PLASTIC BAG LAWS IN THE U.S.

FACT SHEET:

**Types of Bag Laws**

**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)

"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 local jurisdictions 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.)

**California was the first state with a uniform statewide plastic bag reduction law.**

States with uniform statewide laws include: CA, OR, NY, VT, ME, CT, DE

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

**Over 500 local bag ordinances have been adopted in 28 states in the U.S** and Washington, D.C.
DO PLASTIC BAG LAWS WORK?

**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

**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

**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?

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<thead>
<tr>
<th>WINDBLOWN LITTER</th>
<th>MARINE IMPACTS</th>
<th>WASTE MANAGEMENT</th>
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<tbody>
<tr>
<td>Even if disposed of properly, plastic bags get caught in the wind</td>
<td>Plastic bags can entangle or choke marine life</td>
<td>There is no viable market for dirty plastic bags</td>
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<td>Visible in environment as litter (often caught in trees)</td>
<td>Break down into small pieces</td>
<td>Clog recycling machinery</td>
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<td>Litter clean-up costs taxpayers</td>
<td>Sea turtles mistake for jellyfish</td>
<td>Contaminate other recyclables</td>
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RECYCLING PLASTIC BAGS IS NOT THE ANSWER

- Recycling is a commodities market: some materials are 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

LEARN MORE: PLASTICBAGLAWS.ORG

By Jennie Romer, Esq, founder of plasticbaglaws.org last updated 7/31/20