To Ban or Not to Ban? A Guide to Regulating Plastic Bags

Prakriti Shukla, Carlos Mesa Guerra, Khyati Rathore, Rhea Lopes *May, 2019*

Governments across the USA are considering regulations on the use of plastic bags. In 2018, the NYS Task Force on Plastic Bags gave a range of recommendations on different legislative actions. New York has passed a statewide ban on plastic bags effective by March 2020, making it the second state after California to regulate plastic bags at the state level.

Plastic Bags are Not Free

Every year, the USA consumes 380 billion plastic bags. Merely 12.8% of plastic bags, wraps and sacks get recycled. As of 2004, San Francisco spent $8.49 million/year, roughly 17 cents/bag on landfill, collection-disposal, and litter cleanup. Bag disposal costs NYC $12.5 million/year. Single-use plastic bags are one of the most problematic materials in a city's waste stream. Further, they are a threat to public health and the environment. This study assesses the legislative responses to curb plastic bag use. We conducted secondary research of regulations at the state and local levels, and interviews with public officials to understand the rationale behind legislative responses.

Regulatory Response: Bans Do Not Work

Fee Works Better than Ban

Bans are a popular choice to regulate plastic bags. As of 2018, out of 372 municipalities regulating plastic bags, 348 imposed bans. But bans do not necessarily lead to a reduction in use. Chicago's ban on single-use plastic bags did not result in reduced plastic bag use, as retailers moved to a thicker variant. The city replaced this ban with a 7-cent tax on bags that led to a 42% reduction in bag use.

Hybrid Ban-Fee Model Works Best

Bans fail to work when retailers adopt alternatives like thicker plastic bags or paper bags. These alternatives have a large environmental impact. Los Angeles supplemented its plastic bag ban with a 10-cent fee on these alternatives. This combination, 'hybrid' model, led to a 94% reduction in consumption of plastic bags and a 25% reduction in paper bags. Thus, it discourages workarounds.

Regulatory Options

There is no absolute solution. The tradeoffs for each response are discussed below:

	Benefits	Drawbacks
Ban	- Few customer complaints - Easy to implement	- Less reduction in use - Increased use of reusable bags - Manufacturer / retailer pushback
Fee	- Revenue for waste management/ litter cleanup - Reduction in use - Sharing revenue incentivizes retailer	- Impacts poor communities
Hybrid	- Creates market for recycling and reusables - Alternative bags are discouraged.	- Manufacturer / retailer pushback - Job loss in plastic bag manufacturing units

Strategies to Overcome Drawbacks

1

Provide free reusable bags to poor communities

This reduces the negative impact of fees. Eg. New Paltz Village, NY; Washington, D.C.

2

Manufacturers prefer fees over bans as bans affect their business. The Food Industry Alliance sued Hastings-on-Hudson, NY for its ban, but were willing to accept a 5-cent fee imposed by Long Beach, NY.

3

Retailers need time to adapt to bag regulations.

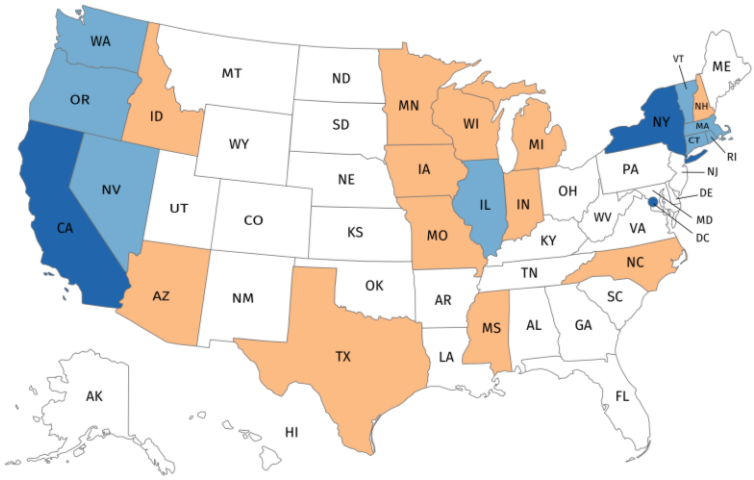
They oppose bans due to the stock of plastic bags they have already bought. Buy-in time between passing a law and implementing it, gives retailers time to use their stock. Eg. Washington, D.C. had a buy-in time of 10 months.

4

Incentives can prevent job losses.

Governments can provide financial incentives to local plastic bag manufacturers, conditional on retaining their workforce as they adapt their businesses to manufacture alternative bags.

This project was conducted under the direction of Professor Mildred Warner in the Department of City and Regional Planning at Cornell University. For the full report please see: http://www.mildredwarner.org/restructuring/preemption



State laws restrict plastic bags

Pending state laws to restrict plastic bags

State laws prevent local governments from restricting plastic bags

What if You Cannot Regulate?

As of 2018, 12 states have prohibited local governments from regulating plastic bags.

You Can Still Change Behavior

Consumer Behavior: Public education creates awareness about the costs to the environment, public health and local governments. Discounts can encourage consumers to use their own reusable bags. Washington, D.C., conducted workshops on the benefits of reducing plastic bag consumption to the Anacostia River. They also trained staff at stores to provide plastic bags only when asked for by customers. In Illinois, citizen-action propelled the Governor to veto a state bill that prevented local governments from restricting plastic bags.

Retailer Behavior: Profits made from fees on reusable alternatives make business sense for retailers. In Austin, larger stores like Randall, Trader Joes and Whole Foods have chosen not to re-introduce thin plastic bags after the repeal of the 'bag-ban'. They continued the fee on reusable bags.

Legal Language Matters

Some states prevent local governments from banning bags while others prevent local regulations of any kind. When Texas prevented municipalities from banning plastic bags, Austin instead imposed a material specification that mandated 80% recyclable content in the bags. Thus, local governments can work around state prohibition by creative interpretation of the law.

Is there a Comprehensive Solution?

State and Local Collaboration: Local governments may lack the capacity to handle the negative impact of their regulations on stakeholders. Strict local regulations can make municipalities unattractive to new business investments. Uniform state policies can reduce these impacts. Municipalities can implement regulations if state policies are supportive of their waste management goals. A comprehensive solution includes state regulation and municipal action. California provides a good model for collaboration.

***The Case of California*:**

In 2014, California enacted a law with the following provisions:

Hybrid Model: A ban on single-use plastic bags and a 10-cent fee on reusable, recyclable, and compostable checkout bags made of plastic, paper, etc.

Encouraging Good Behavior: Stores were required to create 'at-store recycling' programs.

Create Recycling Markets: Recycling Market Development funds provide loans to bag manufacturers. These loans support manufacturers to shift from producing thin plastic bags to reusable bags. These are conditional loans that aim to retain and create jobs, and boost economic activity in the manufacturing sector and the plastic recycling market.

Key Takeaways:

1. **Bans do not work, hybrid ban-fee models do**
2. **Fee and incentives lead to behavioral change in use**
3. **Manufacturers oppose bans, but not fees**
4. **Need state and local collaboration**