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ASSEMBLY BILL NO. 344—ASSEMBLYMEN  
JAUREGUI, SWANK; AND ARAUJO

MARCH 20, 2017

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JOINT SPONSORS: SENATORS SEGERBLOM; AND RATTI

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Referred to Committee on Health and Human Services

SUMMARY—Establishes provisions relating to the use of certain plastic bags. (BDR 40-958)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 14, 15, 16)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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AN ACT relating to retail practices; temporarily imposing a fee on the use of certain plastic bags; banning the use of certain plastic bags; authorizing certain inspections by health authorities; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 **Section 11** of this bill creates the Plastic Bag Environmental Cleanup Fund for  
2 the purpose of cleaning up the environment.  
3 **Section 12** of this bill requires a retailer to collect a fee of 10 cents per plastic  
4 bag from a customer who uses such a bag between July 1, 2017, and December 31,  
5 2021. **Section 12** further requires the money received pursuant to this fee of 10  
6 cents to be deposited with the State Treasurer for credit to the Plastic Bag  
7 Environmental Cleanup Fund.  
8 **Section 13** of this bill imposes a ban, beginning on January 1, 2022, on the  
9 distribution by a retailer of plastic bags to a customer. **Section 13** additionally  
10 imposes a fine for any violation of the ban and requires the money received as a  
11 result to be deposited with the State Treasurer for credit to the State General Fund.  
12 **Section 14** of this bill requires the health authority to at least once every year  
13 inspect retail establishments for the purposes of enforcing **sections 12 and 13**.  
14 **Section 15** of this bill requires the health authority to issue a citation for any  
15 violation of **sections 12 and 13**. **Section 15** additionally requires a citation to: (1)  
16 set forth the specific violations fund; (2) establish a specific and reasonable time for



\* A B 3 4 4 \*

17 the correction of any violation; (3) state that failure to comply with the  
18 requirements of the citation may result in a fine of not more than \$500; and (4)  
19 describe how a retailer may appeal the citation. **Section 16** of this bill provides the  
20 requirements that must be satisfied for a citation to be deemed to have been  
21 properly served.

22 **Section 17** of this bill authorizes the Division of Environmental Protection of  
23 the State Department of Conservation and Natural Resources to collect payments  
24 which are in default only in a professional, fair and lawful manner.

25 **Section 18** of this bill clarifies that a retailer may provide bags at checkout to a  
26 customer that are made of nonplastic materials.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 444A of NRS is hereby amended by  
2 adding thereto the provisions set forth as sections 2 to 18, inclusive,  
3 of this act.

4 **Sec. 2.** *As used in sections 2 to 18, inclusive, of this act,*  
5 *unless the context otherwise requires, the words and terms defined*  
6 *in sections 3 to 10, inclusive, of this act have the meanings*  
7 *ascribed to them in those sections.*

8 **Sec. 3.** *“Administrator” means the Administrator of the*  
9 *Division.*

10 **Sec. 4.** *“Checkout” means the point of sale.*

11 **Sec. 5.** *“Division” means the Division of Environmental*  
12 *Protection of the State Department of Conservation and Natural*  
13 *Resources.*

14 **Sec. 6.** *“Fund” means the Plastic Bag Environmental*  
15 *Cleanup Fund.*

16 **Sec. 7.** *“Health authority” means officers and agents of the*  
17 *Division or officers and agents of the local boards of health.*

18 **Sec. 8.** *“Plastic bag” means a bag composed of plastic, latex,*  
19 *polypropylene or polyethylene.*

20 **Sec. 9.** *“Retail establishment” means any place, structure,*  
21 *premises, vehicle or vessel, or any part thereof, in which a retailer*  
22 *makes sales as described in section 10 of this act.*

23 **Sec. 10.** *“Retailer” includes:*

24 1. *Every seller who makes any retail sale or sales of tangible*  
25 *personal property, and every person engaged in the business of*  
26 *making retail sales at auction of tangible personal property owned*  
27 *by the person or others;*

28 2. *Every person engaged in the business of making sales for*  
29 *storage, use or other consumption or in the business of making*  
30 *sales at auction of tangible personal property owned by the person*  
31 *or others for storage, use or other consumption; and*



1       3. *Every person making more than two retail sales of tangible*  
2 *personal property during any 12-month period, including, without*  
3 *limitation, sales made in the capacity of assignee for the benefit of*  
4 *creditors, or receiver or trustee in bankruptcy.*

5       **Sec. 11.** *1. The Plastic Bag Environmental Cleanup Fund*  
6 *is hereby created as a special revenue fund in the State Treasury.*

7       *2. The Division shall administer the Fund for the purpose of*  
8 *cleaning up the environment of this State.*

9       *3. The interest and income earned on the money in the Fund*  
10 *must, after deducting any applicable charges, be credited to the*  
11 *Fund.*

12       *4. Any money remaining in the Fund at the end of each fiscal*  
13 *year does not revert to the State General Fund, and the balance in*  
14 *the Fund must be carried forward to the next fiscal year.*

15       *5. The Administrator shall adopt:*

16       *(a) Any rules and regulations the Administrator deems*  
17 *necessary for the administration and enforcement of sections 2 to*  
18 *18, inclusive, of this act; and*

19       *(b) Regulations setting forth the uses and methods of*  
20 *expenditure of money in the Fund.*

21       **Sec. 12.** *1. A retailer who provides a plastic bag at checkout*  
22 *to a customer for the purpose of storing, carrying or transporting*  
23 *purchased goods shall collect from the customer at the time the*  
24 *retailer collects the applicable sales tax for the purchased goods a*  
25 *fee of 10 cents per plastic bag.*

26       *2. The retailer shall account separately for all money received*  
27 *pursuant to subsection 1 as a deposit to be held in trust for the*  
28 *Division. In accordance with the regulations adopted pursuant to*  
29 *this section and subsection 5 of section 11 of this act, the retailer*  
30 *shall transmit the money held in trust pursuant to this section to*  
31 *the Division for deposit with the State Treasurer for credit to the*  
32 *Fund.*

33       *3. The Administrator shall adopt regulations establishing*  
34 *acceptable methods for accounting for and transmitting to the*  
35 *Division money collected and required to be paid by retailers*  
36 *pursuant to subsection 1. The regulations must:*

37       *(a) Include a designation of the persons responsible for*  
38 *payment; and*

39       *(b) In appropriate situations, allow for the transmission of the*  
40 *money collected pursuant to subsection 1 with the payment of the*  
41 *applicable sales and use taxes.*

42       **Sec. 13.** *1. A retailer shall not provide a plastic bag at*  
43 *checkout to a customer for the purpose of storing, carrying or*  
44 *transporting purchased goods.*



1       2. *A person who violates the provisions of subsection 1 shall*  
2 *be punished by a fine of not more than \$500 for each violation.*  
3 *Each day on which a violation occurs constitutes a separate*  
4 *offense.*

5       3. *The Division shall:*

6       (a) *Collect from a person who violates the provisions of*  
7 *subsection 1 the fine imposed pursuant to subsection 2; and*

8       (b) *Account separately for all money received pursuant to*  
9 *subsection 2 as a deposit to be held in trust for the State.*

10      4. *In accordance with the regulations adopted pursuant to*  
11 *subsection 5, the Division shall transmit the money held in trust*  
12 *pursuant to this section to the Department of Taxation for deposit*  
13 *with the State Treasurer for credit to the State General Fund.*

14      5. *The Division, in consultation with the State Treasurer,*  
15 *shall adopt regulations establishing acceptable methods for*  
16 *accounting for and transmitting to the Department of Taxation*  
17 *money collected or required to be paid by the Division pursuant to*  
18 *this section.*

19      **Sec. 14.** 1. *At least once every year, the health authority*  
20 *shall inspect each retail establishment located in this State.*

21      2. *The health authority, after he or she has properly*  
22 *identified himself or herself, must be permitted to enter, at any*  
23 *reasonable time, any retail establishment within the State for the*  
24 *purpose of making any inspection to determine compliance with*  
25 *sections 2 to 18, inclusive, of this act. The health authority must be*  
26 *permitted to examine the records of the retail establishment to*  
27 *obtain pertinent information pertaining to plastic bags purchased,*  
28 *received or provided to customers of the retailer.*

29      3. *The health authority shall make as many additional*  
30 *inspections and reinspections as are necessary for the enforcement*  
31 *of sections 2 to 18, inclusive, of this act.*

32      4. *It is unlawful for any person to interfere with the health*  
33 *authority in the performance of his or her duties.*

34      **Sec. 15.** *Whenever the health authority makes an inspection*  
35 *of a retail establishment and discovers that any of the*  
36 *requirements of sections 2 to 18, inclusive, of this act have been*  
37 *violated, the health authority shall notify the retailer of the*  
38 *violations by means of a citation. The citation must:*

39      1. *Set forth the specific violations found;*

40      2. *Establish a specific and reasonable time for the correction*  
41 *of those violations;*

42      3. *State that failure to comply with the requirements of the*  
43 *citation may result in a fine of not more than \$500; and*

44      4. *State that an opportunity for appeal from the citation will*  
45 *be provided if a written request for a hearing is filed with the*



1 *health authority within the period established in the citation for*  
2 *correction.*

3 **Sec. 16.** *1. A citation provided for in section 15 of this act*  
4 *shall be deemed to have been properly served when the original of*  
5 *the citation has been delivered personally to the retailer or person*  
6 *in charge of the retail establishment, or the citation has been sent*  
7 *by registered or certified mail, return receipt requested, to the last*  
8 *known address of the retailer.*

9 *2. A copy of the citation must be filed with the records of the*  
10 *health authority.*

11 **Sec. 17.** *If a retailer defaults on a payment due to the*  
12 *Division pursuant to sections 2 to 18, inclusive, of this act, the*  
13 *Division may collect the payments owed only in a professional,*  
14 *fair and lawful manner.*

15 **Sec. 18.** *Nothing in sections 2 to 18, inclusive, of this act*  
16 *shall be construed as prohibiting a retailer from providing a bag at*  
17 *checkout to a customer that is made of nonplastic materials.*

18 **Sec. 19.** The provisions of NRS 354.599 do not apply to any  
19 additional expenses of a local government that are related to the  
20 provisions of this act.

21 **Sec. 20.** *1. This section and sections 1 to 12, inclusive, and*  
22 *14 to 19, inclusive, of this act become effective on July 1, 2017.*

23 *2. Section 12 of this act expires by limitation on December 31,*  
24 *2021.*

25 *3. Section 13 of this act becomes effective on January 1, 2022.*

