

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0565.01 Jennifer Berman x3286

SENATE BILL 19-034

SENATE SPONSORSHIP

Moreno,

HOUSE SPONSORSHIP

Arndt,

Senate Committees
Local Government

House Committees

A BILL FOR AN ACT

101 **CONCERNING A LOCAL GOVERNMENT'S AUTHORITY TO ESTABLISH**
102 **STANDARDS FOR THE USE OF ENVIRONMENTALLY DISCARDABLE**
103 **FOOD CONTAINERS, AND, IN CONNECTION THEREWITH,**
104 **AUTHORIZING A LOCAL GOVERNMENT TO ESTABLISH STANDARDS**
105 **FOR THE USE OF READY-TO-EAT FOOD CONTAINERS THAT MAY**
106 **BE DISCARDED THROUGH RECYCLING OR COMPOSTING.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Currently, state law preempts local governments from restricting

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

or mandating containers for any consumer products. The bill allows a local government to set a standard for a retail food establishment's use of ready-to-eat food containers that may be discarded through recycling or composting.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 25-17-104 as
3 follows:

4 **25-17-104. Local government preemption - definitions.** (1) ~~No~~
5 A unit of local government shall NOT require or prohibit the use or sale
6 of specific types of plastic materials or products or restrict or mandate
7 containers, packaging, or labeling for any consumer products; EXCEPT
8 THAT A LOCAL GOVERNMENT MAY SET A STANDARD FOR A RETAIL FOOD
9 ESTABLISHMENT'S USE OF READY-TO-EAT FOOD CONTAINERS THAT MAY BE
10 DISCARDED THROUGH RECYCLING OR COMPOSTING. IF TWO OR MORE
11 LOCAL GOVERNMENTS WITH JURISDICTION OVER THE SAME GEOGRAPHIC
12 AREA ESTABLISH DIFFERENT STANDARDS, THE MORE STRINGENT
13 STANDARD CONTROLS.

14 (2) AS USED IN THIS SECTION:

15 (a) "COMPOSTING" MEANS A PROCESS OF BIOLOGICALLY
16 DEGRADING ORGANIC MATERIALS INTO A SUBSTANCE THAT CONTAINS ONE
17 OR MORE ESSENTIAL AVAILABLE PLANT NUTRIENTS AND COMPLIES WITH
18 THE MINIMUM STANDARDS SPECIFIED BY RULE BY THE COMMISSIONER OF
19 AGRICULTURE.

20 (b) (I) "FOOD" MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE
21 SUBSTANCE, ICE, BEVERAGE, OR INGREDIENT USED OR INTENDED FOR USE
22 OR FOR SALE IN WHOLE OR IN PART FOR HUMAN CONSUMPTION.

23 (II) "FOOD" DOES NOT MEAN A DRUG, AS THAT TERM IS DEFINED IN

1 SECTION 25-5-402.

2 (c) "LOCAL GOVERNMENT" MEANS A CITY, COUNTY, CITY AND
3 COUNTY, MUNICIPALITY, OR TOWN.

4 (d) "READY-TO-EAT FOOD" MEANS FOOD THAT IS COOKED OR
5 OTHERWISE PREPARED IN ADVANCE FOR IMMEDIATE CONSUMPTION EITHER
6 ON OR OFF THE RETAIL FOOD ESTABLISHMENT'S PREMISES.

7 (e) (I) "RECYCLING" MEANS A PROCESS THAT TRANSFORMS
8 DISCARDED PRODUCTS, COMPONENTS, OR BY-PRODUCTS INTO NEW USABLE
9 OR MARKETABLE MATERIALS THAT MAY INVOLVE A CHANGE IN THE
10 PRODUCT'S IDENTITY.

11 (II) "RECYCLING" DOES NOT MEAN ENERGY RECOVERY OR ENERGY
12 GENERATION BY MEANS OF COMBUSTING DISCARDED PRODUCTS,
13 COMPONENTS, OR BY-PRODUCTS WITH OR WITHOUT OTHER WASTE
14 PRODUCTS.

15 (f) "RETAIL FOOD ESTABLISHMENT" HAS THE SAME MEANING AS
16 SET FORTH IN SECTION 25-4-1602.

17 **SECTION 2. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2020 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.