

SENATE BILL 707

C2, M3
SB 576/13 – EHE & FIN

4lr2410
CF HB 718

By: **Senators Raskin, Frosh, Pinsky, and Ramirez**

Introduced and read first time: January 31, 2014

Assigned to: Education, Health, and Environmental Affairs and Finance

A BILL ENTITLED

AN ACT concerning

Community Cleanup and Greening Act of 2014

FOR the purpose of authorizing a county to impose, by law, a certain fee on a store for the use of disposable carryout bags; requiring a store to charge and collect a certain fee for each disposable carryout bag the store provides to a customer under certain circumstances and in accordance with certain requirements; providing that the sales and use tax does not apply to a certain amount of money retained by a store under certain circumstances; requiring the operator of a store to remit a certain amount of money to a county; requiring a county to use money from certain fees for certain purposes; providing for a delayed effective date; defining certain terms; and generally relating to carryout bags and community cleanup and greening efforts.

BY adding to

Article – Business Regulation

Section 19–104

Annotated Code of Maryland

(2010 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Regulation

19–104.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) “CUSTOMER BAG CREDIT PROGRAM” MEANS A PROGRAM IMPLEMENTED IN A STORE THAT:

(I) REQUIRES THE STORE TO PAY A CUSTOMER A CREDIT OF AT LEAST 5 CENTS FOR EACH BAG PROVIDED BY THE CUSTOMER FOR PACKAGING THE CUSTOMER’S PURCHASES;

(II) REQUIRES THE TOTAL AMOUNT OF THE CREDIT PAID TO A CUSTOMER UNDER ITEM (I) OF THIS PARAGRAPH TO BE DISPLAYED ON THE CUSTOMER TRANSACTION RECEIPT; AND

(III) IS PROMINENTLY ADVERTISED AT EACH CHECKOUT REGISTER IN THE STORE.

(3) (I) “DISPOSABLE CARRYOUT BAG” MEANS A PAPER OR PLASTIC BAG PROVIDED BY A STORE TO A CUSTOMER AT THE POINT OF SALE.

(II) “DISPOSABLE CARRYOUT BAG” DOES NOT INCLUDE:

1. A DURABLE PLASTIC BAG WITH HANDLES THAT IS DESIGNED AND MANUFACTURED FOR MULTIPLE REUSE;

2. A BAG USED TO:

A. PACKAGE BULK ITEMS, INCLUDING FRUIT, VEGETABLES, NUTS, GRAINS, CANDY, OR SMALL HARDWARE ITEMS;

B. CONTAIN OR WRAP FROZEN FOODS, MEAT, OR FISH, WHETHER PREPACKAGED OR NOT;

C. CONTAIN OR WRAP FLOWERS, POTTED PLANTS, OR OTHER DAMP ITEMS;

D. CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY GOODS; AND

E. CONTAIN A NEWSPAPER OR DRY CLEANING;

3. A BAG PROVIDED BY A PHARMACIST TO CONTAIN PRESCRIPTION DRUGS;

4. PLASTIC BAGS SOLD IN PACKAGES CONTAINING MULTIPLE PLASTIC BAGS INTENDED FOR USE AS GARBAGE BAGS, PET WASTE BAGS, OR YARD WASTE BAGS; AND

5. A PAPER BAG THAT A RESTAURANT PROVIDES TO A CUSTOMER TO TAKE FOOD OR DRINK AWAY FROM THE RESTAURANT.

(4) "OPERATOR" MEANS A PERSON IN CONTROL OF OR HAVING DAILY RESPONSIBILITY FOR THE DAILY OPERATION OF A STORE, WHICH MAY INCLUDE THE OWNER OF THE STORE.

(5) (I) "STORE" MEANS A RETAIL ESTABLISHMENT THAT PROVIDES DISPOSABLE CARRYOUT BAGS TO ITS CUSTOMERS AS A RESULT OF THE SALE OF A PRODUCT.

(II) "STORE" DOES NOT INCLUDE A ROADSIDE STAND OR FARMERS MARKET.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A COUNTY MAY IMPOSE, BY LAW, A FEE ON A STORE FOR THE USE OF DISPOSABLE CARRYOUT BAGS AS A PART OF A RETAIL SALE OF PRODUCTS.

(C) (1) IF A COUNTY IMPOSES A FEE UNDER SUBSECTION (B) OF THIS SECTION, A STORE IN THE COUNTY:

(I) SHALL CHARGE AND COLLECT A FEE OF 5 CENTS FOR EACH DISPOSABLE CARRYOUT BAG THE STORE PROVIDES TO A CUSTOMER;

(II) MAY RETAIN:

1. 1 CENT FROM EACH 5-CENT FEE THE STORE COLLECTS; OR

2. 2 CENTS FROM EACH 5-CENT FEE THE STORE COLLECTS IF THE STORE HAS A CUSTOMER BAG CREDIT PROGRAM;

(III) MAY NOT ADVERTISE, HOLD OUT, OR STATE TO THE PUBLIC OR TO A CUSTOMER, DIRECTLY OR INDIRECTLY, THAT THE REIMBURSEMENT OF THE FEE OR ANY PART OF THE FEE COLLECTED BY THE STORE WILL BE ASSUMED OR ABSORBED BY THE STORE OR REFUNDED TO THE CUSTOMER; AND

(IV) SHALL INDICATE ON THE CONSUMER TRANSACTION RECEIPT THE NUMBER OF CARRYOUT BAGS PROVIDED BY THE STORE AND THE TOTAL AMOUNT OF THE FEE CHARGED.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SALES AND USE TAX DOES NOT APPLY TO THE AMOUNT OF MONEY RETAINED BY A STORE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

(3) THE OPERATOR OF A STORE SHALL REMIT THE AMOUNT OF MONEY COLLECTED FROM THE FEE THAT IS NOT RETAINED BY THE STORE UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION TO THE COUNTY.

(D) THE COUNTY MAY USE THE MONEY COLLECTED UNDER SUBSECTION (C) OF THIS SECTION ONLY FOR:

(1) COMMUNITY GREENING;

(2) STORMWATER CONTROL;

(3) TRASH OR LITTER CLEANUP;

(4) TOTAL MAXIMUM DAILY LOAD AND WATERSHED IMPLEMENTATION PLAN PROJECTS;

(5) RECYCLING PROGRAMS AND PROJECTS;

(6) ANY OTHER PROJECT RELATED TO WATER QUALITY IMPROVEMENT OR SOLID WASTE SOURCE REDUCTION; AND

(7) THE ADMINISTRATION OF THIS SECTION, INCLUDING EDUCATION OF THE PUBLIC AND REGULATED BUSINESSES ABOUT THIS SECTION AND ITS PURPOSE.

(E) A COUNTY THAT IMPOSES A FEE UNDER THIS SECTION SHALL ESTABLISH A PROGRAM TO ASSIST SENIORS, LOW-INCOME RESIDENTS, AND DISABLED INDIVIDUALS BY PROVIDING:

(1) FREE REUSABLE CARRYOUT BAGS; OR

(2) AN EXEMPTION FROM THE FEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2015.