

HOUSE BILL 209

C2

0lr0712
CF 0lr1452

By: **Delegates Lierman, Fraser–Hidalgo, Acevero, B. Barnes, Boyce, Cain, Cardin, Carr, Charkoudian, Clippinger, D.E. Davis, Dumais, Ebersole, Feldmark, W. Fisher, Guyton, Healey, Hettleman, Hill, Holmes, Kelly, Korman, Lehman, J. Lewis, R. Lewis, Lopez, Love, Luedtke, McIntosh, Moon, Mosby, Palakovich Carr, Reznik, Shetty, Solomon, Stein, Stewart, Terrasa, Washington, C. Watson, Wells, Wilkins, Williams, and K. Young**

Introduced and read first time: January 16, 2020

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Plastics and Packaging Reduction Act**

3 FOR the purpose of prohibiting a store from distributing plastic carryout bags to a customer
4 at the point of sale; requiring a store to charge, collect, and retain a certain amount
5 of money for durable carryout bags the store provides to a customer; prohibiting a
6 store from advertising, holding out, or stating certain information under certain
7 circumstances; requiring a store to include certain information on certain receipts;
8 providing that the sales and use tax does not apply to a certain amount of money
9 retained by a store under certain circumstances; establishing a certain maximum
10 civil penalty for a violation of this Act; establishing that the distribution of or failure
11 to charge for a certain number of plastic carryout bags at a single point of sale
12 constitutes a single violation; prohibiting the imposition of a penalty under this Act
13 unless certain conditions are met; authorizing a unit of county government to grant
14 a certain waiver under certain circumstances; providing for the enforcement of this
15 Act; requiring the Maryland Department of Labor to adopt certain regulations;
16 establishing the Single–Use Products Workgroup; providing for the composition and
17 staffing of the Workgroup; prohibiting a member of the Workgroup from receiving
18 certain compensation, but authorizing the reimbursement of certain expenses;
19 requiring the Workgroup to hold certain public hearings in certain locations and to
20 study and make recommendations regarding single–use products; requiring the
21 Workgroup to report its findings and recommendations to the Governor and the
22 General Assembly on or before a certain date; defining certain terms; providing for
23 a delayed effective date for certain provisions of this Act; providing for the
24 termination of certain provisions of this Act; and generally relating to carryout bags
25 and single–use products.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Business Regulation
3 Section 19–106
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2019 Supplement)

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

8 **Article – Business Regulation**

9 **19–106.**

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

12 (2) (I) “DURABLE CARRYOUT BAG” MEANS A BAG THAT IS
13 PROVIDED BY A STORE TO A CUSTOMER AT THE POINT OF SALE.

14 (II) “DURABLE CARRYOUT BAG” DOES NOT INCLUDE:

15 1. A BAG USED TO:

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

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

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

22 D. CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY
23 GOODS;

24 E. CONTAIN A NEWSPAPER; OR

25 F. CONTAIN GARMENTS OR DRY-CLEANED CLOTHES,
26 INCLUDING SUITS, JACKETS, AND DRESSES;

27 2. A BAG PROVIDED BY A PHARMACIST THAT CONTAINS
28 PRESCRIPTION DRUGS; OR

29 3. PLASTIC BAGS SOLD IN PACKAGES CONTAINING

1 MULTIPLE PLASTIC BAGS.

2 (3) (I) "PLASTIC CARRYOUT BAG" MEANS A PLASTIC BAG LESS
3 THAN 4 MILS THICK THAT IS PROVIDED BY A STORE TO A CUSTOMER AT THE POINT
4 OF SALE.

5 (II) "PLASTIC CARRYOUT BAG" INCLUDES A COMPOSTABLE
6 PLASTIC BAG THAT MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY OF
7 TESTING AND MATERIALS INTERNATIONAL STANDARD SPECIFICATION FOR
8 COMPOSTABLE PLASTICS D6400.

9 (4) "STORE" MEANS A RETAIL ESTABLISHMENT THAT PROVIDES
10 DURABLE CARRYOUT BAGS OR PLASTIC CARRYOUT BAGS TO ITS CUSTOMERS AS A
11 RESULT OF THE SALE OF A PRODUCT.

12 (B) A STORE MAY NOT PROVIDE A PLASTIC CARRYOUT BAG TO A CUSTOMER.

13 (C) (1) A STORE SHALL CHARGE, COLLECT, AND RETAIN AT LEAST 10
14 CENTS FOR EACH DURABLE CARRYOUT BAG THAT THE STORE PROVIDES TO A
15 CUSTOMER.

16 (2) A STORE MAY NOT ADVERTISE, HOLD OUT, OR STATE TO THE
17 PUBLIC OR TO A CUSTOMER, DIRECTLY OR INDIRECTLY, THAT REIMBURSEMENT OF
18 ANY PART OF THE MONEY COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION
19 WILL BE ASSUMED OR ABSORBED BY THE STORE OR REFUNDED TO THE CUSTOMER.

20 (3) A STORE SHALL INDICATE ON THE CONSUMER TRANSACTION
21 RECEIPT THE NUMBER OF DURABLE CARRYOUT BAGS PROVIDED BY THE STORE AND
22 THE TOTAL AMOUNT OF MONEY CHARGED.

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

26 (D) SUBJECT TO SUBSECTION (E) OF THIS SECTION, A STORE THAT
27 VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500.

28 (E) (1) (I) THE PROVISION OF ONE OR MORE PLASTIC CARRYOUT BAGS
29 AT A SINGLE POINT OF SALE IS A SINGLE VIOLATION.

30 (II) THE FAILURE TO CHARGE THE AMOUNT OF MONEY
31 REQUIRED UNDER SUBSECTION (C)(1) OF THIS SECTION FOR THE PROVISION OF ONE
32 OR MORE DURABLE CARRYOUT BAGS AT A SINGLE POINT OF SALE IS A SINGLE

1 VIOLATION.

2 (2) A PENALTY MAY NOT BE IMPOSED UNDER THIS SECTION UNLESS
3 A STORE:

4 (I) IS FIRST ISSUED A WRITTEN NOTICE OF VIOLATION; AND

5 (II) DOES NOT CORRECT THE VIOLATION WITHIN 3 MONTHS
6 AFTER RECEIPT OF THE WRITTEN NOTICE.

7 (3) A PENALTY MAY NOT BE IMPOSED ON A STORE MORE THAN ONCE
8 WITHIN A 7-DAY PERIOD.

9 (F) (1) THIS SECTION SHALL BE ENFORCED BY THE APPROPRIATE UNIT
10 OF COUNTY GOVERNMENT.

11 (2) A UNIT OF COUNTY GOVERNMENT MAY GRANT A STORE UP TO TWO
12 WAIVERS FROM THE REQUIREMENTS OF THIS SECTION FOR A PERIOD OF UP TO 3
13 MONTHS FOR EACH WAIVER IF THE UNIT OF COUNTY GOVERNMENT DETERMINES
14 THAT ACHIEVING COMPLIANCE UNDER THIS SECTION WOULD CAUSE THE STORE AN
15 UNDUE HARDSHIP OR A PRACTICAL DIFFICULTY NOT GENERALLY APPLICABLE TO
16 OTHER STORES IN SIMILAR CIRCUMSTANCES.

17 (G) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
18 SECTION.

19 SECTION 2. AND BE IT FURTHER ENACTED, That:

20 (a) There is a Single-Use Products Workgroup.

21 (b) In alignment with the Waste Reduction and Resource Recovery Plan for
22 Maryland (Executive Order 01.01.2017.13), the purpose of the Workgroup is to study,
23 identify, assess, and make recommendations regarding materials, process, infrastructure,
24 and policy to directly address plastic and single-use container waste throughout Maryland,
25 including extended producer responsibility and tax credits or compensation to businesses
26 for reduction of single-use packaging and products.

27 (c) The Workgroup consists of the following members:

28 (1) two members of the Senate of Maryland, appointed by the President of
29 the Senate;

30 (2) two members of the House of Delegates, appointed by the Speaker of
31 the House;

1 (3) the Secretary of the Environment, or the Secretary's designee;

2 (4) two Maryland residents who have volunteered or worked within their
3 communities to reduce waste or trash, including one who is under the age of 30 years at the
4 time of appointment, appointed jointly by the President of the Senate and the Speaker of
5 the House; and

6 (5) the following members, appointed by the Secretary of the Environment:

7 (i) one representative of the Maryland Retailers Association;

8 (ii) one representative of the Restaurant Association of Maryland;

9 (iii) two representatives of the solid waste management industry;

10 (iv) two representatives of Trash Free Maryland, the Maryland
11 League of Conservation Voters, the Sierra Club, the Chesapeake Bay Foundation, United
12 Workers, or Riverkeeper;

13 (v) one representative of an organization working to reduce waste or
14 trash, including Blue Water Baltimore, the Sunrise Movement, the Anacostia Watershed
15 Society, or Maryland Public Interest Research Group;

16 (vi) one representative with scientific expertise in marine science,
17 pollution, or ecology of the Chesapeake Bay who works at an institution of higher education
18 in Maryland; and

19 (vii) one representative of the Maryland Association of Counties.

20 (d) The Secretary of the Environment shall designate the chair of the Workgroup.

21 (e) The Department of the Environment shall provide staff for the Workgroup.

22 (f) A member of the Workgroup:

23 (1) may not receive compensation as a member of the Workgroup; but

24 (2) is entitled to reimbursement for expenses under the Standard State
25 Travel Regulations, as provided in the State budget.

26 (g) The Workgroup shall hold at least two public hearings that allow public
27 testimony and are not located in Annapolis.

28 (h) The Workgroup shall:

29 (1) evaluate current State and municipal policies and requirements for the
30 management of single-use products;

- 1 (2) recommend policies or requirements that the State should enact to:
- 2 (i) reduce the use of single–use products;
- 3 (ii) reduce the environmental impact of single–use products;
- 4 (iii) improve statewide management of single–use products;
- 5 (iv) divert single–use products from disposal in landfills; and
- 6 (v) prevent contamination of natural resources by discarded
7 single–use products; and

8 (3) evaluate potential economic impact on Marylanders with an income at
9 or below 130% of the federal poverty level and make recommendations to mitigate this
10 impact, including by providing access to free or discounted reusable bags and making
11 changes to the allocation of money collected for carryout bags.

12 (i) On or before December 1, 2020, the Workgroup shall report its findings and
13 recommendations to the Governor and, in accordance with § 2–1257 of the State
14 Government Article, the General Assembly.

15 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take
16 effect July 1, 2021.

17 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
18 3 of this Act, this Act shall take effect July 1, 2020. Section 2 of this Act shall remain
19 effective for a period of 1 year and, at the end of June 30, 2021, Section 2 of this Act, with
20 no further action required by the General Assembly, shall be abrogated and of no further
21 force and effect.