



The purpose of this toolkit is to inform stakeholders (including local governments, businesses, and individuals) of the duties, responsibilities, and benefits of Oregon's Bag Ban (HB 2509.) The following link will direct you to a webpage provided by the Oregon State Government, including relevant guidance concerning the provisions of HB 2509: <https://www.oregon.gov/deq/mm/production/Pages/Bags.aspx>

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# CONSUMER FAQ

Congratulations to Oregon residents for demonstrating our continued commitment to environmental stewardship, leaving this world a better place for present and future generations. Join in and be part of the sustainable shopping movement in Oregon!

## WHAT IS THE OREGON BAG BAN?

Also known as the Oregon Bag Ban, HB 2509 was passed in 2019 by the Oregon State Legislature and, “prohibits retail stores and restaurants from providing single-use checkout bags to customers, and places restrictions on other checkout bags they may provide. The new law repeals ORS 459A.695, which required retail stores providing plastic checkout bags to offer paper bags as an alternative.” Stores may still offer recyclable paper carry-out bags, which must be made of a minimum of 40% post-consumer paper, as well as reusable bags. All available checkout bags have a minimum \$0.05 pass-through charge.

## WHEN DOES THE NEW LAW TAKE EFFECT?

The law takes effect as of January 1, 2020.

## WHAT IS THE INTENT OF THE SUSTAINABLE SHOPPING INITIATIVE?

The intent of the initiative is to reduce the overall consumption of checkout bags. We have seen in countless other jurisdictions that a fee on all available checkout bags encourages customers to bring reusable bags or not get a bag if they’re only getting an item or two.

Those thin plastic grocery bags have an estimated average useful life of 12 minutes. When you use a reusable bag, it eliminates contamination and unnecessary waste in our environment – and it makes it easier to carry a heavy load of groceries!

## WHY IS IT IMPORTANT TO BAN SINGLE-USE, CHECKOUT BAGS

The first reason for the Bag Ban is that, “When plastic bags end up in recycling bins, they can contaminate the recycling stream and endanger the safety of workers who must untangle them from recycling equipment.” Littered bags clog storm drains and recycling facilities creating costly shutdowns and cleanups.

The second reason of the Bag Ban is to address the enormous environmental and ecological impacts of single-use, plastic bags. Plastic bags do not naturally breakdown and cause harm to all manner of wildlife, from sea turtles to whales. Plastic breaks down into smaller and smaller pieces and becomes microplastic pollution which finds its way back into everything from the seafood we eat to the sand we play in, even the air we breath!

## WILL VENDORS STILL PROVIDE BAGS?

Yes, vendors can still provide checkout bags, but will require a fee in most cases. The fee helps vendors cover the cost of providing checkout bags. Vendors may give away reusable fabric bags on no more than 12 days of the year.

## DEFINITIONS

### SINGLE-USE CHECKOUT BAG:

A bag made of paper, plastic, or other material that is provided to a customer at the time of checkout, and that does not meet the definition of recycled paper checkout bag, reusable fabric checkout bag, or reusable plastic checkout bag.

### REUSABLE PLASTIC CHECKOUT BAG:

A bag with handles, designed and manufactured to be used multiple times, and made of durable plastic that is at least 4 mils thick.

### REUSABLE FABRIC CHECKOUT BAG:

A bag with handles, designed and manufactured to be used multiple times, and made of cloth or other machine-washable fabric.

### RECYCLED PAPER CHECKOUT BAG:

A paper bag made of at least 40% post-consumer recycled fiber.

## ADDITIONAL RESOURCES

For best practices on how to maintain your reusable bags, check out: [https://www.sandiegocounty.gov/content/dam/sdc/deh/fhd/food/pdf/publications\\_reusablebags.pdf](https://www.sandiegocounty.gov/content/dam/sdc/deh/fhd/food/pdf/publications_reusablebags.pdf)

### RETAIL STORES



### RESTAURANTS



NO FEE REQUIRED	FEE REQUIRED	PROHIBITED
Reusable fabric bags, if offered as a promotion (no more than 12 days/year)	Recycled paper bags* Reusable plastic bags* Reusable fabric bags	Single-use bags
Recycled paper bags	Reusable plastic bags*	Single-use bags

\*Some exceptions apply

## **DO I HAVE TO PAY FOR A BAG PROVIDED TO ME?**

In most cases, a bag provided at checkout, by a store or restaurant, will cost 5 cents (local governments may require a higher minimum fee in their jurisdictions.)

There are some notable exceptions though:

1. Restaurants may provide Recycled Paper Bags at no charge.
2. Stores may choose to provide you with a Free Reusable Fabric Bag, as a promotion, but no more than twelve days a year. (To find out if and when your local grocer is participating in this, read the fine print on their fliers or check with an employee.)
3. Produce bags, garment bags, hardware parts bags, and other specialty use bags will still be available free of charge.
4. No additional fees will apply when buying bags sold in packages (e.g. garbage bags.)

## **I AM USING AN ELECTRONIC BENEFITS TRANSFER (EBT) CARD AND/OR A WOMEN, INFANTS, AND CHILDREN (WIC) VOUCHER. DOES THE \$.05 CHECKOUT BAG FEE APPLY TO ME?**

Retail establishments may waive recycled paper and reusable plastic checkout bag fees for customers using a WIC voucher or an EBT card. Restaurants may waive reusable plastic checkout bag fees for customers using an EBT card.

## **WHAT BECOMES OF THE CHECKOUT BAG FEE?**

The checkout bag fee goes directly back to your grocery store or vendor to help cover the costs of them having to stock and offer reusable bags and recycled paper checkout bags.

# GOVERNMENT FAQ

Congratulations to Oregon's local governments for continuing to take seriously our communities' commitment to environmental stewardship, leaving this world a better place for present and future generations. Join in and be part of the sustainable shopping movement in Oregon!

## WHAT ACTIONS DO LOCAL GOVERNMENTS NEED TO TAKE IN ORDER TO SUPPORT THE IMPLEMENTATION OF OREGON'S BAG BAN?

The role of local governments in implementing HB 2509 is addressed in section three of the bill. Local governments:

1. "May adopt a local provision that establishes definitions, requirements and restrictions that are identical to the definitions, requirements and restrictions established by sections 1 and 2 of this 2019 Act." For definitions, look to the end of this FAQ.
2. "May amend a local provision that was in effect before the effective date of this 2019 Act so the local provision establishes definitions, requirements and restrictions that are identical to the definitions, requirements and restrictions established by sections 1 and 2 of this 2019 Act." HB 2509 includes strong preemption language to make sure basic aspects of the ban are rolled out uniformly at the statewide level. Even though definitions, requirements, and restrictions are preempted by the bill, local governments may include a higher bag fee and additional enforcement actions. For example, In Hillsboro, the first violation of the Bag Ban in a calendar year isn't dealt with as a finable offense, but will instead result in a warning from the enforcing officer as well as education on the policy for the offending business (5.78.070).
3. "May adopt, amend or enforce a local provision to impose a penalty other than the penalty established by section 4 of this 2019 Act. A restaurant or retail establishment may be charged with a violation under either the local provision or section 4 of this 2019 Act, but not both." In lieu of the penalty set forth in Section 4, penalties may be conceived by local governments to aid in the enforcement of the bill's provisions.
4. "May NOT adopt or enforce a local provision that establishes definitions, requirements or restrictions that are not identical to the definitions, requirements and restrictions established by sections 1 and 2 of this 2019 Act." (emphasis added) For clarity in the statewide implementation, the bill requires uniform language across local jurisdictions.
5. "Notwithstanding subsection (4) of this section, may adopt, amend or enforce a local provision to require a restaurant or retail establishment to charge a fee of more than five cents under provisions otherwise identical to section 2 (1)(b) and (3)(b) of this 2019 Act." In other words, the \$.05 fee is a floor; local governments may decide to charge more.

## HOW ARE BUSINESSES IN THE STATE BEING NOTIFIED OF THE OREGON BAG BAN'S REQUIREMENTS?

Multiple local and statewide stakeholders, ranging from trade associations to non-profit organizations, are making an effort to reach out to local businesses and educate them on all aspects of the ban. The Oregon Department of Environmental Quality has a webpage dedicated to the bag ban, which includes a fact sheet. It's available at <https://www.oregon.gov/deq/mm/production/Pages/Bags.aspx>

Local governments, should they choose to, may also participate in this outreach. Template resources for that purpose have been included.

## WHAT IS LOCAL GOVERNMENT'S ROLE IN ENFORCING OREGON'S BAG BAN?

Oregon's Bag Ban vests anybody with power to report a non-compliant vendor to law enforcement or the appropriate local authorities. Additionally, the bill allows local governments to enact additional penalties and allows them to vest enforcement powers upon any number of local associations and agencies, aiding local law enforcement. This approach allows a more granular approach to enforcement, suitable to our diverse communities' needs.

## HOW DOES THE LOCAL PREEMPTION LANGUAGE IN OREGON'S BAG BAN AFFECT EXISTING ORDINANCES? WHAT IF THE CITY ALREADY HAS A BAG FEE IN EFFECT?

The preemption language of the Oregon Bag Ban serves two purposes. First, it creates uniformity in the statewide rollout

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### REUSABLE PLASTIC CHECKOUT BAG:

A bag with handles, designed and manufactured to be used multiple times, and made of durable plastic that is at least 4 mils thick.

### REUSABLE FABRIC CHECKOUT BAG:

A bag with handles, designed and manufactured to be used multiple times, and made of cloth or other machine-washable fabric.

### RECYCLED PAPER CHECKOUT BAG:

A paper bag made of at least 40% post-consumer recycled fiber.

of the ban. Second, it acts as a floor for the requirements of the ban. While definitions, requirements, and restrictions are preempted by the bill, local governments still have latitude to pass a higher bag fee and/or create additional enforcement actions. So, while the definitions, requirements, and restrictions of local ordinances will be preempted, any fees (beyond the basic \$.05 fee) and any enforcement actions (beyond the Class D violation) may continue to be enforced.

### **HOW WILL THE OREGON BAG BAN BE ENFORCED?**

Anybody – including community members – may file a complaint concerning non-compliance with the Bag Ban with local law enforcement. A violation of the provisions of the Bag Ban is a Class D violation subject to a maximum fine of \$250, per day of non-compliance. Class D violations are enforced by law enforcement officers, who may issue a citation to a business. Each day a business commits a violation is considered a new offense. The Oregon Bag Ban allows a different penalty to be set under local provisions, so check with local jurisdictions for specific questions about enforcement. A business can be charged with a violation under either the local provision or the penalty specified in the Bag Ban, but not both.

In other words, local governments may impose penalties enforceable alternative to the Class D violation. For example, Portland has chosen to maintain authority and make the penalty civil, rather than criminal.

### **DO LOCAL GOVERNMENTS NEED TO ENACT PROVISIONS TO ENSURE ENFORCEMENT?**

Local governments may wish to educate local law and code enforcement officers about the new law to ensure businesses are compliant and in case they receive local complaints of non-compliance. If local governments wish to create additional enforcement actions, or levy a higher bag fee, they will need to vest the additional enforcement authority for these additional requirements within your local jurisdiction.

### **WHO CAN LOCAL GOVERNMENTS CONTACT WHEN THEY BECOME AWARE OF A BAG BAN VIOLATION?**

If a vendor is suspected of being out-of-compliance, local governments should treat it like any other code violation. During the early phase of the law being implemented, it is likely that some businesses may simply be unaware, thus we recommend educating businesses and helping them into compliance.



# BUSINESS FAQ

Thank you to Oregon’s business community for leading change that not only helps our environment, but also keeps our economies thriving across the state. We know that doing business here in Oregon relies on using our natural resources responsibly. Join in and be part of the sustainable shopping movement in Oregon!

## I OWN A LOCAL OREGON BUSINESS, HOW DOES THIS BAN AFFECT ME?

Any business that offers goods for sale is defined as a “retail store” and is included in Oregon’s Bag Ban. Some examples include, but are not limited to, grocery, hardware, convenience and clothing stores, as well as roadside fruit stands and specialty food and wine shops. Additionally, restaurants and food establishments are also included in Oregon’s Bag Ban but have slightly different requirements.

After January 1, 2020, these businesses can no longer provide single-use bags and must charge a fee (except restaurants) for paper and certain types of reusable bags provided to the customer. Under the Oregon Bag Ban, the fee must be at least five cents, but local governments can require a higher fee in their jurisdiction. To learn more about the fee in your area, contact your local government.

## IS THERE ANY PHASE-IN OF THE REQUIREMENT?

Unfortunately, there is no additional leeway envisaged by the bill. Though the bag ban has been discussed publicly for some time, there are likely to be some businesses genuinely unaware of the new law. Helping these businesses is part of our rationale for creating this toolkit.

## HOW DO THE NEW REQUIREMENTS FOR RETAIL STORES AND RESTAURANTS DIFFER?

Generally, for retail stores, the bag fee is required for all Recycled Paper Checkout Bags, Reusable Plastic Checkout Bags, and Reusable Fabric Checkout Bags. However, no fee is required for Reusable Fabric Checkout Bags, so long as they are offered promotionally for not more than 12 days a year. Offering Single-use Plastic Checkout Bags is prohibited by the law.

For Restaurants no fee is required for Recycled Paper Checkout Bags. The fee is required for all reusable bags and, as for retail stores, offering Single-use Plastic Checkout Bags is prohibited.

## ARE THERE ANY OTHER EXCEPTIONS TO THE FEE REQUIREMENTS?

Yes. Retail establishments may waive recycled paper and reusable plastic checkout bag fees for customers using a WIC voucher or an EBT card, and restaurants may waive reusable plastic checkout bag fees for customers using an EBT card. Additionally, no fees are required for bags that are provided by businesses to customers at a time other than the time of checkout. Examples of these include: bags used to package bulk items such as fruit, vegetables, nuts, grains, greeting cards or small hardware items, including nails, bolts or screws; bags used to wrap frozen food, meat, fish, flowers, etc. to address dampness or sanitation; bags used to contain unwrapped prepared food, bakery goods, or prescribed drugs; newspaper bags, door hanger bags, garment bags, laundry bags and dry cleaning bags; and, bags sold in a package containing multiple bags for uses such as food storage, garbage containment or pet waste collection.

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A bag with handles, designed and manufactured to be used multiple times, and made of durable plastic that is at least 4 mils thick.

**REUSABLE FABRIC CHECKOUT BAG:**  
A bag with handles, designed and manufactured to be used multiple times, and made of cloth or other machine-washable fabric.

**RECYCLED PAPER CHECKOUT BAG:**  
A paper bag made of at least 40% post-consumer recycled fiber.

RETAIL STORES



RESTAURANTS



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Recycled paper bags	Reusable plastic bags*	Single-use bags

\*Some exceptions apply

## **HOW WILL THE OREGON BAG BAN BE ENFORCED?**

A violation of the provisions of the Bag Ban is a Class D violation subject to a maximum fine of \$250, per day of non-compliance. Class D violations are enforced by law or code enforcement officers, who may issue a warning or citation to a business. Each day a business commits a violation is considered a new offense. HB 2509 allows a different penalty to be set under local provisions, so check with local jurisdictions for specific questions about enforcement. A business can be charged with a violation under either the local provision or the penalty specified in HB 2509, but not both. We recommend checking with local jurisdictions to learn more about enforcement in your area.

## **WHAT HAPPENS TO THE CHECKOUT BAG FEES?**

Checkout bag fees go to your business in order to help cover the costs of having to stock and offer Recycled Paper Checkout Bags and/or reusable bags.

## **WHERE CAN I ORDER RECYCLED PAPER CHECKOUT BAGS AND REUSABLE BAGS FROM?**

Here is a list of suppliers put together for San Francisco's bag ordinance in 2012: [https://sfenvironment.org/sites/default/files/fliers/files/sfe\\_zw\\_vendors\\_recycledpaper\\_082019.pdf](https://sfenvironment.org/sites/default/files/fliers/files/sfe_zw_vendors_recycledpaper_082019.pdf). Also, your present bag supplier likely has a (more up-to-date) list of suppliers for Recycled Paper Checkout Bags. In terms of reusable bags you may like to offer, a Google search will turn up thousands of vendors selling custom, reusable bags.

## **DOES MY BUSINESS NEED TO KEEP TRACK OF FEES COLLECTED?**

Yes, but only if your business is a retail establishment that primarily sells groceries. For further information on the reporting requirements, please visit the DEQ website.

## **ANY TIPS ON HOW TO EXPLAIN THIS NEW FEE TO CUSTOMERS?**

First, you may want to let the customer know that you are required to charge the fee by law. Second, explain to them that it's not a tax increase, but that it goes back into your business to help cover some of the costs of switching to only providing Recycled Paper or reusable Checkout Bags. Third, explain that the state-wide ban is based on highly successful local level initiatives that were already implemented in 17 Oregon communities.

A FAQ provided by the State of Oregon explains the rationale behind adopting the bag ban (<https://www.oregon.gov/deq/FilterDocs/BagFAQ.pdf>). If you would like to help your customers remember to bring their reusable bags, try some or all of the tips found here: <https://www.factorydirectpromos.com/blog/help-your-customers-remember-their-reusable-bags-and-help-the-planet/>

## **WHO SHOULD BUSINESSES CALL IF THEY HAVE QUESTIONS?**

For additional information on the Oregon Bag Ban, visit the Oregon Legislative Information System website to access the full bill and materials. If you are a business looking for information about local fees or enforcement, please contact your local government. Otherwise, contacting one's local government should prove helpful, especially if you are concerned about additional local fees or enforcement actions.