

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 967 (Delegate Schuler, *et al.*)
 Environmental Matters

Environment - Carryout Bags - Requirements

This bill requires that “stores” provide only paper bags or “reusable bags” as carryout bags to customers. The bill establishes civil penalties for noncompliance. The Maryland Department of the Environment must adopt regulations to implement the bill.

Fiscal Summary

State Effect: General fund expenditure increase of \$50,700 in FY 2009 for enforcement. Future year estimates reflect annualization, inflation, and ongoing operating expenses. The civil penalty provisions of this bill are not expected to significantly affect State finances or operations.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	-	-	-	-	-
GF Expenditure	50,700	65,100	68,200	71,500	74,900
Net Effect	(\$50,700)	(\$65,100)	(\$68,200)	(\$71,500)	(\$74,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill would not directly affect local government operations or finances.

Small Business Effect: Minimal overall, but potentially meaningful for some small stores.

Analysis

Bill Summary: An “operator” who violates the bill’s provisions is liable to the State for a civil penalty not exceeding \$100 for a first violation, \$200 for a second violation, and \$500 for a third or subsequent violation.

Store means a retail establishment that provides plastic carryout bags to its customers as a result of the sale of a product and that meets the definition of a “supermarket” or has over 10,000 square feet of retail space and a pharmacy permit issued by the State Board of Pharmacy. Supermarket means a full-line, self-service retail store with gross annual sales of \$2.0 million or more and which sells a line of dry grocery items, canned goods, nonfood items, and perishable items.

Current Law: State law does not address the types of carryout bags provided by retail stores.

Background: The use of plastic carryout bags has recently been the center of much media attention. Due to concerns about the environmental impacts of plastic bags, there has been an increasing interest in banning their use. Proponents of such bans argue that the production of plastic bags uses a significant amount of oil and that plastic bags clog waterways and harm wildlife. Proponents also argue that because plastic bags are recycled less than paper bags, they also consume valuable landfill space.

Opponents of such bans argue, however, that the manufacture of paper bags consumes more water and emits more greenhouse gases than the production of plastic bags and that the demand for paper bags consumes a significant number of trees. Further, opponents argue that paper bags cost more to make, are bulkier to transport (and therefore use more trucks and fuel), and use more energy to recycle.

Despite the controversy over the relative impacts of plastic versus paper bags, several jurisdictions around the world have already taken action on this issue. Bangladesh, France, Uganda, and several other countries have approved nationwide bans on the use of plastic bags. Germany, Ireland, Denmark, Sweden, and Switzerland, among others, have some sort of tax or levy on plastic bags in an effort to discourage their use. Still others, such as Holland and Canada, have focused on recycling efforts. Others are also considering the implementation of bans or taxes in order to reduce plastic bag consumption.

In March 2007, San Francisco became the first city in the U.S. to ban nonbiodegradable bags from large grocery stores and pharmacies. Similar legislation is being debated in several other U.S. cities. In fact, the City of Annapolis recently considered legislation to ban retailers from distributing plastic shopping bags in the city. Instead, retailers would have been required to offer bags made of recycled paper and to sell reusable bags. The measure was not enacted, however.

Some large chains, such as Whole Foods, have already announced plans to eliminate the use of plastic carryout bags.

Because of the concerns associated with both plastic and paper bags, reusable bags (such as canvas bags) are gaining popularity, despite their additional cost.

State Expenditures: General fund expenditures could increase by an estimated \$50,705 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of hiring one natural resources planner within MDE to develop regulations, provide outreach to affected stores, and develop and conduct enforcement activities. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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Salary and Fringe Benefits	\$43,594
Equipment/Operating Expenses	<u>7,111</u>
Total FY 2009 State Expenditures	\$50,705

Future year expenditures reflect: • a full salary with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

Small Business Effect: Although the bill's definition of "store" would likely apply primarily to larger businesses, it is possible that some small businesses could be affected by the bill's prohibition. The Department of Business and Economic Development advises that it has identified about 90 stores in the State that *might* meet the bill's definition of "store" and *could* be small businesses. To the extent any small businesses do fall under the bill's definition of "store," they would no longer be able to provide plastic carryout bags to customers.

Various sources indicate that plastic carryout bags cost about 2 cents each, while standard paper bags cost about 5 cents each. Reusable bags vary in price depending on the material, size, and quality. For example, Safeway offers polypropylene bags at a retail price of \$0.99. At www.amazon.com, a pack of five polypropylene bags can currently be purchased for \$9.95 (or \$1.99 each), while a pack of six cotton cloth bags can currently be purchased for \$29.95 (or \$4.99 each). On the other hand, a heavy duty bag made from hemp/organic cotton currently costs \$17.95 at www.reusablebags.com.

Although paper and reusable bags typically cost more than plastic bags, the bill does not prohibit stores from charging customers for such bags. Accordingly, it is assumed that any increase in costs would be passed on to consumers to the extent possible. In addition, the bill's October 1, 2008 effective date would give retailers several months to use existing stocks of plastic bags and modify their purchasing orders in order to comply with the bill's requirements.

The extent to which small businesses, as consumers, would be affected by the bill is unknown, although any small business purchasing products from affected stores would be affected by any increase in costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Judiciary (Administrative Office of the Courts), Office of the Attorney General, Department of Business and Economic Development, City of Annapolis, State's Attorneys' Association, Clean Up Australia, Safeway, Whole Foods, Amazon.com, reusablebags.com, *The Examiner*, *The New York Times*, Department of Legislative Services

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