

## 2020 South Dakota Legislature

**Senate Bill 54****AMENDMENT 54E FOR THE SENATE COMMERCE AND ENERGY BILL**

1 **An Act to regulate the use of auxiliary containers.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That § 34A-6-92 be AMENDED:

4 **34A-6-92. Beverage containers, garbage bags, and plastic packaging**  
5 **materials--Preemption--Specially designated garbage bags.**

6 The provisions of chapter 34A-7 relating to beverage containers, garbage bags,  
7 and garbage can liners, auxiliary containers, and § 34A-6-68 relating to uniform recycling  
8 codes for plastic containers, ~~shall~~ preempt all laws by any other political subdivision of the  
9 state relating to auxiliary containers, beverage containers, garbage bags, straws used for  
10 beverage consumption, or single-use plastic packaging materials. No other political  
11 subdivision of the state may enact any law restricting the use in commerce of ~~plastic~~  
12 auxiliary containers, beverage containers, garbage bags, straws used for beverage  
13 consumption, or plastic packaging materials. Nothing in §§ 34A-6-59 to 34A-6-92,  
14 inclusive, may be construed to limit a political subdivision from allowing or requiring  
15 specially designated garbage bags for the purpose of identifying volume or type of waste  
16 or restricting the use of glass bottles and containers within park or recreation sites and  
17 facilities due to public safety concerns.

18 **Section 2.** That § 34A-6-61 be AMENDED:

19 **34A-6-61. Definitions.**

20 Terms used in §§ 34A-6-59 to 34A-6-92, inclusive, mean:

21 (1) "Agency" or "state agency," each association, authority, board, commission,  
22 committee, council, department, division, office, officer, task force, or other agent  
23 of the state vested with the authority to exercise any portion of the state's  
24 sovereignty, including the legislative and judicial branches of the government of the

- 1 state, but not including local units of government such as counties, townships,  
2 municipalities, chartered governmental units, school or other special districts, or  
3 Indian tribes;
- 4 (2) "Auxiliary container," any bag, can, cup, bottle, package, pouch, container, or other  
5 packaging, whether designed to be reusable or single-use, that is made of cloth,  
6 paper, plastic, including foamed or expanded plastic, cardboard, corrugated  
7 material, aluminum, glass, postconsumer recycled material, or similar material or  
8 substrates, including coated, laminated, or multi-layer substrates, and that is  
9 designed for consuming, transporting, or protecting merchandise, food, or  
10 beverages from or at a food service facility or retail facility;
- 11 (3) "Department," the Department of Environment and Natural Resources;
- 12 ~~(3)~~(4) "Local unit of government," a county, municipality, school district, special district  
13 or other political subdivision of the State of South Dakota or a similar unit of  
14 government of another state or nation;
- 15 ~~(4)~~(5) "Major appliance," a major residential or commercial appliance, including any air  
16 conditioner, clothes dryer, clothes washer, dishwasher, freezer, kitchen range,  
17 microwave oven, refrigerator, television, or water heater;
- 18 ~~(5)~~(6) "Motor vehicle," a motor vehicle as defined in § 32-3-1;
- 19 ~~(6)~~(7) "Municipality," a municipality as defined in § 9-1-1;
- 20 ~~(7)~~(8) "Paper and paper products," paper items including paper napkins, towels,  
21 corrugated and other cardboard, toilet tissue, high-grade office paper, newsprint,  
22 offset paper, bond paper, xerographic bond paper, mimeo paper, and duplicator  
23 paper;
- 24 ~~(8)~~(9) "Plastic," any material made of polymeric organic compounds and additives that can  
25 be shaped by flow;
- 26 ~~(9)~~(10) "Plastic bottle," a plastic container having a neck that is smaller than the body  
27 of the container, accepts a screw-type, snap cap, or other closure, and has a  
28 capacity of sixteen fluid ounces or more, but less than five gallons;
- 29 ~~(10)~~(11) "Plastic product label," a molded imprint or raised symbol on or near the  
30 bottom of a plastic product;
- 31 ~~(11)~~(12) "Postconsumer material," products generated by a business or consumer that  
32 have served their intended end uses and that have been separated or diverted from  
33 solid waste for the purpose of collection, recycling, and disposition;
- 34 ~~(12)~~(13) "Recovered material," material which is recovered or derived from solid  
35 waste;

- 1 ~~(13)~~(14) "Recovered paper material," paper waste generated after the completion of  
2 the papermaking process, such as postconsumer material, envelope cuttings,  
3 bindery trimmings, printing waste, cutting and other converting waste, butt rolls  
4 and mill wrappers, obsolete inventories, and rejected unused stock. The term does  
5 not include fibrous waste generated during the manufacturing process such as fibers  
6 recovered from waste, water, or trimmings of paper machine rolls; or fibrous  
7 by-products of harvesting, extractive, or woodcutting processes; or forest residue  
8 such as bark;
- 9 ~~(13A)~~(15) "Recyclable materials," materials that are separated from solid waste for the  
10 purpose of recycling, including paper, glass, plastics, metals, motor oil, tires, and  
11 batteries;
- 12 ~~(14)~~(16) "Recycled," the quality of being manufactured from or consisting of, in whole  
13 or part, materials derived from solid waste;
- 14 ~~(15)~~(17) "Recycled paper," a paper product with not less than forty percent of its total  
15 weight consisting of postconsumer material and recovered paper material and at  
16 least ten percent of the total weight of recycled paper is of postconsumer materials;
- 17 ~~(16)~~(18) "Recycling," any process by which waste, or materials that would otherwise  
18 become waste, are collected, separated, or processed and revised or returned to  
19 use in the form of raw materials or products. The term includes the composting of  
20 yard waste which has been previously separated from other waste, but does not  
21 include any form of energy recovery;
- 22 ~~(17)~~(19) "Rigid plastic containers," any formed or molded container, other than a  
23 bottle, intended for single use, composed predominantly of plastic resin, and having  
24 a relatively inflexible shape or form with a capacity of eight ounces or more, but  
25 less than five gallons;
- 26 ~~(18)~~(20) "Sanitary landfill," a solid waste disposal facility in which solid waste is buried  
27 between layers of earth;
- 28 ~~(19)~~(21) "Secretary," secretary of the Department of Environment and Natural  
29 Resources;
- 30 ~~(20)~~(22) "Solid waste," solid waste as defined in § 34A-6-1.3;
- 31 ~~(21)~~(23) "Solid waste disposal facility," a solid waste disposal facility as defined in  
32 § 34A-6-1.3;
- 33 ~~(22)~~(24) "Source reduction," practices that reduce, avoid, or eliminate both the  
34 generation of solid waste and the use of toxic materials so as to reduce risks to  
35 health and the environment and to avoid, reduce, or eliminate the generation of

1 wastes or environmental pollution at the source and not merely achieved by shifting  
2 a waste output or waste stream from one environmental medium to another  
3 environmental medium;

4 ~~(23)~~(25) "Universal recycling symbol," an equilateral triangle formed by three arrows  
5 with the apex of each point of the triangle at the midpoint of each arrow, rounded  
6 with a short radius. The arrowhead of each arrow shall be at the midpoint of each  
7 side of the triangle with a short gap separating the pointer from the base of the  
8 adjacent arrow. The triangle, formed by the three arrows curved at their midpoints,  
9 shall depict a clockwise path;

10 ~~(24)~~(26) "Waste oil," any oil after use that is contaminated through storage or handling  
11 before the oil is recycled;

12 ~~(25)~~(27) "Waste tire," a tire that is no longer suitable for its original purpose because  
13 of wear, damage, or defect;

14 ~~(26)~~(28) "Waste tire collection site," a site used for the storage, collection, or deposit  
15 of waste tires;

16 ~~(27)~~(29) "Waste tire collector," a person who owns or operates a site used for the  
17 storage, collection, or deposit of more than fifty waste tires;

18 ~~(28)~~(30) "Waste tire processing," producing or manufacturing usable materials from  
19 waste tires. The term does not include incineration of tires for fuel or energy  
20 recovery purposes;

21 ~~(29)~~(31) "Waste tire processing site," a site used for the processing of waste tires and  
22 owned or operated by a tire processor who has a permit for the site; and

23 ~~(30)~~(32) "Yard waste," leaves, grass clippings, and other similar waste vegetative  
24 material.