

# FACT PLASTIC BAG LAWS SHEET IN THE U.S.

## BAG LAWS ACROSS THE COUNTRY



### MAP KEY

- statewide bag laws
- states with locally adopted bag laws that aren't preempted
- several local laws adopted, but NYC's bag law preempted by state moratorium
- state preemption law allegedly in place but local bag law recently adopted (FL only, lawsuit pending)
- state preemption on bans only (MN) or fees only (under DE recycling law)
- state preemption

\*notes: HI has a de facto state law because in all inhabited counties have local bag laws.  
 TX preemption is based upon litigation over an existing statute.  
 NC state pilot project for the Outer Banks was repealed.

Map developed by Korin Tangtrakul for [PlasticBagLaws.org](http://PlasticBagLaws.org)



### CALIFORNIA IS THE ONLY STATE WITH A UNIFORM STATEWIDE PLASTIC BAG REDUCTION LAW

\*Hawaii has a de facto statewide law because all inhabited counties have their own law



### AT LEAST 331 LOCAL BAG ORDINANCES HAVE BEEN ADOPTED IN 24 STATES IN THE U.S.

(some of these laws were preempted) and Washington, D.C.

### TYPES OF BAG LAWS

Best practice: include a **fee component** so **all bag types** are addressed & increase in overall bag use is discouraged

#### Recommended Structures:

- **Bag Fee:** fee mandated for all carryout bags
- **"Second Generation" Ban or "Ban/Fee Hybrid":** ban on thin plastic bags, fee for all other carryout bags (paper, reusable, compostable)

#### Non-Recommended Structures:

- **"First Generation" or "Straight" Ban:** ban on thin plastic bags only

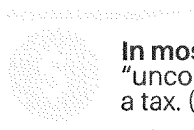
### TYPES OF PREEMPTION

Preemption: the action of forestalling, especially of making a preemptive attack

**American Legislative Exchange Council (ALEC)** boilerplate language preempting local laws on plastic bags or "auxiliary containers"

**Statewide plastic bag recycling law** that includes a clause preempting local ban and/or fee

**State law intended to block a bag law** in a specific city



In most states the entire amount of the fee must stay with retailer to avoid claims of "unconstitutional taxation" because generally the state must give permission for cities to collect a tax. (Depends on the state constitution, "enabling legislation" can allow cities to adopt taxes.)

# DO PLASTIC BAG LAWS WORK?

## WASHINGTON, D.C.

60%+ reduction in single-use carryout bag consumption in first year

Corresponding reduction in plastic bag litter in D.C.'s Anacostia River

83% of D.C. residents and 90% of D.C. businesses support the law or are neutral



## CALIFORNIA

Statewide ban on thin plastic bags (under 2.25 mils) & min 10-cent fee for paper & reusable

Law was adopted by the legislature and later approved by statewide voter referendum

151 local jurisdictions had adopted bag laws prior to upholding statewide law

A similar local law in San Jose, CA: reusable bag use increased from 4% to 62%, plastic bag litter decreased 59% on streets and 89% in storm drains



## CHICAGO

Initially adopted a straight ban on all thin plastic bags (under 2.25 mils) but large chains, including Walmart, simply switched to giving away thicker plastic bags that qualify as reusable bags

In reaction, environmental groups and some retailers united to push for a 7-cent tax on all carryout bags

In the first month after the tax, the number of plastic and paper bags Chicagoans consumed at grocery stores dropped 42%



## WHY REGULATE PLASTIC BAGS?

### WINDBLOWN LITTER

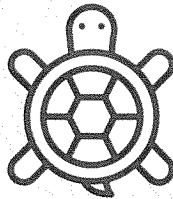


### MARINE IMPACTS

Plastic bags can entangle or choke marine life

Break down into small pieces

Sea turtles mistake for jellyfish



### WASTE MANAGEMENT



There is no viable market for dirty plastic bags

Clog recycling machinery

Contaminate other recyclables

Even if disposed of properly, plastic bags get caught in the wind

Visible in environment as litter (often caught in trees)

Litter clean-up costs taxpayers

## RECYCLING PLASTIC BAGS IS NOT THE ANSWER



Recycling is a commodities market: some materials more valuable than others & dirty plastic bags don't have a viable market.

Plastic bag recycling rates are difficult to measure, estimated at ~5%.

Plastic bags often clog municipal recycling machinery when recycled curbside.

Instead of take-back recycling programs at retailers, focus should be on customers bringing their own bags (BYOBag).

Bag reduction laws (bans & fees) encourage BYOBag behavior.

## WASTE MANAGEMENT HIERARCHY

