

# HOUSE BILL 1210

C2, M1

9lr2091

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By: **Delegates Carr, Ali, Frush, Haynes, Hecht, Holmes, Hucker, Ivey, Lee, Montgomery, and Schuler**

Introduced and read first time: February 13, 2009

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake Bay Restoration Consumer Retail Choice Act of 2009**

3 FOR the purpose of requiring a store to charge and collect a certain fee for each  
4 carryout bag it provides to a customer; authorizing a store to retain a certain  
5 amount of a certain fee under certain circumstances; providing that the sales  
6 and use tax does not apply to a certain amount of money retained by a store  
7 under certain circumstances; requiring the operator of a store to remit a certain  
8 amount of money to the Chesapeake and Atlantic Coastal Bays 2010 Trust  
9 Fund; requiring the Department of Labor, Licensing, and Regulation to adopt  
10 certain regulations; defining certain terms; and generally relating to carryout  
11 bags and Chesapeake Bay restoration.

12 BY adding to

13 Article – Business Regulation

14 Section 19–103

15 Annotated Code of Maryland

16 (2004 Replacement Volume and 2008 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Natural Resources

19 Section 8–2A–02(e)

20 Annotated Code of Maryland

21 (2007 Replacement Volume and 2008 Supplement)

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

24 **Article – Business Regulation**

25 **19–103.**

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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  
2 MEANINGS INDICATED.

3                   (2) (I) "CARRYOUT BAG" MEANS A PAPER OR PLASTIC BAG  
4 PROVIDED BY A STORE TO A CUSTOMER AT THE POINT OF SALE.

5                           (II) "CARRYOUT BAG" DOES NOT INCLUDE:

6                                   1. A DURABLE PLASTIC BAG WITH HANDLES THAT IS  
7 AT LEAST 2.25 MILS THICK AND IS DESIGNED AND MANUFACTURED FOR  
8 MULTIPLE REUSE; OR

9                                   2. A PLASTIC BAG USED TO CARRY ICE CREAM, MEAT,  
10 FISH, OR POULTRY.

11                   (3) "CUSTOMER BAG CREDIT PROGRAM" MEANS A PROGRAM  
12 IMPLEMENTED IN A STORE THAT:

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

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

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

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

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

26           (B) (1) A STORE SHALL CHARGE AND COLLECT A FEE OF 5 CENTS FOR  
27 EACH CARRYOUT BAG IT PROVIDES TO A CUSTOMER.

28                   (2) A STORE MAY RETAIN:

29                           (I) 1 CENT FROM EACH 5 CENT FEE IT COLLECTS; OR

1                   (II) 2 CENTS FROM EACH 5 CENT FEE IT COLLECTS IF THE  
2 STORE HAS A CUSTOMER BAG CREDIT PROGRAM.

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

6                   (4) THE OPERATOR OF A STORE SHALL REMIT THE AMOUNT OF  
7 MONEY COLLECTED FROM THE FEE THAT IS NOT RETAINED BY THE STORE  
8 UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE CHESAPEAKE AND  
9 ATLANTIC COASTAL BAYS 2010 TRUST FUND UNDER § 8-2A-02 OF THE  
10 NATURAL RESOURCES ARTICLE.

11                  (C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT  
12 AND ENFORCE THIS SECTION.

13                                   **Article – Natural Resources**

14 8-2A-02.

15                  (e) The Fund consists of:

16                   (1) Money appropriated in the State budget for the Fund;

17                   (2) Money distributed to the Fund under §§ 2-1104 and 2-1302.1 of  
18 the Tax – General Article; [and]

19                   (3) **MONEY REMITTED TO THE FUND UNDER § 19-103 OF THE**  
20 **BUSINESS REGULATION ARTICLE; AND**

21                   (4) Any other money from any other source accepted for the benefit of  
22 the Fund.

23                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2009.