

# HOUSE BILL 209

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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

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## A BILL ENTITLED

AN ACT concerning

### **Plastics and Packaging Reduction Act**

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to

Article – Business Regulation  
 Section 19–106  
 Annotated Code of Maryland  
 (2015 Replacement Volume and 2019 Supplement)

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

**Article – Business Regulation**

**19–106.**

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

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

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

**1. 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;**

**E. CONTAIN A NEWSPAPER; OR**

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

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

**3. PLASTIC BAGS SOLD IN PACKAGES CONTAINING**

**MULTIPLE PLASTIC BAGS.**

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

**(II) “PLASTIC CARRYOUT BAG” INCLUDES A COMPOSTABLE PLASTIC BAG THAT MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY OF TESTING AND MATERIALS INTERNATIONAL STANDARD SPECIFICATION FOR COMPOSTABLE PLASTICS D6400.**

**(4) “STORE” MEANS A RETAIL ESTABLISHMENT THAT PROVIDES DURABLE CARRYOUT BAGS OR PLASTIC CARRYOUT BAGS TO ITS CUSTOMERS AS A RESULT OF THE SALE OF A PRODUCT.**

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

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

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

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

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

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

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

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

## VIOLATION.

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

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

(c) The Workgroup consists of the following members:

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

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

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

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

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

(i) one representative of the Maryland Retailers Association;

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

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

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

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

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

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

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

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

(f) A member of the Workgroup:

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

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

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

(h) The Workgroup shall:

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

- (2) recommend policies or requirements that the State should enact to:
  - (i) reduce the use of single–use products;
  - (ii) reduce the environmental impact of single–use products;
  - (iii) improve statewide management of single–use products;
  - (iv) divert single–use products from disposal in landfills; and
  - (v) prevent contamination of natural resources by discarded single–use products; and
- (3) evaluate potential economic impact on Marylanders with an income at or below 130% of the federal poverty level and make recommendations to mitigate this impact, including by providing access to free or discounted reusable bags and making changes to the allocation of money collected for carryout bags.

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

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

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