To: Sales Tax License Holders
From: [your city or county]
RE: Bag Fee Implementation on January 1, 2023

The State of Colorado passed House Bill 21-1162 in 2021 which institutes a minimum 10-cent bag fee on single use plastic and paper carryout bags in Colorado, beginning January 1, 2023. More details on the bag fee, including information on how to remit a portion of the fee to the City/County, and a retailer toolkit that provides required signage can be found on the City/County website at [add url].

THE NEW STATE LAW – REQUIREMENTS OF RETAILERS
FEE ON SINGLE USE CARRYOUT BAGS

Beginning January 1, 2023, any carryout bag provided by a business in [your municipality/county] will require a 10-cent fee to be charged to the customer taking the bag(s). The fee applies to both paper and plastic single-use carryout bags at all large grocery and retail stores (restaurants, and small Colorado-only stores with 3 or fewer locations in the state, are excluded). The fee does not apply to single use bags used inside the store to package bulk items; wrap frozen or fresh foods, flowers, or other items where dampness may be a problem; or contain unwrapped prepared foods and bakery goods. It also does not apply to bags used for prescription drugs.

Stores must begin charging the fee on January 1, 2023. The store is entitled to retain 4-cents for every bag, which may be used for employee training and administration of the bag fee program, purchase of reusable or paper bag or other measures. Stores are required to remit 6-cents of the 10-cent fee to the City/County for recycling, composting and other waste diversion programs, including outreach and education activities.

On a quarterly basis, starting April 1, 2024, stores and retail food establishments must remit the total amount of carryout bag fees collected in the previous quarter(s) to the City/County. Businesses may choose to voluntarily pay the fees collected before April 1, 2024 [this is optional, dependent on the city or county's ability to collect the fee at the time of enactment of the law]. See attached for a visual of the form. The link to online fee remittance will be posted here: [add url]

The State Law requires that businesses that provide carryout bags:
Educate customers on the fee via posted signage. Free signage can be downloaded at [add your website url if posting signage. If not posting signage o your website, add the url https://ecocycle.org/PPRA-businesses for free signage businesses can download].

- Include on receipts the type and number of bags taken and bag fee(s) paid by the customers

BAN ON SINGLE USE CARRYOUT PLASTIC BAGS

Starting January 1, 2024, plastic carryout bags will be banned (restaurants, and small Colorado-only stores with 3 or fewer locations in the state, are excluded). Between January 1, 2024 and June 1, 2024, a store may provide a plastic carryout bag for the 10-cent fee only from its remaining inventory. After that date, stores will be prohibited from providing single-use plastic carryout bags to customers. However, paper bags made from 100% post-consumer recycled content will be permitted for the 10-cent fee.

Read the State Plastic Pollution Reduction Act here:
https://leg.colorado.gov/sites/default/files/2021a_1162_signed.pdf

FREQUENTLY ASKED QUESTIONS

Who DOES need to charge a fee per this State law effective January 1, 2023? The state law applies to large retail stores. Store (large retail) means a grocery store, convenience store, liquor store, dry cleaner, pharmacy, drug store, clothing store, or other type or retail establishment at which carryout bags are traditionally provided to customers.

Who does NOT have to charge a fee per this State law effective January 1, 2023? The state law does not apply the single use carryout bag fee or plastic bag ban to

- Small stores (those with three or fewer locations operating solely in Colorado, not part of a franchise, corporation, or partnership that has physical locations outside of Colorado)
- Restaurants
- Farmers markets and roadside stand vendors that qualify for the small business exemption (three or fewer locations operating solely in Colorado).

What is considered a carryout bag? Carryout bag means a new bag that is furnished to a customer at a store at the point of sale for use by the customer to transport or carry purchased items.

Carryout bag does not include:

(1) A bag made of paper when the paper has a basis weight of thirty pounds or less;

(2) A bag that a pharmacy provides to a customer purchasing prescription medication;

(3) A bag that a customer uses inside a store to:

a) Package loose or bulk items, such as fruits, vegetables, nuts, grains, candy, or greeting cards; nails, bolts, screws, or other small hardware items; live insects, fish, crustaceans, mollusks, or other small species; and bulk seed, bulk livestock feed, or bulk pet feed;

b) Contain or wrap frozen foods, meat, seafood, fish, flowers, potted plants, or other items that, if they were to come in contact with other items, could dampen or contaminate the other items;

c) Contain unwrapped prepared foods or bakery goods;

d) A laundry, dry cleaning, or garment bag.

How much is the carryout bag fee and how is it charged? The minimum fee is 10-cents ($0.10) per carryout bag. Customer receipts must show the number of carryout bags provided and the total amount charged for carryout bags. Retailers may not refund any part of the carryout bag fee. Retailers may not exempt any customer from any part of the carryout bag fee unless the customer presents at the time proof of participation in a federal or state food assistance program.

Who is exempt from the fee? Customers that provide evidence to the store that the customer is a participant in a federal or state food assistance program. Customers that are using reusable bags, request not to receive a carryout bag, or are reusing plastic or paper checkout bags are also exempt from paying the fee.

May the store keep any of the fee? Yes, the store may retain 40% or four cents ($0.04) per carryout bag.

Is any portion of the carryout bag fee subject to sales tax? The carryout bag fee is not subject to state sales tax. The vendor or store's share does not count as revenue for the purposes of calculating sales tax. Local sales taxes may apply. Some municipalities have passed ordinances exempting the bag fee from local sales tax.

Where can retailers file the carryout bag fee with the [your city/county]? Retailers should file their carryout bag fee returns electronically. This will be done in a similar manner to how sales and use tax returns are filed. [describe the system you wish to use and provide the web address for accessing the system]

How often is the carryout bag fee return filed? The carryout bag fee is reported quarterly and based on a standard calendar year. The State law requires retailers report the bag fee to the City/County each quarter, but payment of the fee isn't required until after April 1, 2024. This means a retailer must report bag fee returns for quarters one through four, 2023, but payment of those bag fees is not required until April 1, 2024. Please be aware that the first quarter 2024 bag fees must also be reported and paid by April 1, 2024. Retailers can voluntarily choose to start paying the bag fee with the first quarter 2023 return, due by April 1, 2023 [if city or county has a system to collect the fee ready before April 1, 2024].

My business will collect minimal carryout bag fees, am I still required to report and pay each quarter? The State law allows retailers that collect less than twenty dollars ($20) in carryout bag fees per quarter to hold those fees until a later date. The retailer should retain those collected fees until it has more than twenty dollars total worth of collected fees and then remit those fees as part of the next quarterly remittance.

Please contact [name of local contact] with any questions.