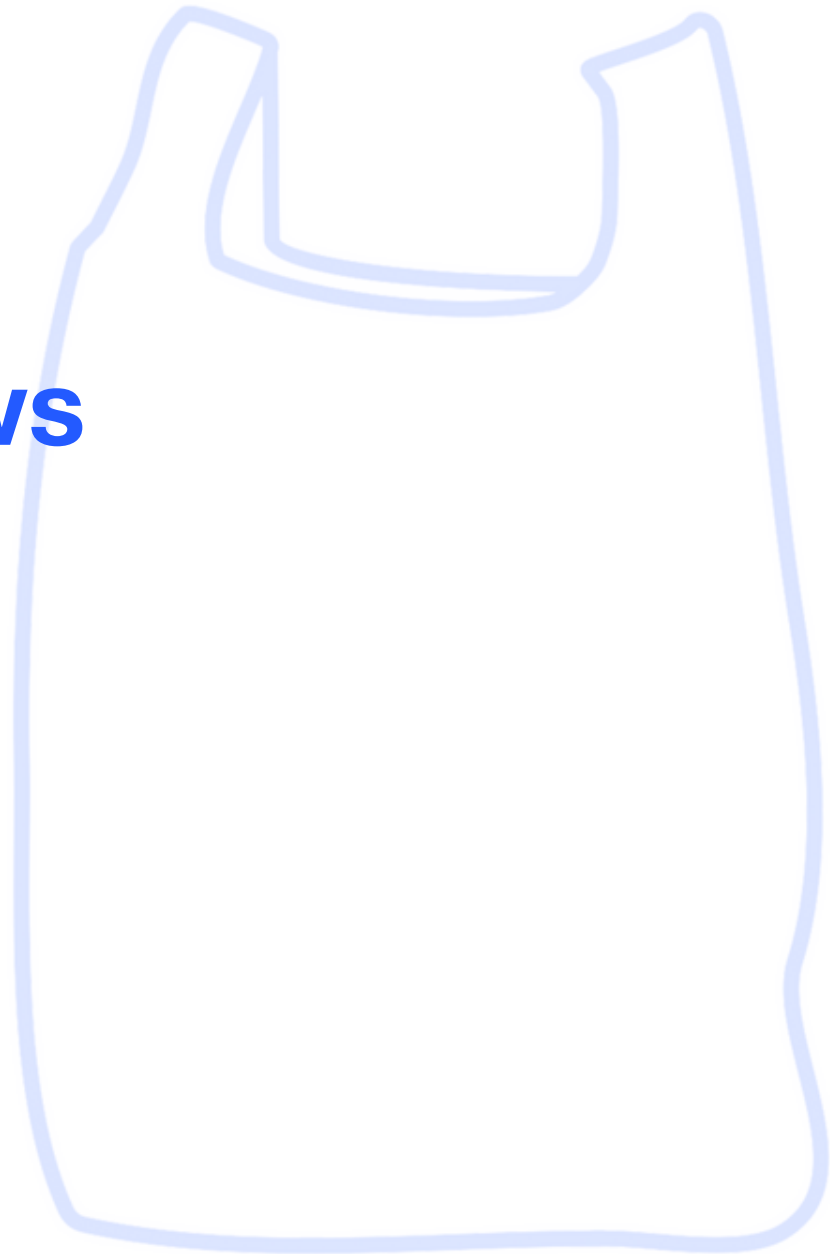


An Overview of Plastic Bag Laws in the U.S.

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DISCLAIMER

The information in this presentation is not, nor is it intended to be, legal advice. You should consult an attorney for individual advice regarding your specific situation.



WHY PLASTIC BAGS?

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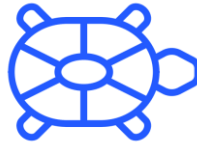


WINDBLOWN LITTER

Even if disposed of properly, plastic bags get caught in the wind

Visible in environment as litter (often caught in trees)

Litter clean-up costs taxpayers



MARINE IMPACTS

Plastic bags can entangle or choke marine life

Break down into small pieces

Sea turtles mistake plastic bags for jellyfish



WASTE MANAGEMENT

There is no viable market for dirty bags

Clog recycling machinery

Contaminate other recyclables

A blue-tinted photograph showing a close-up of a bicycle wheel on the left side. The wheel has many spokes and a black tire. To the right of the wheel, a white plastic bag lies crumpled on a light-colored sidewalk. The text "TYPES OF BAG LAWS" is overlaid in white, bold, sans-serif font across the lower portion of the image.

TYPES OF BAG LAWS

TYPES OF BAG LAWS

Best practice: include fee component so **all bag types** are addressed & increase in the use of any bag is discouraged

Recommended Structures:

- **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)

Non-Recommended Structures:

- **"First Generation" or "Straight" Ban:** ban on thin plastic bags only



CASE STUDY:

Evolution of San Francisco's Bag Law

2007: Straight Plastic Bag Ban

2012: Ban/Fee Hybrid with a minimum 10-cent charge for all other carryout bags (paper, reusable)

FOCUS ON REDUCING ALL BAG TYPES

Starting May 1, 2017 for all retail establishments:

No more single-use plastic bags

Charge Minimum 10¢ for paper bags

Charge Minimum 10¢ for compliant reusable bags

Customers Encouraged to bring their own bags

GRAPHIC FROM ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY



TAKE-HOME MESSAGE

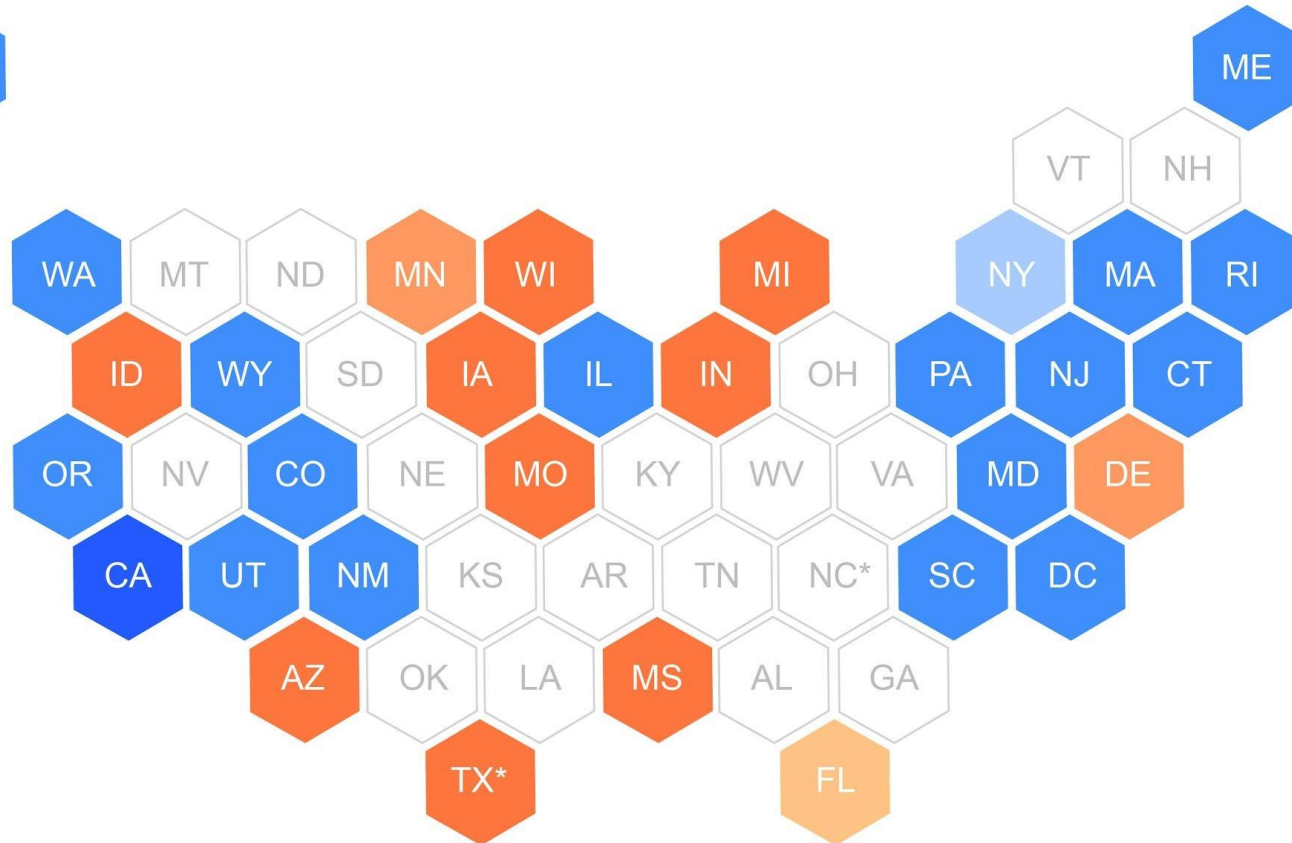
When you ban a product, pay attention to which alternatives will remain available.

A large pile of white plastic bags, some filled with trash, against a blue background. The bags are crumpled and piled together, with some showing signs of use and debris inside. The overall scene is dimly lit with a blue tint.

**WHICH STATES HAVE
STATE OR LOCAL
BAG LAWS?**

PLASTIC BAG LAWS

BAG LAWS ACROSS THE COUNTRY



MAP KEY

-  statewide bag laws
-  states with locally adopted bag laws that aren't preempted
-  several local laws adopted, but NYC's bag law preempted by state moratorium
-  state preemption law allegedly in place but local bag law recently adopted (FL only, lawsuit pending)
-  state preemption on bans only (MN) or fees only (under DE recycling law)
-  state preemption

*notes: HI has a de facto state law because all inhabited counties have local bag laws.
 TX preemption is based upon litigation over an existing statute.
 NC state pilot project for the Outer Banks was repealed.

Map developed by Korin Tangtrakul for PlasticBagLaws.org
 Last updated January 10, 2019.



PLASTIC BAG LAWS

U.S: At least 375 local bag laws have been adopted.

Wordwide: At least 665 bag laws have been adopted.



**WHAT ARE THE
BEST PRACTICES
FOR PLASTIC BAG LAWS?**

BEST PRACTICE: PLASTIC BAG RECYCLING



Plastic bags clog most municipal recycling machinery.

Plastic bags must be collected for recycling at retailers.

Focus should be on BYOBag, not recycling.



BEST PRACTICE: PAPER BAGS

LCAs look at a variety of factors, more emphasis should be on aquatic impacts & litter.

Most bag laws require that paper bags be made of 100% recycled material (40% post-consumer).

Require a per-bag fee.



BEST PRACTICE: COMPOSTABLE & BIODEGRADABLE BAGS

Plastic does not degrade in the ocean, no marine degradability standard exists.

BIODEGRADABLE: no standard in U.S. & prohibition by FTC

COMPOSTABLE: ASTM D6400 standard for all commercial composting

Require per-bag fee.



BEST PRACTICE: IMPACT OF BAG FEES ON LOW-INCOME COMMUNITIES

Bag fees are meant to encourage customers to bring their own bags, not purchase bags.

Cities usually required by law to conduct outreach/ education in low-income communities to distribute free reusable bags.

Food stamp (SNAP and WIC) are usually exempt.



ARE BAG LAWS EFFECTIVE?

LEARNING FOR OTHER CITIES & STATES

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%

www.plasticbaglaws.org/effectiveness

A photograph of a white plastic bag lying in a field of dry grass and brush. The entire image has a blue color cast. In the background, there is a hillside with trees under a clear blue sky. Two horizontal lines, possibly wires or fence lines, cross the frame.

PREEMPTION

PREEMPTION OF BAG LAWS

SHADES OF PREEMPTION



MAP KEY

-  state preemption
-  statewide preemption on bans only (MN) or on fees only (DE under recycling law)
-  state preemption law allegedly in place but local law recently adopted (FL only, lawsuit pending)
-  states with recent threats of preemption
-  states with local bag law in place and recent threats of preemption
-  state or local bag laws in place

*notes: CA has the only true statewide bag law. HI has a de facto state law because in all inhabited counties have local bag laws. TX preemption is based upon litigation over an existing statute.



TAKE-HOME MESSAGE

Preemption laws should create a floor, not a ceiling.

Thank you!



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