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ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1115, L.D. 1532, Bill, "An Act To Eliminate Single-use Plastic Carry-out Bags"

Amend the bill by striking out all of section 1 and inserting the following:

'Sec. 1. 38 MRSA §1605, as repealed and replaced by PL 1991, c. 475, §1, is repealed.'

Amend the bill in section 2 in §1611 in subsection 1 by inserting after the first paragraph the following:

'A. "Participating municipality" means a municipality that has approved at referendum conducted in accordance with Title 30-A, chapter 121, subchapter 2 an article subjecting the municipality to both the prohibition in subsection 2 and the requirements in subsection 3.'

In the case of a town, plantation or township located within the unorganized and deorganized areas, "participating municipality" means a town, plantation or township located within a county in which the county commissioners of that county have voted to subject all towns, plantations and townships within the unorganized and deorganized areas of that county to both the prohibition in subsection 2 and the requirements in subsection 3.'

Amend the bill in section 2 in §1611 in subsection 1 in paragraph G in subparagraph (1) in the first line (page 1, line 29 in L.D.) by inserting after the following: "withstand" the following: 'a minimum of'

Amend the bill in section 2 in §1611 in subsection 1 by relettering the paragraphs to read alphabetically.

Amend the bill in section 2 in §1611 in subsection 2 by inserting at the end 2 new lettered paragraphs to read:

'C. A retail establishment that is located in any municipality, regardless of whether the municipality is a participating municipality, may make single-use carry-out bags made of plastic that are exempted in paragraph B available to customers to bag

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1 products within the retail establishment other than at the point of sale only if the retail
2 establishment:

3 (1) Locates inside the retail establishment or within 20 feet of the main entrance
4 to the retail establishment a receptacle for collecting any used single-use carry-
5 out bags made of plastic; and

6 (2) Ensures that single-use carry-out bags made of plastic that are collected by
7 the retail establishment are recycled or delivered to a person engaged in recycling
8 plastics.

9 D. The prohibition in paragraph A applies only to a retail establishment that is
10 located in a participating municipality.'

11 Amend the bill in section 2 in §1611 by striking out all of subsections 3 to 5 (page 3,
12 lines 4 to 31 in L.D.) and inserting the following:

13 **3. Recycled paper bag fees and reusable plastic bag fees; exemptions.** This
14 subsection governs fees assessed on recycled paper bags and on reusable bags made of
15 plastic.

16 A. Except as otherwise provided in this subsection, beginning April 22, 2020 a retail
17 establishment may use a recycled paper bag or a reusable bag made of plastic to bag
18 products at the point of sale as long as the retail establishment charges a fee of at least
19 5¢ per bag.

20 (1) All amounts collected pursuant to this paragraph are retained by the retail
21 establishment and may be used for any lawful purpose.

22 (2) A retail establishment may not rebate or otherwise reimburse a customer any
23 portion of the fee charged pursuant to this paragraph.

24 B. The requirement to charge a fee under paragraph A does not apply to:

25 (1) Stores at which less than 2% of retail sales are attributed to the sale of food
26 and that have less than 10,000 square feet of retail area;

27 (2) Restaurants; or

28 (3) Hunger relief organizations engaged in distributing food directly to
29 consumers at no charge.

30 C. The requirements in paragraph A apply only to a retail establishment that is
31 located in a participating municipality.

32 A retail establishment exempt from charging a fee under this paragraph may charge a fee
33 for a recycled paper bag or a reusable bag made of plastic.

34 **4. Violations.** A retail establishment that violates a provision of this section is
35 subject to civil penalties under section 349.

36 **5. Preemption.** To ensure maximum effectiveness through uniform statewide
37 application, the State intends to occupy the whole field of regulation of single-use carry-
38 out bags at retail establishments beginning April 22, 2020. A local government may not
39 adopt an ordinance regulating single-use carry-out bags at retail establishments and,

1 beginning April 22, 2020, any ordinance or regulation that violates this subsection is void
2 and has no force or effect.'

3 **SUMMARY**

4 This amendment is the minority report of the committee. The amendment provides
5 that the prohibitions and requirements in the bill, as amended, apply only in a
6 participating municipality, which is a municipality that has approved at referendum an
7 article subjecting the municipality to the prohibitions and requirements. The amendment
8 requires a retail establishment in a participating municipality to charge at least a 5¢ fee
9 for each reusable bag made of plastic and for each recycled paper bag used to bag
10 products at the point of sale. It also clarifies provisions in the bill regarding the
11 implementation of the statewide preemption on single-use carry-out bag regulation and
12 the provision regarding violations of the bag prohibition and bag fees requirements. It
13 makes additional technical changes to clarify the application of existing state law
14 regarding plastic bags and removes language in the bill regarding the application of bag
15 fees to purchasers using the federal supplemental nutrition assistance program or the
16 Women, Infants and Children Special Supplemental Food Program of the United States
17 Child Nutrition Act of 1996.

18 **FISCAL NOTE REQUIRED**

19 **(See attached)**