

HOUSE BILL 314

C2

HB 209/20 – ENT & ECM

(PRE-FILED)

11r0469

CF SB 223

By: **Delegate Lierman**

Requested: September 8, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation and Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2021

CHAPTER _____

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8 that certain laws or ordinances are superseded; establishing a certain maximum civil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)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

(3) (I) “PLASTIC CARRYOUT BAG” MEANS A PLASTIC BAG LESS
THAN 4 MILS THICK THAT IS PROVIDED BY A RETAIL ESTABLISHMENT 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.

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

1. A PLASTIC 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;

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

G. CONTAIN ICE;

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

3 3. PLASTIC BAGS SOLD IN PACKAGES CONTAINING
4 MULTIPLE PLASTIC BAGS;

5 4. A PLASTIC BAG PROVIDED BY A FOOD SERVICE
6 FACILITY THAT IS NECESSARY TO MEET FOOD SAFETY AND CONTAMINATION
7 STANDARDS;

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

11 6. A PLASTIC BAG PROVIDED ~~AT~~ BY A FARM OR AN
12 ORCHARD THAT CONTAINS FRUITS OR VEGETABLES THAT WERE ~~PRODUCED~~ GROWN
13 ~~BY AND PURCHASED ON~~ THE FARM OR ORCHARD.

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

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

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

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

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

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

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

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

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

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

10 **(F) BEGINNING JULY 1, 2022:**

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

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

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

21 **(G) (1) NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS PROVIDED**
22 **IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY OR MUNICIPALITY MAY NOT**
23 **ADOPT OR ENFORCE A LAW OR AN ORDINANCE THAT REQUIRES A RETAIL**
24 **ESTABLISHMENT TO CHARGE AND COLLECT A FEE, A TAX, OR ANY OTHER CHARGE**
25 **FOR THE USE OF CARRYOUT BAGS AT THE POINT OF SALE UNLESS THE LAW OR**
26 **ORDINANCE IS AUTHORIZED BY A STATE LAW ENACTED ON OR AFTER JANUARY 1,**
27 **2022.**

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

35 **(H) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS**
36 **SECTION.**

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.