

SENATE BILL 462

C2, M1, M3

0lr0997
CF HB 351

By: **Senators Raskin, Conway, Forehand, Frosh, Harrington, Lenett,
Madaleno, Muse, Peters, and Pinsky**

Introduced and read first time: February 1, 2010

Assigned to: Finance and Education, Health, and Environmental Affairs

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; defining certain terms; and generally
18 relating to carryout bags and the restoration of the Chesapeake Bay.

19 BY adding to

20 Article – Business Regulation

21 Section 19–103

22 Annotated Code of Maryland

23 (2004 Replacement Volume and 2009 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article – Natural Resources

26 Section 8–2A–02(e)

27 Annotated Code of Maryland

28 (2007 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Business Regulation**

4 **19-103.**

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

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

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

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

15 (III) IS PROMINENTLY ADVERTISED AT EACH CHECKOUT
16 REGISTER IN THE STORE.

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

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

20 1. A DURABLE PLASTIC BAG WITH HANDLES THAT IS
21 AT LEAST 2.25 MILS THICK AND IS DESIGNED AND MANUFACTURED FOR
22 MULTIPLE REUSE;

23 2. A BAG USED TO:

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

26 B. CONTAIN OR WRAP FROZEN FOODS, MEAT, OR
27 FISH, WHETHER PREPACKAGED OR NOT;

28 C. CONTAIN OR WRAP FLOWERS, POTTED PLANTS,
29 OR OTHER DAMP ITEMS;

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

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

5 (ii) DISPLAY THE PHRASE “PLEASE RECYCLE THIS BAG”,
6 OR A SUBSTANTIALLY SIMILAR PHRASE, IN A HIGHLY VISIBLE MANNER ON THE
7 EXTERIOR OF THE CARRYOUT BAG.

8 (c) (1) A STORE SHALL CHARGE AND COLLECT A FEE OF 5 CENTS FOR
9 EACH DISPOSABLE CARRYOUT BAG THE STORE PROVIDES TO A CUSTOMER.

10 (2) A STORE MAY RETAIN:

11 (i) 1 CENT FROM EACH 5-CENT FEE THE STORE COLLECTS;
12 OR

13 (ii) 2 CENTS FROM EACH 5-CENT FEE THE STORE COLLECTS
14 IF THE STORE HAS A CUSTOMER BAG CREDIT PROGRAM.

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

20 (4) A STORE SHALL INDICATE ON THE CONSUMER TRANSACTION
21 RECEIPT THE NUMBER OF CARRYOUT BAGS PROVIDED BY THE STORE AND THE
22 TOTAL AMOUNT OF THE FEE CHARGED.

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

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

31 (d) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO
32 IMPLEMENT AND ENFORCE THIS SECTION IN ACCORDANCE WITH THIS
33 SUBSECTION.

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

3 **(I) \$100 FOR A FIRST VIOLATION;**

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

5 **(III) \$500 FOR A THIRD OR SUBSEQUENT VIOLATION IN THE**
6 **SAME CALENDAR YEAR.**

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

9 **(E) ON OR BEFORE OCTOBER 1, 2010, THE DEPARTMENT OF THE**
10 **ENVIRONMENT SHALL:**

11 **(1) CONDUCT AN INTENSIVE PUBLIC INFORMATION CAMPAIGN TO**
12 **EDUCATE THE PUBLIC ON:**

13 **(I) THE IMPORTANCE OF REDUCING THE NUMBER OF**
14 **DISPOSABLE CARRYOUT BAGS ENTERING THE WASTE STREAM; AND**

15 **(II) THE IMPACT OF DISPOSABLE CARRYOUT BAGS ON**
16 **CHESAPEAKE BAY TRIBUTARIES AND THE OVERALL ENVIRONMENTAL HEALTH**
17 **OF THE STATE; AND**

18 **(2) CONDUCT AN OUTREACH CAMPAIGN THAT INCLUDES:**

19 **(I) A PUBLIC-PRIVATE PARTNERSHIP TO PROVIDE**
20 **REUSABLE CARRYOUT BAGS TO CITIZENS OF THE STATE; AND**

21 **(II) WORKING WITH SERVICE PROVIDERS THAT ASSIST**
22 **SENIORS AND LOW-INCOME RESIDENTS TO DISTRIBUTE INFORMATION AND**
23 **REUSABLE CARRYOUT BAGS TO LOW-INCOME HOUSEHOLDS.**

24 **Article – Natural Resources**

25 8-2A-02.

26 (e) The Fund consists of:

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

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

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

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2010.