



Form with fields: Business Name, Address, Date, Time, Person Interviewed, Phone, Email, DEC Inspector, DEC Region

\* For this inspection to take place, an entity must be required to comply with Title 27, Title 28 or both.

1. JURISDICTION - ARTICLE 27, TITLE 27 – Answers to 1.a. and 1.b. must both be “Yes”

a. Is the business a retail establishment that provided plastic carryout bags to its customers as a result of the sale of a product any time prior to March 1, 2020 or is the business currently providing plastic carryout bags to its customers?
Yes No

b. Does the business meet the definition of “store” with over 10,000 square feet of retail space or is it part of a chain which operate five or more stores with more than 5,000 square feet of retail space in New York State under common ownership and management?
Yes No

2. JURISDICTION - ARTICLE 27, TITLE 28

a. Does the business meet the definition of a “person required to collect tax”? The business is a vendor of tangible personal property subject to New York State sales tax.
Yes No

3. INSPECTOR’S OBSERVATIONS

C NI V

3a. Person required to collect tax is not distributing plastic carryout bags, for free or for sale, other than exempt bags as defined in ECL §27-2801(1). [ECL §27-2803(1) and 6 NYCRR § 351-2.1(a)].

3b. If the answer to 3.a is “Violation”, how many violations were observed?

3c. Store has a film plastic recycling bin as required by [§27-2803(3)] [ECL §27-2703(1); §27-2705 (2); and 6 NYCRR § 351-2.3].

3d. Store has a film plastic recycling bin with proper signage as required by [ECL §27-2705(2) and 6 NYCRR § 351-2.3(3)]

3e. Person required to collect tax allows a person to use a bag of any kind that they have brought for purposes of carrying goods. [ECL §27-2803(2) and 6 NYCRR § 351-2.1(b)].

(C = Compliant, NI = Not Inspected V = Violation)

Warning Notice – the violation(s) above must be corrected and prevented from recurring.

The violation(s) above are being referred to the Department’s Office of General Counsel for formal enforcement.

This inspection report is being provided at the conclusion of the inspection to the business representative noted above.

Inspectors Signature

Individual in responsible charge (Print Name)

Signature Date

PLEASE REVIEW THE ATTACHED EDUCATIONAL MATERIALS

Educational materials in multiple languages are available at: https://www.dec.ny.gov/chemical/117781.html.



NYSDEC  
Division of Materials Management

NYS Bag Waste Reduction Law

(Environmental Conservation Law Article 27, Title 28; effective March 1, 2020) and

NYS Plastic Bag Reduction, Reuse & Recycling Law (Environmental Conservation Law  
Article 27, Title 27, effective Jan. 1, 2009)

**Background**

The NYS Bag Waste Reduction Law (Law) was signed by the Governor in April 2019 and took effect March 1, 2020. Enforcement began on October 19, 2020. This Law prohibits the distribution of plastic carryout bags, other than exempt bags, by any person required to collect NYS sales tax. This Law also expressly keeps the requirements for stores required under Title 27 of Article 27 of the Environmental Conservation Law (ECL) to continue to collect film plastic from consumers for recycling. In addition, consumers must be allowed to use a bag of any kind that they brought for the purposes of carrying goods. The corresponding regulations for these laws are the 6 NYCRR Part 351 Plastic Bag Reduction, Reuse, and Recycling regulations.

ECL § 27-2801 provides definitions of key terms in the NYS Bag Waste Reduction Law.

**“Exempt bag”** means a bag: (a) used solely to contain or wrap uncooked meat, fish, or poultry; (b) bags used by a customer solely to package bulk items such as fruits, vegetables, grains, or candy; (c) bags used solely to contain food sliced or prepared to order; (d) bags used solely to contain a newspaper for delivery to a subscriber; (e) bags sold in bulk to a consumer at the point of sale; (f) trash bags; (g) food storage bags; (h) garment bags; (i) bags prepackaged for sale to a customer; (j) plastic carryout bags provided by a restaurant, tavern or similar food service establishment, as defined in the state sanitary code, to carryout or deliver food; or (k) bags provided by a pharmacy to carry prescription drugs.

**“Person required to collect tax”** means any vendor of tangible personal property subject to the tax imposed by the New York State sales tax law (NYS Tax Law §1105(a)).

**“Plastic carryout bag”** means any plastic bag, other than an exempt bag, that is provided to a customer by a person required to collect tax to be used by the customer to carry tangible personal property, regardless of whether such person required to collect tax sells any tangible personal property or service to the customer, and regardless of whether any tangible personal property or service sold is exempt from tax under article twenty-eight of the tax law.

ECL § 27-2701(6) and 6 NYCRR § 351-1.2(o) provide a definition for a key term in the Plastic Bag Reduction, Reuse & Recycling Law

**“Store”** means a retail establishment that provided plastic carryout bags to its customers as a result of the sale of a product any time prior to March 1, 2020, or is currently providing plastic carryout bags to its customers, and has over 10,000 square feet of retail space, OR is part of a chain engaged in the same general field of business which operates 5 or more units of over 5,000 square feet of retail space in this state under common ownership and management.



NYSDEC  
Division of Materials Management

**Basic Requirements of the Plastic Bag Reduction, Reuse & Recycling Law**

ECL § 27-2703(1); §27-2705 (2); and 6 NYCRR § 351-2.3 state that the operator of a store shall establish and maintain an at-store recycling program for plastic carryout bags and other film plastic that provides an opportunity for a customer of the store to return clean and dry plastic carryout bags and other film plastic to the store. The at-store recycling program must include a collection bin that is visible, easily accessible to the consumer, and clearly marked that the bin is available for the purpose of collecting and recycling plastic carryout bags and other film plastic.

**Additional Information**

Reusable bags containing plastic are covered under the definition of plastic carryout bag and are therefore prohibited from distribution. Types of plastic(s) that may be found in a reusable bag that would qualify the bag as a plastic carryout bag include, but are not limited to, HDPE (high density polyethylene), LDPE (low density polyethylene), PET (polyethylene terephthalate), woven and non-woven polypropylene (PP), nylon, and polyester.

The information above highlights the major provisions of these laws and the regulations and does not address all aspects of the laws and applicable regulations. More information and a complete copy of the laws and regulations are available on the DEC website –<https://www.dec.ny.gov/chemical/50034.html>.

**Failure to Comply with the Laws**

ECL § 27-2807(1) includes enforcement provisions for the Bag Waste Reduction Law, stating that any person required to collect tax who violates any provision of ECL § 27-2803 shall receive a warning notice for the first such violation. A person required to collect tax shall be liable for a civil penalty of two hundred fifty dollars (\$250) for the first violation after receiving a warning and five hundred dollars (\$500) for any subsequent violation in the same calendar year. Each commercial transaction constitutes no more than one violation.

ECL § 71-2728(1) includes enforcement provisions for the Plastic Bag Reduction, Reuse and Recycling Law, stating that any person who knowingly or intentionally violates any provision of or fails to perform any duty imposed by the law shall upon the first finding of a violation be provided with a warning. After receiving the warning notice, a person shall be liable for a civil penalty of up to one hundred dollars (\$100) for a second violation, and for a third or subsequent violation, such person will be liable for a penalty of up to five hundred dollars (\$500).

**Do You Have Questions?**

If your business has been inspected by the Department and you have questions regarding your compliance requirements, please contact the Department's inspector identified on the inspection report.

If you have other questions about the above laws or regulations, please contact us at [plasticbags@dec.ny.gov](mailto:plasticbags@dec.ny.gov) or (518)402-8706.