

SENATE BILL 223

C2
SB 313/20 – FIN

(PRE-FILED)

1r0470
CF HB 314

By: **Senator Augustine**

Requested: September 8, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Plastic Bag Reduction Act**

3 FOR the purpose of prohibiting, on or after a certain date, a certain retail establishment
4 from distributing plastic carryout bags to a customer at the point of sale; providing
5 that, on or after a certain date, only the State may enact a law or take other action
6 to prohibit, restrict, or regulate the use of certain plastic bags by a retail
7 establishment, that certain authority of a county or municipality is preempted, and
8 that certain laws or ordinances are superseded; establishing a certain maximum civil
9 penalty for a violation of this Act; establishing that the distribution of a certain
10 number of plastic carryout bags at a single point of sale constitutes a single violation;
11 prohibiting the imposition of a penalty under this Act unless certain conditions are
12 met; authorizing a unit of county government to grant a certain waiver under certain
13 circumstances; providing for the enforcement of this Act; prohibiting a county or
14 municipality from adopting or enforcing a certain law or ordinance unless certain
15 conditions are met; requiring the Maryland Department of Labor to adopt certain
16 regulations; defining certain terms; and generally relating to carryout bags.

17 BY adding to

18 Article – Business Regulation

19 Section 19–106

20 Annotated Code of Maryland

21 (2015 Replacement Volume and 2020 Supplement)

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

24 **Article – Business Regulation**

25 **19–106.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (2) “FOOD SERVICE FACILITY” HAS THE MEANING STATED IN §
4 21-301 OF THE HEALTH – GENERAL ARTICLE.

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

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

12 (III) “PLASTIC CARRYOUT BAG” DOES NOT INCLUDE:

13 1. A PLASTIC BAG USED TO:

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

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

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

20 D. CONTAIN UNWRAPPED PREPARED FOODS OR BAKERY
21 GOODS;

22 E. CONTAIN A NEWSPAPER;

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

25 G. CONTAIN ICE;

26 2. A PLASTIC BAG PROVIDED BY A PHARMACIST THAT
27 CONTAINS PRESCRIPTION DRUGS;

28 3. PLASTIC BAGS SOLD IN PACKAGES CONTAINING
29 MULTIPLE PLASTIC BAGS;

1 4. A PLASTIC BAG PROVIDED BY A FOOD SERVICE
2 FACILITY THAT IS NECESSARY TO MEET FOOD SAFETY AND CONTAMINATION
3 STANDARDS;

4 5. A PLASTIC BAG PROVIDED BY A RETAIL
5 ESTABLISHMENT TO TAKE LIVE FISH, INSECTS, MOLLUSKS, OR CRUSTACEANS AWAY
6 FROM THE RETAIL ESTABLISHMENT; OR

7 6. A PLASTIC BAG PROVIDED AT A FARM OR AN ORCHARD
8 THAT CONTAINS FRUITS OR VEGETABLES THAT WERE PRODUCED BY AND
9 PURCHASED ON THE FARM OR ORCHARD.

10 (4) “RETAIL ESTABLISHMENT” MEANS A STORE, A FOOD SERVICE
11 FACILITY, OR ANY OTHER ESTABLISHMENT THAT PROVIDES BAGS TO ITS
12 CUSTOMERS AS A RESULT OF THE SALE OF A PRODUCT.

13 (B) ON OR AFTER JULY 1, 2022, A RETAIL ESTABLISHMENT MAY NOT
14 PROVIDE A PLASTIC CARRYOUT BAG TO A CUSTOMER.

15 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A RETAIL
16 ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY
17 NOT EXCEEDING \$500.

18 (D) (1) THE PROVISION OF ONE OR MORE PLASTIC CARRYOUT BAGS AT A
19 SINGLE POINT OF SALE IS A SINGLE VIOLATION.

20 (2) A PENALTY MAY NOT BE IMPOSED UNDER THIS SECTION UNLESS
21 A RETAIL ESTABLISHMENT:

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

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

25 (3) A PENALTY MAY NOT BE IMPOSED ON A RETAIL ESTABLISHMENT
26 MORE THAN ONCE WITHIN A 7-DAY PERIOD.

27 (E) (1) THIS SECTION SHALL BE ENFORCED BY THE APPROPRIATE UNIT
28 OF COUNTY GOVERNMENT.

29 (2) A UNIT OF COUNTY GOVERNMENT MAY GRANT A RETAIL
30 ESTABLISHMENT UP TO TWO WAIVERS FROM THE REQUIREMENTS OF THIS SECTION
31 FOR A PERIOD OF UP TO 3 MONTHS FOR EACH WAIVER IF THE UNIT OF COUNTY
32 GOVERNMENT DETERMINES THAT ACHIEVING COMPLIANCE UNDER THIS SECTION

1 WOULD CAUSE THE RETAIL ESTABLISHMENT AN UNDUE HARDSHIP OR A PRACTICAL
2 DIFFICULTY NOT GENERALLY APPLICABLE TO OTHER RETAIL ESTABLISHMENTS IN
3 SIMILAR CIRCUMSTANCES.

4 (F) BEGINNING JULY 1, 2022:

5 (1) ONLY THE STATE MAY ENACT A LAW OR TAKE ANY OTHER ACTION
6 TO PROHIBIT, RESTRICT, OR REGULATE THE USE OF PLASTIC BAGS LESS THAN 4
7 MILS THICK BY A RETAIL ESTABLISHMENT;

8 (2) ITEM (1) OF THIS SUBSECTION PREEMPTS THE AUTHORITY OF A
9 COUNTY OR MUNICIPALITY TO ENACT A LAW OR AN ORDINANCE TO PROHIBIT,
10 RESTRICT, OR REGULATE THE USE OF PLASTIC BAGS LESS THAN 4 MILS THICK BY A
11 RETAIL ESTABLISHMENT; AND

12 (3) THIS SECTION SUPERSEDES ANY LAW OR ORDINANCE OF A
13 COUNTY OR MUNICIPALITY THAT PROHIBITS, RESTRICTS, OR REGULATES THE USE
14 OF PLASTIC BAGS LESS THAN 4 MILS THICK BY A RETAIL ESTABLISHMENT.

15 (G) (1) NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS PROVIDED
16 IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY OR MUNICIPALITY MAY NOT
17 ADOPT OR ENFORCE A LAW OR AN ORDINANCE THAT REQUIRES A RETAIL
18 ESTABLISHMENT TO CHARGE AND COLLECT A FEE, A TAX, OR ANY OTHER CHARGE
19 FOR THE USE OF CARRYOUT BAGS AT THE POINT OF SALE UNLESS THE LAW OR
20 ORDINANCE IS AUTHORIZED BY A STATE LAW ENACTED ON OR AFTER JANUARY 1,
21 2022.

22 (2) WITH RESPECT TO A COUNTY OR MUNICIPALITY THAT, ON OR
23 BEFORE FEBRUARY 1, 2021, ADOPTED A LAW OR AN ORDINANCE THAT REQUIRES A
24 RETAIL ESTABLISHMENT TO CHARGE AND COLLECT A FEE, A TAX, OR ANY OTHER
25 CHARGE FOR THE USE OF CARRYOUT BAGS AT THE POINT OF SALE, THIS
26 SUBSECTION DOES NOT AFFECT THE AUTHORITY OF THE COUNTY OR MUNICIPALITY
27 TO CHARGE AND COLLECT THE FEE, TAX, OR OTHER CHARGE FOR THE USE OF
28 CARRYOUT BAGS THAT ARE NOT OTHERWISE PROHIBITED UNDER THIS SECTION.

29 (H) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
30 SECTION.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2021.