SENATE BILL 57

C2 6lr1078
SB 620/15 – EHE & FIN (PRE–FILED) CF HB 31

By: **Senator Ramirez**
Requested: November 4, 2015
Introduced and read first time: January 13, 2016
Assigned to: Education, Health, and Environmental Affairs and Finance

A BILL ENTITLED

AN ACT concerning

Community Cleanup and Greening Act of 2016

FOR the purpose of prohibiting a store from distributing plastic disposable carryout bags free of charge to a customer at the point of sale; requiring a store to charge and collect a certain fee for each paper disposable carryout bag the store provides to a customer; authorizing a store to retain a certain amount of a certain fee under certain circumstances; prohibiting a store from advertising or stating certain information under certain circumstances; requiring a store to include certain information on certain receipts; providing that the sales and use tax does not apply to a certain amount of money retained by a store under certain circumstances; requiring the operator of a store to remit a certain amount of money to the Comptroller; requiring the Comptroller to retain a certain amount of money for a certain purpose; requiring the Comptroller to distribute a certain amount of money to the Department of Labor, Licensing, and Regulation for a certain purpose and to distribute a certain remaining amount of money to the counties proportional to each county's population; requiring a county that receives a certain distribution of money to use the money only for certain purposes; establishing a certain maximum penalty for a violation of this Act; providing that a distribution of one or more plastic disposable carryout bags free of charge at a single point of sale is a single violation; requiring the Department to adopt certain regulations; defining certain terms; and generally relating to carryout bags and community cleanup and greening efforts.

BY adding to
Article – Business Regulation
Section 19–104
Annotated Code of Maryland
(2015 Replacement Volume and 2015 Supplement)

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

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets] indicate matter deleted from existing law.

Article – Business Regulation

19–104.

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

(2) "CUSTOMER BAG CREDIT PROGRAM" MEANS A PROGRAM IMPLEMENTED IN A STORE THAT:

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

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

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

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

(II) "DISPOSABLE CARRYOUT BAG" INCLUDES A DURABLE PLASTIC BAG WITH HANDLES THAT IS DESIGNED AND MANUFACTURED FOR MULTIPLE REUSE.

(III) "DISPOSABLE CARRYOUT BAG" DOES NOT INCLUDE:

1. A 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; OR

1 E. CONTAIN A NEWSPAPER OR DRY CLEANING;

2 2. A BAG PROVIDED BY A PHARMACIST TO CONTAIN
3 PRESCRIPTION DRUGS;

4 3. PLASTIC BAGS SOLD IN PACKAGES CONTAINING
5 MULTIPLE PLASTIC BAGS INTENDED FOR USE AS GARBAGE BAGS, PET WASTE BAGS,
6 OR YARD WASTE BAGS; AND

7 4. A PAPER BAG THAT A RESTAURANT PROVIDES TO A
8 CUSTOMER TO TAKE FOOD OR DRINK AWAY FROM THE RESTAURANT.

9 (4) (I) "OPERATOR" MEANS A PERSON IN CONTROL OF, OR HAVING
10 DAILY RESPONSIBILITY FOR, THE DAILY OPERATION OF A STORE.

11 (II) "OPERATOR" INCLUDES THE OWNER OF THE STORE.

12 (5) (I) "STORE" MEANS A RETAIL ESTABLISHMENT THAT
13 PROVIDES DISPOSABLE CARRYOUT BAGS TO ITS CUSTOMERS AS A RESULT OF THE
14 SALE OF A PRODUCT.

15 (II) "STORE" DOES NOT INCLUDE A ROADSIDE STAND OR
16 FARMER'S MARKET.

17 (B) A STORE MAY NOT DISTRIBUTE PLASTIC DISPOSABLE CARRYOUT BAGS
18 FREE OF CHARGE TO A CUSTOMER AT THE POINT OF SALE.

19 (C) (1) A STORE SHALL CHARGE AND COLLECT A FEE OF 10 CENTS FOR
20 EACH PAPER DISPOSABLE CARRYOUT BAG THE STORE PROVIDES TO A CUSTOMER.

21 (2) A STORE MAY RETAIN:

22 (I) 5 CENTS FROM EACH 10–CENT FEE THE STORE COLLECTS;
23 OR

24 (II) 7 CENTS FROM EACH 10–CENT FEE THE STORE COLLECTS IF
25 THE STORE HAS A CUSTOMER BAG CREDIT PROGRAM.

26 (3) A STORE MAY NOT ADVERTISE, HOLD OUT, OR STATE TO THE
27 PUBLIC OR TO A CUSTOMER, DIRECTLY OR INDIRECTLY, THAT THE REIMBURSEMENT
28 OF THE FEE OR ANY PART OF THE FEE COLLECTED BY THE STORE WILL BE ASSUMED
29 OR ABSORBED BY THE STORE OR REFUNDED TO THE CUSTOMER.

1 (4) A STORE SHALL INDICATE ON THE CONSUMER TRANSACTION
2 RECEIPT THE NUMBER OF DISPOSABLE CARRYOUT BAGS PROVIDED BY THE STORE
3 AND THE TOTAL AMOUNT OF THE FEE CHARGED.

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

7 (6) THE OPERATOR OF A STORE SHALL REMIT TO THE COMPTROLLER
8 THE AMOUNT OF MONEY COLLECTED FROM THE FEE THAT IS NOT RETAINED BY THE
9 STORE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

10 (D) (1) FROM THE MONEY COLLECTED UNDER SUBSECTION (C)(6) OF
11 THIS SECTION, THE COMPTROLLER SHALL:

12 (I) RETAIN AN AMOUNT NECESSARY FOR THE ADMINISTRATION
13 OF THIS SECTION, INCLUDING EDUCATION OF THE PUBLIC AND REGULATED
14 BUSINESSES ABOUT THIS SECTION AND ITS PURPOSE;

15 (II) DISTRIBUTE A PORTION TO THE DEPARTMENT IN AN
16 AMOUNT TO COVER THE COSTS OF IMPLEMENTING AND ENFORCING THIS SECTION;
17 AND

18 (III) DISTRIBUTE THE MONEY THAT REMAINS AFTER THE
19 DISTRIBUTIONS UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH TO THE COUNTIES,
20 PROPORTIONAL TO EACH COUNTY'S POPULATION.

21 (2) A COUNTY THAT RECEIVES MONEY UNDER PARAGRAPH (1)(III) OF
22 THIS SUBSECTION MAY USE THE MONEY ONLY FOR:

23 (I) COMMUNITY GREENING;

24 (II) STORMWATER CONTROL;

25 (III) TRASH OR LITTER CLEANUP AND PREVENTION;

26 (IV) TOTAL MAXIMUM DAILY LOAD AND WATERSHED
27 IMPLEMENTATION PROJECTS;

28 (V) RECYCLING PROGRAMS AND PROJECTS;

29 (VI) FRESH FOOD FINANCING; OR

1 **(VII) ANY OTHER PROJECT RELATED TO WATER QUALITY**
2 **IMPROVEMENT OR SOLID WASTE SOURCE REDUCTION.**

3 **(E) (1) A STORE THAT VIOLATES THIS SECTION IS SUBJECT TO A PENALTY**
4 **NOT EXCEEDING $100.**

5 **(2) A DISTRIBUTION OF ONE OR MORE PLASTIC DISPOSABLE**
6 **CARRYOUT BAGS FREE OF CHARGE TO A CUSTOMER AT A SINGLE POINT OF SALE IS**
7 **A SINGLE VIOLATION.**

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

10 **(F) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT AND**
11 **ENFORCE THIS SECTION.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2016.