

HOUSE BILL 351

C2, M1, M3

01r0553
CF 01r0997

By: **Delegates Carr, Hucker, Ali, Anderson, Aumann, Barnes, Bronrott, Cardin, Dumais, Frush, Gaines, Gutierrez, Guzzone, Hecht, Holmes, Hubbard, Ivey, Lee, Manno, Mizeur, Montgomery, Niemann, Pena-Melnyk, Ramirez, Reznik, Ross, Schuler, Taylor, and V. Turner**

Introduced and read first time: January 27, 2010

Assigned to: Economic Matters and Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake Bay Restoration Consumer Retail Choice Act of 2010**

3 FOR the purpose of prohibiting a store from providing disposable carryout bags unless
4 the bags meet certain requirements; requiring a store to charge and collect a
5 certain fee for each disposable carryout bag the store provides to a customer;
6 authorizing a store to retain a certain amount of a certain fee under certain
7 circumstances; prohibiting a store from advertising or stating certain
8 information under certain circumstances; requiring a store to include certain
9 information on certain receipts; providing that the sales and use tax does not
10 apply to a certain amount of money retained by a store under certain
11 circumstances; requiring the operator of a store to remit a certain amount of
12 money to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund; requiring
13 the Department of Labor, Licensing, and Regulation to adopt certain
14 regulations in accordance with certain requirements; establishing certain
15 maximum penalties for certain violations; requiring the Department of the
16 Environment to conduct certain public information and outreach campaigns in
17 accordance with certain requirements; altering the uses of the Chesapeake and
18 Atlantic Coastal Bays 2010 Trust Fund; requiring the Secretary of Natural
19 Resources to provide certain funds to the Department of the Environment and
20 the Department of Labor, Licensing, and Regulation for certain purposes;
21 defining certain terms; providing for a delayed effective date; and generally
22 relating to carryout bags and the restoration of the Chesapeake Bay.

23 BY adding to

24 Article – Business Regulation

25 Section 19–103

26 Annotated Code of Maryland

27 (2004 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Natural Resources
3 Section 8–2A–02(e) and (f)(1)
4 Annotated Code of Maryland
5 (2007 Replacement Volume and 2009 Supplement)

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

8 **Article – Business Regulation**

9 **19–103.**

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

12 (2) “CUSTOMER BAG CREDIT PROGRAM” MEANS A PROGRAM
13 IMPLEMENTED IN A STORE THAT:

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

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

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

22 (3) (I) “DISPOSABLE CARRYOUT BAG” MEANS A PAPER OR
23 PLASTIC BAG PROVIDED BY A STORE TO A CUSTOMER AT THE POINT OF SALE.

24 (II) “DISPOSABLE CARRYOUT BAG” DOES NOT INCLUDE:

25 1. A DURABLE PLASTIC BAG WITH HANDLES THAT IS
26 AT LEAST 2.25 MILS THICK AND IS DESIGNED AND MANUFACTURED FOR
27 MULTIPLE REUSE;

28 2. A BAG USED TO:

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

1 **B. CONTAIN OR WRAP FROZEN FOODS, MEAT, OR**
2 **FISH, WHETHER PREPACKAGED OR NOT;**

3 **C. CONTAIN OR WRAP FLOWERS, POTTED PLANTS,**
4 **OR OTHER DAMP ITEMS;**

5 **D. CONTAIN UNWRAPPED PREPARED FOODS OR**
6 **BAKERY GOODS; AND**

7 **E. CONTAIN A NEWSPAPER OR DRY CLEANING;**

8 **3. A BAG PROVIDED BY A PHARMACIST TO CONTAIN**
9 **PRESCRIPTION DRUGS;**

10 **4. PLASTIC BAGS SOLD IN PACKAGES CONTAINING**
11 **MULTIPLE PLASTIC BAGS INTENDED FOR USE AS GARBAGE, PET WASTE, OR**
12 **YARD WASTE BAGS; AND**

13 **5. A BAG THAT A RESTAURANT PROVIDES TO A**
14 **CUSTOMER TO TAKE FOOD OR DRINK AWAY FROM THE RESTAURANT.**

15 **(4) “OPERATOR” MEANS A PERSON IN CONTROL OF, OR HAVING**
16 **DAILY RESPONSIBILITY FOR, THE DAILY OPERATION OF A STORE, WHICH MAY**
17 **INCLUDE THE OWNER OF THE STORE.**

18 **(5) “STORE” MEANS A RETAIL ESTABLISHMENT THAT PROVIDES**
19 **DISPOSABLE CARRYOUT BAGS TO ITS CUSTOMERS AS A RESULT OF THE SALE OF**
20 **A PRODUCT.**

21 **(B) (1) A STORE MAY NOT PROVIDE A DISPOSABLE CARRYOUT BAG TO**
22 **A CUSTOMER AT THE POINT OF SALE UNLESS THE DISPOSABLE CARRYOUT BAG**
23 **IS MADE OF 100% RECYCLABLE MATERIAL.**

24 **(2) A DISPOSABLE CARRYOUT BAG MADE OF PAPER THAT IS**
25 **PROVIDED TO A CUSTOMER BY A STORE AT THE POINT OF SALE MUST:**

26 **(I) CONTAIN A MINIMUM OF 40% POSTCONSUMER**
27 **RECYCLED CONTENT; AND**

28 **(II) DISPLAY THE PHRASE “PLEASE RECYCLE THIS BAG”,**
29 **OR A SUBSTANTIALLY SIMILAR PHRASE, IN A HIGHLY VISIBLE MANNER ON THE**
30 **EXTERIOR OF THE CARRYOUT BAG.**

1 **(3) A DISPOSABLE CARRYOUT BAG MADE OF PLASTIC THAT IS**
2 **PROVIDED TO A CUSTOMER BY A STORE AT THE POINT OF SALE MUST:**

3 **(I) BE MADE OF:**

4 **1. HIGH-DENSITY POLYETHYLENE FILM MARKED**
5 **WITH THE SPI RESIN IDENTIFICATION CODE “2”; OR**

6 **2. LOW-DENSITY POLYETHYLENE FILM MARKED**
7 **WITH THE SPI RESIN IDENTIFICATION CODE “4”; AND**

8 **(II) DISPLAY THE PHRASE “PLEASE RECYCLE THIS BAG”,**
9 **OR A SUBSTANTIALLY SIMILAR PHRASE, IN A HIGHLY VISIBLE MANNER ON THE**
10 **EXTERIOR OF THE CARRYOUT BAG.**

11 **(C) (1) A STORE SHALL CHARGE AND COLLECT A FEE OF 5 CENTS FOR**
12 **EACH DISPOSABLE CARRYOUT BAG THE STORE PROVIDES TO A CUSTOMER.**

13 **(2) A STORE MAY RETAIN:**

14 **(I) 1 CENT FROM EACH 5-CENT FEE THE STORE COLLECTS;**
15 **OR**

16 **(II) 2 CENTS FROM EACH 5-CENT FEE THE STORE COLLECTS**
17 **IF THE STORE HAS A CUSTOMER BAG CREDIT PROGRAM.**

18 **(3) A STORE MAY NOT ADVERTISE, HOLD OUT, OR STATE TO THE**
19 **PUBLIC OR TO A CUSTOMER, DIRECTLY OR INDIRECTLY, THAT THE**
20 **REIMBURSEMENT OF THE FEE OR ANY PART OF THE FEE COLLECTED BY THE**
21 **STORE WILL BE ASSUMED OR ABSORBED BY THE STORE OR REFUNDED TO THE**
22 **CUSTOMER.**

23 **(4) A STORE SHALL INDICATE ON THE CONSUMER TRANSACTION**
24 **RECEIPT THE NUMBER OF CARRYOUT BAGS PROVIDED BY THE STORE AND THE**
25 **TOTAL AMOUNT OF THE FEE CHARGED.**

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

29 **(6) THE OPERATOR OF A STORE SHALL REMIT THE AMOUNT OF**
30 **MONEY COLLECTED FROM THE FEE THAT IS NOT RETAINED BY THE STORE**

1 UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE CHESAPEAKE AND
2 ATLANTIC COASTAL BAYS 2010 TRUST FUND UNDER § 8-2A-02 OF THE
3 NATURAL RESOURCES ARTICLE.

4 (D) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO
5 IMPLEMENT AND ENFORCE THIS SECTION IN ACCORDANCE WITH THIS
6 SUBSECTION.

7 (2) A PENALTY IMPOSED ON A STORE FOR A VIOLATION OF THIS
8 SECTION MAY NOT EXCEED:

9 (I) \$100 FOR A FIRST VIOLATION;

10 (II) \$200 FOR A SECOND VIOLATION; AND

11 (III) \$500 FOR A THIRD OR SUBSEQUENT VIOLATION IN THE
12 SAME CALENDAR YEAR.

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

15 (E) ON OR BEFORE JANUARY 1, 2011, THE DEPARTMENT OF THE
16 ENVIRONMENT SHALL:

17 (1) CONDUCT AN INTENSIVE PUBLIC INFORMATION CAMPAIGN TO
18 EDUCATE THE PUBLIC ON:

19 (I) THE IMPORTANCE OF REDUCING THE NUMBER OF
20 DISPOSABLE CARRYOUT BAGS ENTERING THE WASTE STREAM; AND

21 (II) THE IMPACT OF DISPOSABLE CARRYOUT BAGS ON
22 CHESAPEAKE BAY TRIBUTARIES AND THE OVERALL ENVIRONMENTAL HEALTH
23 OF THE STATE; AND

24 (2) CONDUCT AN OUTREACH CAMPAIGN THAT INCLUDES:

25 (I) A PUBLIC-PRIVATE PARTNERSHIP TO PROVIDE
26 REUSABLE CARRYOUT BAGS TO CITIZENS OF THE STATE; AND

27 (II) WORKING WITH SERVICE PROVIDERS THAT ASSIST
28 SENIORS AND LOW-INCOME RESIDENTS TO DISTRIBUTE INFORMATION AND
29 REUSABLE CARRYOUT BAGS TO LOW-INCOME HOUSEHOLDS.

Article – Natural Resources

1
2 8–2A–02.

3 (e) The Fund consists of:

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

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

7 (3) **MONEY REMITTED TO THE FUND UNDER § 19–103 OF THE**
8 **BUSINESS REGULATION ARTICLE; AND**

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

11 (f) (1) The Fund may be used only for:

12 (I) [the] **THE** implementation of nonpoint source pollution
13 control projects to achieve the State’s tributary strategy developed in accordance with
14 the Chesapeake 2000 Agreement and to improve the health of the Atlantic Coastal
15 Bays and their tributaries; **AND**

16 (II) **THE ADMINISTRATIVE COSTS NECESSARY TO**
17 **IMPLEMENT THE REQUIREMENTS OF § 19–103 OF THE BUSINESS REGULATION**
18 **ARTICLE.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That, in fiscal year 2012, the
20 Secretary of Natural Resources shall redirect \$500,000 from the fees remitted by store
21 owners to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund in accordance
22 with § 19–103 of the Business Regulation Article as enacted by Section 1 of this Act to
23 the Department of the Environment to implement the public information and public
24 outreach campaigns required under this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That, in each of fiscal years
26 2012 and 2013, the Secretary of Natural Resources shall redirect \$250,000 from the
27 fees remitted by store owners to the Chesapeake and Atlantic Coastal Bays 2010 Trust
28 Fund in accordance with § 19–103 of the Business Regulation Article as enacted by
29 Section 1 of this Act to the Department of Labor, Licensing, and Regulation to
30 implement the requirements of this Act.

31 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 January 1, 2011.