customers at the point of checkout for the purpose of transporting items purchased by or provided to the consumer. Businesses shall at this time increase the mandatory, uniform fee for Recyclable Paper Carryout Bags from 15 cents to 25 cents each and the mandatory, minimum fee for Reusable Carryout Bags to at least 25 cents each.

h) Prior to meeting the 80% reduction threshold or enacting the phase-out of all Plastic Carryout Bags in two years’ time set forth in subsection g, as defined herein and whichever happens first, nothing in this Section shall nullify existing regulations that are stronger than or preempt further and more aggressive limitation of Plastic Carryout Bags or Single-Use Plastic Bags by any Connecticut town or city;
i) Pursuant to subsection g of this Section, upon meeting the 80% reduction threshold or enacting the phase-out of all Plastic Carryout Bags in two years’ time, as defined herein and whichever happens first, this Section shall nullify existing Connecticut town and city regulations pursuant to mitigating the use of Plastic Carryout Bags and Single-Use Plastic Carryout Bags to provide a standardized regulation for the entire State.

III. ADDITIONAL REQUIREMENTS FOR BUSINESSES

a) All businesses subject to the provisions of this section shall post signs provided or approved by the Department at or near points of sale located in such businesses and within 25 yards of the front entrance of any business occupying 10,000 square feet or more, intending to notify customers of the provisions of this section.

b) No business shall provide a credit to any person specifically for the purpose of offsetting or avoiding the carryout bag fee required by this law.

c) Businesses may provide all of their customers with Reusable Carryout Bags free of charge for a two-week period each year, and may donate bags to Connecticut towns and cities, churches, community assistance groups, non-profit organizations, schools and other entities who work with financially challenged communities, families and individuals to help offset costs to customers using Supplemental Nutritional Assistance Program, the Special Supplemental Nutrition Program for Women, Infants and Children, or other financial assistance programs of the State.

d) All Businesses with brick and mortar locations over 10,000 square feet shall be required to provide at least one bin to capture all other plastic film products not banned under this bill.

IV. PENALTIES AND INJUNCTIVE RELIEF

a) Any business violating any provision of this article or any rule adopted pursuant to this title shall be:
i. Ordered to discontinue the distribution of bags prohibited by this title at the point of sale; and

ii. Subject to a civil fine of not less than one thousand dollars ($1,000) per day for the first violation of this chapter, two thousand dollars ($2,000) per day for the second violation, and five thousand dollars ($5,000) per day for the third and subsequent violations.

b) The Commissioner of the Department of Energy and Environmental Protection may institute a civil action in any court of competent jurisdiction for injunctive or other relief to correct or abate violations of this title or any rule adopted pursuant to this title, to collect administrative penalties, or to obtain other relief.

V. RULES & REPORTING

a) The Commissioner of the Department of Energy and Environmental Protection shall adopt rules pursuant to this title regarding the implementation, administration and enforcement of this title.

b) The Department shall promulgate all necessary or desirable rules and regulations to affect the purposes set forth in this title and educate the general public about such purposes. The Department shall work with businesses to conduct outreach programs to educate the general public about such purposes and shall publicize such rules and regulations on its website.

c) No later than one year after the effective date, and annually thereafter, the Commissioner of the Department of Energy and Environmental Protection and the head of any other department or office designated by the Legislature, shall prepare an annual Carryout Bag report that includes information on the progress of this law including but not limited to:

   i. The general effectiveness of this law in reducing the use of Carryout Bags that are not Reusable as defined herein in the State, and increasing the use of Reusable Carryout Bags, including but not limited to the measurable fiscal, environmental and human health impacts;

   ii. The waste and litter-reduction benefits of the law, including, where practicable, the impact on plastic bags in the waste stream;
iii. The number of notices of violation issued pursuant to this law; and

iv. Any cost savings for businesses and/or the state attributable to Carryout Bag reduction, such as reduced contamination of local waterways or reduction in flooding or combined sewer overflows.

CONTACT FOR MORE INFORMATION:

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