

REVISED JOB IMPACT STATEMENT

6 NYCRR Part 351 Plastic Bag Reduction, Reuse and Recycling

INTRODUCTION

Proposed Part 351 affects stores, other retail establishments, owners of enclosed shopping malls, manufacturers of plastic carryout bags, and producers of reusable bags. Businesses that produce plastic carry out bags could experience a decline in sales. On the other hand, manufacturers of reusable bags and paper carryout bags could experience an increase in sales as consumers move to the use of reusable bags over time and due to a potential shift to paper carryout bag use by some stores. These proposed Part 351 regulations will implement the requirements of Titles 27 and 28 of Article 27 of the Environmental Conservation Law.

The proposed rulemaking addresses the requirements of Title 27, which became effective over ten years ago on January 1, 2009. Title 27 established requirements for stores with 10,000 square feet or more of retail space and chains that operate five or more stores with greater than 5,000 square feet of retail space, and which provide plastic carryout bags to customers, to place bins for the collection of plastic carryout bags and have those collected bags recycled. Pursuant to this law, the owner of an enclosed shopping mall is required to place recycling bins at reasonable intervals throughout the mall. Large mall stores (50,000 square feet or more of retail space) are

required to establish their own plastic carryout bag recycling programs. These stores and retail establishments are located statewide, including rural areas.

Title 27 was amended and expanded, effective over four years ago on March 1, 2015, to also require the collection at these same stores of uncontaminated non-rigid film plastic packaging products composed of plastic resins, which include, but are not limited to, newspaper bags, dry cleaning bags and shrink-wrap.

Title 27 established collection, recycling and recordkeeping requirements for stores and manufacturers of these film plastic products and have been in place for over ten years.

In 2019, a new Title 28, “Bag Waste Reduction” was added to Article 27 of the ECL.

This law bans the distribution of plastic carryout bags to customers, effective March 1, 2020, by any person required to collect tax. (“Person required to collect tax” means any vendor of tangible personal property subject to the tax imposed by New York State Tax Law section 1105(a), “Imposition of sales tax.”) This law provides specific exemptions from the definition of plastic carryout bag and requires these retail entities to allow the use of reusable bags. The law also specifically identifies that the new requirements do not exempt the provisions set forth in Title 27 relating to at store film plastic collection and recycling.

Titles 27 and 28 use similar terms, have some overlapping provisions, and taken together are intended to reduce the use of plastic carryout bags and increase the

recovery and recycling of film plastic. Clarification of several terms and the coordination of Titles 27 and 28 through the proposed rulemaking is necessary because without further defining these terms in a consistent manner, the intent of the ban on plastic carryout bag distribution will not be accomplished in an efficient and effective manner.

1. NATURE OF IMPACT

While the regulations themselves will not add any direct costs to the regulated parties, the enactment of the laws themselves influence costs. However, it is not anticipated that there will be job impacts to stores and retail establishments complying with the laws and regulations.

The Title 27 requirements for stores, owners of enclosed shopping malls, and manufacturers have been in place for over ten years for plastic carryout bags and four years for film plastic recycling, with respect to the collection, recycling, and recordkeeping requirements. Accordingly, their costs will likely decrease over time due to the eventual decrease in the amount of film plastic being deposited in the collection bins because the distribution of many of the plastic carryout bags will be eliminated. Accordingly, no job impacts are anticipated.

With respect to the potential impacts for stores and other retail establishments related to Title 28, these entities will no longer be able to distribute plastic carryout bags to customers. If these entities choose to provide an alternate bag to customers, the cost

per bag is estimated to be three to five times greater than a plastic carryout bag. These actions are not anticipated to have job-related impacts.

Manufacturers of plastic carryout bags will experience a decline in sales of those bags in New York State. To the extent that any manufacturers of film plastic bags are located in New York, jobs could be negatively impacted. We have been advised that a business that produces plastic carryout bags in Long Island with up to 300 employees could be significantly impacted.

Manufacturers of paper bags could experience an increase in sales due to a potential shift to paper bag use by some stores. The Department of Environmental Conservation (Department) has been advised that there is currently not enough production capacity to completely replace all plastic carryout bags with paper bags, with an estimated time frame of three to five years to build that full capacity. However, the intent of the law is to promote the use of reusable bags instead of any single-use bag, whether plastic or paper, so the production capacity disparity may only have a short-term impact on availability of paper carryout bags.

Manufacturers of reusable bags could realize an increase in sales as consumers move to the use of reusable bags over time. To the extent that any manufacturers of reusable bags are located in New York, though none are currently known, jobs could be positively impacted.

2. CATEGORIES AND NUMBERS OF JOBS OR EMPLOYMENT OPPORTUNITIES AFFECTED

As noted previously, the Title 27 requirements have been in place for over ten years for plastic carryout bags and four years for film plastic recycling. The implementation of the proposed regulations is not expected to have an adverse effect on jobs or employment opportunities.

The only potential impacts could be on manufacturers or distributors of plastic carryout bags. To the extent that any manufacturers of film plastic bags are located in New York, jobs could be negatively impacted. The Department has been advised that a business that produces plastic carryout bags in Long Island with up to 300 employees could be significantly impacted. However, manufacturers of film plastic bags will still see a market within New York State for the plastic carryout bag exemptions that are outlined within Title 28, as well as sales to stores in other states. Although manufacturers of plastic carryout bags could be impacted, these companies also typically create other packaging or reusable bag type products or could shift product development to those market opportunity areas over time. Manufacturers of paper carryout bags could also experience an increase in sales due to a potential shift to paper bag use by some stores. Additionally, manufacturers and distributors of reusable bags could realize a sale increase as consumers move to use of reusable bags over time. To the extent that any manufacturers of reusable bags are located in New York, though none are currently known, jobs could be positively impacted.

Although it is difficult to predict the impact of the regulations on employment, there is potential for a loss of jobs at a manufacturer of plastic carryout bags on Long Island, a potential increase in jobs for manufacturers of paper bags due to increased paper bag production, and a small number of jobs to be created if a manufacturer of reusable bags begins operation in New York.

3. REGIONS OF ADVERSE IMPACT

All entities must adhere to the same requirements regardless of where they are located in this State. Therefore, there is no region of the State expected to be adversely impacted from the proposed regulations more so than any other, with the exception of the potential impact on a manufacturer of plastic carryout bags located in Long Island.

4. MINIMIZING ADVERSE IMPACT

Title 27 established collection, recycling and recordkeeping requirements for stores and manufacturers of these film plastic products and these requirements have been in place for over ten years. Over the last few years, the Department has undertaken efforts to minimize any potential impacts by engaging stakeholders directly through outreach. Additionally, in an effort to minimize adverse impacts, the Department has clarified provisions to promote the use of reusable bags and recycling of plastic carryout bags

and film plastic. Manufacturers of reusable bags and paper carryout bags could see an increase in sales and employment.

5. SELF-EMPLOYMENT OPPORTUNITIES

The proposed regulations are not expected to negatively impact self-employment opportunities.