

# HOUSE BILL No. 6610

December 19, 2018, Introduced by Reps. Rabhi, Wittenberg and Sowerby and referred to the Committee on Commerce and Trade.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by amending the title, as amended by 2013 PA 22, and by adding part 177.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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TITLE

An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local

1 agencies and officials; to provide for certain charges, fees,  
2 **TAXES**, assessments, and donations; to provide certain  
3 appropriations; to prescribe penalties and provide remedies; and to  
4 repeal acts and parts of acts.

5 **PART 177 GROCERY BAGS**

6 **SEC. 17701. AS USED IN THIS PART:**

7 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL  
8 QUALITY.

9 (B) "DISPOSABLE GROCERY BAG", SUBJECT TO SUBDIVISION (C),  
10 MEANS A BAG, MADE OF ANY MATERIAL, TO ALLOW A CUSTOMER TO CARRY  
11 PURCHASES FROM A RETAIL GROCERY.

12 (C) "DISPOSABLE GROCERY BAG" DOES NOT INCLUDE ANY OF THE  
13 FOLLOWING:

14 (i) A REUSABLE GROCERY BAG.

15 (ii) A BAG USED INSIDE A RETAIL GROCERY TO DO ANY OF THE  
16 FOLLOWING:

17 (A) PACKAGE BULK ITEMS, SUCH AS FRUIT, VEGETABLES, GRAIN, OR  
18 CANDY.

19 (B) CONTAIN OR WRAP MEAT, FISH, OR FROZEN FOODS, WHETHER OR  
20 NOT THE ITEMS ARE PREPACKAGED.

21 (C) CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY GOODS.

22 (iii) A BAG USED BY A CUSTOMER OR PHARMACIST TO CONTAIN  
23 PRESCRIPTION DRUGS.

24 (iv) A BAG USED BY A RETAIL GROCERY TO CONTAIN LEAKS THAT MAY  
25 OCCUR IN THE TRANSPORTATION OF SOUPS, SAUCES, SALAD DRESSING, OR  
26 OTHER LIQUIDS.

27 (v) A BAG PROVIDED TO A CUSTOMER BY A RESTAURANT TO CARRY OUT

1 PREPARED FOOD.

2 (D) "FUND" MEANS THE RECYCLING INITIATIVE FUND CREATED IN  
3 SECTION 17711.

4 (E) "LAW ENFORCEMENT OFFICER" MEANS THAT TERM AS DEFINED IN  
5 SECTION 8801 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,  
6 MCL 600.8801.

7 (F) "RETAIL GROCERY" MEANS THAT TERM AS DEFINED IN SECTION  
8 1111 OF THE FOOD LAW, 2000 PA 92, MCL 289.1111.

9 (G) "REUSABLE GROCERY BAG" MEANS A BAG TO ALLOW A CUSTOMER TO  
10 CARRY PURCHASES FROM A RETAIL GROCERY, THAT IS SPECIFICALLY  
11 DESIGNED AND MANUFACTURED TO WITHSTAND REPEATED REUSE, AND THAT  
12 MEETS THE FOLLOWING REQUIREMENTS:

13 (i) HAS HANDLES.

14 (ii) IS CAPABLE OF CARRYING 22 POUNDS 125 TIMES OVER A  
15 DISTANCE OF AT LEAST 175 FEET.

16 (iii) HAS A VOLUME OF 15 LITERS OR MORE.

17 (iv) IS MACHINE-WASHABLE OR MADE FROM A MATERIAL THAT CAN BE  
18 CLEANED AND DISINFECTED REGULARLY.

19 (v) IF MADE FROM PLASTIC, IS AT LEAST 4/1,000 INCH THICK.

20 SEC. 17703. A RETAIL GROCERY SHALL NOT PROVIDE A CUSTOMER WITH  
21 A DISPOSABLE GROCERY BAG UNLESS THE BAG MEETS THE FOLLOWING  
22 REQUIREMENTS:

23 (A) IF MADE FROM PAPER, CONTAINS A MINIMUM OF 40% POSTCONSUMER  
24 RECYCLED CONTENT.

25 (B) DISPLAYS HIGHLY VISIBLE LABELING OF PROPER RECYCLING OR  
26 DISPOSAL REQUIREMENTS, AS PRESCRIBED BY RULES PROMULGATED BY THE  
27 DEPARTMENT.

1           SEC. 17705. (1) A RETAIL GROCERY SHALL ASSESS A FEE OF 2 CENTS  
2 AND A TAX OF 8 CENTS FOR EACH DISPOSABLE GROCERY BAG PROVIDED TO A  
3 CUSTOMER AT PURCHASE. THE FEE AND TAX SHALL BE CHARGED TO A  
4 CUSTOMER MAKING A PURCHASE WHETHER THE PURCHASE IS IN PERSON,  
5 THROUGH THE INTERNET, BY TELEPHONE, BY FACSIMILE, ELECTRONICALLY,  
6 OR BY ANY OTHER MEANS.

7           (2) A RETAIL GROCERY SHALL INDICATE ON THE CUSTOMER  
8 TRANSACTION RECEIPT THE NUMBER OF DISPOSABLE GROCERY BAGS PROVIDED  
9 TO THE CUSTOMER AND THE ASSOCIATED TOTAL FEE AND TOTAL TAX.

10          (3) A RETAIL GROCERY SHALL NOT REBATE OR OTHERWISE REIMBURSE A  
11 CUSTOMER IN WHOLE OR IN PART FOR THE FEE OR TAX UNDER THIS SECTION.

12          SEC. 17707. (1) A RETAIL GROCERY SHALL NOT ASSESS A FEE OR TAX  
13 UNDER SECTION 17705 FOR A GROCERY BAG PROVIDED TO A CUSTOMER WHO  
14 SHOWS VALID PROOF OF BEING A CURRENT BENEFICIARY OF THE FEDERAL  
15 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) OR THE SPECIAL  
16 SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN  
17 (WIC).

18          (2) THE DEPARTMENT OF TREASURY SHALL GRANT A RETAIL GROCERY AN  
19 EXEMPTION FROM 1 OR MORE OF THE REQUIREMENTS OF THIS PART FOR UP TO  
20 A 1-YEAR PERIOD IF THE RETAIL GROCERY DEMONSTRATES TO THE  
21 DEPARTMENT OF TREASURY THAT COMPLIANCE WITH THE REQUIREMENTS OF  
22 THIS PART WOULD CAUSE UNDUE FINANCIAL HARDSHIP OR SUBJECT THE  
23 RETAIL GROCERY TO A DISPROPORTIONATE ECONOMIC IMPACT BECAUSE OF  
24 CIRCUMSTANCES PARTICULAR TO THE RETAIL GROCERY.

25          (3) A REQUEST FOR AN EXEMPTION UNDER SUBSECTION (2) SHALL BE  
26 IN WRITING AND INCLUDE INFORMATION NECESSARY FOR THE DEPARTMENT OF  
27 TREASURY TO MAKE ITS DETERMINATION, INCLUDING DOCUMENTATION SHOWING

1 THE FACTUAL SUPPORT FOR THE EXEMPTION REQUESTED. THE DEPARTMENT OF  
2 TREASURY MAY REQUIRE THE APPLICANT TO PROVIDE ADDITIONAL  
3 INFORMATION TO ALLOW THE DEPARTMENT OF TREASURY TO MAKE ITS  
4 DETERMINATION. THE DEPARTMENT OF TREASURY SHALL BY RULE ESTABLISH A  
5 FEE FOR EXEMPTION REQUESTS SUFFICIENT TO COVER THE ADMINISTRATIVE  
6 COSTS FOR PROCESSING AN EXEMPTION REQUEST.

7 SEC. 17709. (1) A RETAIL GROCERY SHALL RETAIN THE FEES  
8 GENERATED UNDER SECTION 17705 AND SHALL REMIT THE TAX REVENUE  
9 GENERATED UNDER SECTION 17705 TO THE DEPARTMENT OF TREASURY.

10 (2) THE AMOUNT OF FEES RETAINED BY A RETAIL GROCERY UNDER  
11 SUBSECTION (1) IS NOT CLASSIFIED AS REVENUE FOR THE PURPOSES OF  
12 CALCULATING THE SALES TAX UNDER THE GENERAL SALES TAX ACT, 1933 PA  
13 167, MCL 205.51 TO 205.78.

14 (3) IT IS THE INTENT OF THE LEGISLATURE THAT THE FEES RETAINED  
15 BY A RETAIL GROCERY UNDER SUBSECTION (1) BE USED FOR THE FOLLOWING  
16 PURPOSES:

17 (A) TO DEVELOP AND PROVIDE EDUCATIONAL RESOURCES TO THE  
18 PUBLIC, INCLUDING RETAIL GROCERY CUSTOMERS AND STAFF, ABOUT THE  
19 FOLLOWING:

20 (i) THIS PART.

21 (ii) ECOLOGICAL BENEFITS OF REUSABLE GROCERY BAGS.

22 (iii) PROPER END-OF-LIFE MANAGEMENT AND RECYCLING OF GROCERY  
23 BAGS.

24 (B) TO TRAIN RETAIL GROCERY STAFF IN THE IMPLEMENTATION AND  
25 ADMINISTRATION OF THIS PART.

26 (C) TO IMPROVE OR ALTER INFRASTRUCTURE AND EQUIPMENT TO ALLOW  
27 FOR THE IMPLEMENTATION OR ADMINISTRATION OF THIS PART.

1 (D) TO IMPROVE INFRASTRUCTURE AND EQUIPMENT TO INCREASE  
2 RECYCLING OF PLASTIC RETAIL GROCERY BAGS.

3 (E) TO COLLECT, ACCOUNT FOR, AND REMIT THE FEE UNDER SECTION  
4 17705 TO THE DEPARTMENT.

5 (4) THE DEPARTMENT OF TREASURY SHALL DEPOSIT ALL TAX REVENUE  
6 COLLECTED BY THE DEPARTMENT OF TREASURY UNDER THIS PART INTO THE  
7 FUND.

8 SEC. 17711. (1) THE RECYCLING INITIATIVE FUND IS CREATED  
9 WITHIN THE STATE TREASURY.

10 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM  
11 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL  
12 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT  
13 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS. MONEY IN  
14 THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND  
15 AND SHALL NOT LAPSE TO THE GENERAL FUND. THE DEPARTMENT SHALL BE  
16 THE ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.

17 (3) THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL EXPEND MONEY  
18 FROM THE FUND, UPON APPROPRIATION, ONLY FOR 1 OR MORE OF THE  
19 FOLLOWING PURPOSES:

20 (A) TO PROMOTE RECYCLING OF OR REDUCE THE USE OF DISPOSABLE  
21 BAGS, PACKAGING, AND CONTAINERS.

22 (B) FOR GRANTS TO MUNICIPALITIES TO INCREASE RECYCLING  
23 CAPACITY AND PARTICIPATION OR TO REDUCE WASTE.

24 (C) FOR ADMINISTRATION, EDUCATION, AND ENFORCEMENT OF THE  
25 PROGRAM UNDER THIS PART AND THE POLYSTYRENE FOAM PROGRAM UNDER PART  
26 163.

27 (D) FOR PROGRAMS AND GRANTS TO CLEAN UP LITTER AND POLLUTION

1 COMPOSED WHOLLY OR IN PART BY DISPOSABLE CONTAINERS, PACKAGING, AND  
2 BAGS.

3 (E) FOR PROGRAMS, OR GRANTS TO MUNICIPALITIES, UNIVERSITIES,  
4 OR NONPROFITS, TO RESEARCH RECYCLING AND WASTE REDUCTION.

5 SEC. 17713. (1) ON A CALENDAR QUARTER BASIS, A RETAIL GROCERY  
6 SHALL REPORT TO THE DEPARTMENT OF TREASURY, ON A FORM PROVIDED BY  
7 THE DEPARTMENT OF TREASURY, THE FOLLOWING:

8 (A) THE NUMBER OF DISPOSABLE GROCERY BAGS PROVIDED TO  
9 CUSTOMERS.

10 (B) THE TOTAL AMOUNT OF MONEY COLLECTED UNDER SECTION 17705.

11 (C) A SUMMARY OF ANY EFFORTS TO PROMOTE THE USE OF REUSABLE  
12 GROCERY BAGS BY CUSTOMERS.

13 (2) A RETAIL GROCERY SHALL SUBMIT THE REPORT REQUIRED UNDER  
14 SUBSECTION (1) WITHIN 30 DAYS AFTER THE END OF THE CALENDAR QUARTER  
15 COVERED BY THE REPORT.

16 SEC. 17715. A RETAIL ESTABLISHMENT THAT IS NOT SUBJECT TO THIS  
17 PART MAY COMPLY WITH THIS PART AFTER PROVIDING WRITTEN NOTICE TO  
18 THE DEPARTMENT.

19 SEC. 17717. (1) A LAW ENFORCEMENT OFFICER SHALL ISSUE A  
20 WARNING NOTICE TO A RETAIL GROCERY FOR AN INITIAL VIOLATION OF  
21 SECTION 17703. THE NOTICE SHALL CONTAIN A DESCRIPTION OF THE  
22 VIOLATION AND A STATEMENT OF HOW TO REMEDY THE VIOLATION. THE  
23 RETAIL GROCERY SHALL COMPLY WITH THIS PART WITHIN 5 DAYS AFTER  
24 RECEIPT OF THE NOTICE.

25 (2) A PERSON WHO VIOLATES SECTION 17703 AFTER AN INITIAL  
26 VIOLATION FOR WHICH A WARNING WAS RECEIVED UNDER SUBSECTION (1) IS  
27 RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY

1 A CIVIL FINE OF NOT MORE THAN THE FOLLOWING AMOUNT:

2 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B) OR (C), \$200.00.

3 (B) FOR A SECOND VIOLATION WITHIN 1 YEAR AFTER A FIRST  
4 VIOLATION UNDER THIS SUBSECTION, \$400.00.

5 (C) FOR A THIRD VIOLATION WITHIN 1 YEAR AFTER A SECOND  
6 VIOLATION UNDER THIS SUBSECTION OR FOR ANY FOURTH OR SUBSEQUENT  
7 VIOLATION UNDER THIS SUBSECTION, \$1,000.00.

8 (3) A RETAIL GROCERY SHALL NOT BE FOUND RESPONSIBLE FOR MORE  
9 THAN 1 VIOLATION OF SECTION 17703 WITHIN A 7-DAY PERIOD.

10 (4) EXCEPT AS PROVIDED IN SUBSECTIONS (1) TO (3), THE  
11 DEPARTMENT OF TREASURY SHALL ENFORCE THIS PART, PURSUANT TO 1941 PA  
12 122, MCL 205.1 TO 205.31. HOWEVER, THIS PART, EXCEPT FOR THE  
13 REQUIREMENT TO REMIT COLLECTED TAX REVENUE UNDER SECTION 17709(1),  
14 IS NOT ENFORCEABLE AGAINST A RETAIL ESTABLISHMENT THAT ELECTS TO  
15 COMPLY WITH THIS PART UNDER SECTION 17715.

16 SEC. 17719. PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF  
17 1969, 1969 PA 306, MCL 24.201 TO 24.328, THE DEPARTMENT OF TREASURY  
18 AND DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL JOINTLY PROMULGATE  
19 RULES TO IMPLEMENT THIS PART BY 1 YEAR AFTER THE EFFECTIVE DATE OF  
20 THIS SECTION.

21 Enacting section 1. (1) This amendatory act takes effect 90  
22 days after the date it is enacted into law.

23 (2) Sections 17701 to 17717 apply beginning 90 days after the  
24 deadline for rule promulgation under section 17719.

25 Enacting section 2. This amendatory act does not take effect  
26 unless all of the following bills of the 99th Legislature are  
27 enacted into law:



1 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 6611 (request no.  
2 06618'18 a).

3 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 6612 (request no.  
4 06618'18 b).

5 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 6609 (request no.  
6 06619'18).