

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 810*

Short Title: Reduce Plastic Bag Use. (Public)

Sponsors: Representatives Harrison, Martin (Primary Sponsors); Cotham, Fisher, Insko, and Underhill.

Referred to: Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship.

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE PLASTIC BAG USE IN NORTH CAROLINA.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by
5 adding a new Part to read:

6 "Part 2F. Plastic Bag Management.

7 "§ 130A-309.100. Findings.

8 The General Assembly makes the following findings:

- 9 (1) Distribution of plastic bags by retailers to consumers for use in carrying,
10 transporting, or storing purchased goods has a detrimental effect on the
11 environment of the State.
12 (2) Discarded plastic bags contribute to overburdened landfills, threaten wildlife
13 and marine life, degrade the natural landscape, and, in many cases, require
14 consumption of oil and natural gas during the manufacturing process.
15 (3) It is in the best interests of the citizens of this State to gradually reduce the
16 distribution and use of plastic bags.

17 "§ 130A-309.101. Definitions.

18 As used in this Part, the following definitions apply:

- 19 (1) Compostable plastic bag. – A plastic bag that meets the current American
20 Society for Testing and Materials (ASTM) D6400 Standard for compostable
21 plastic.
22 (2) Plastic bag. – A carryout bag that is composed primarily of thermoplastic
23 synthetic polymeric material, which is provided by a store to a customer at
24 the point of sale and incidental to the purchase of other goods.
25 (3) Recyclable paper bag. – A paper bag that meets all of the following
26 requirements:
27 a. The bag is one hundred percent (100%) recyclable and contains a
28 minimum of forty percent (40%) postconsumer recycled content.
29 b. The bag displays the words "reusable" and "recyclable."
30 (4) Retail chain. – Five or more stores located within the State that are engaged
31 in the same general field of business and (i) conduct business under the same
32 business name or (ii) operate under common ownership or management or
33 pursuant to a franchise agreement with the same franchisor.
34 (5) Retailer. – A person who offers goods for sale in this State to consumers and
35 who provides a single-use plastic bag to the consumer to carry or transport



1 the goods and (i) has more than 5,000 square feet of retail or wholesale
2 space or (ii) is one of a retail chain.

3 (6) Reusable bag. – A durable plastic bag with handles that is at least 2.25 mils
4 thick and is specifically designed and manufactured for multiple reuse or a
5 bag made of cloth or other machine washable fabric that has handles.

6 **"§ 130A-309.102. Certain plastic bags banned.**

7 No retailer shall provide customers with plastic bags unless the bag is a reusable bag or a
8 compostable plastic bag, or the bag is used solely to hold sales to an individual customer of
9 otherwise unpackaged portions of the following items:

10 (1) Fresh fish or fresh fish products.

11 (2) Fresh meat or fresh meat products.

12 (3) Fresh poultry or fresh poultry products.

13 (4) Fresh produce.

14 **"§ 130A-309.103. Substitution of paper bags restricted.**

15 A retailer subject to G.S. 130A-309.102 may substitute paper bags for the plastic bags
16 banned by that section, but only if the paper bag is a recyclable paper bag."

17 **SECTION 2.** G.S. 130A-22 reads as rewritten:

18 **"§ 130A-22. Administrative penalties.**

19 (a) The Secretary of Environment and Natural Resources may impose an administrative
20 penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission
21 pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each
22 day of a continuing violation shall constitute a separate violation. The penalty shall not exceed
23 fifteen thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous
24 waste. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day
25 in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or
26 involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a
27 manner that results in medical waste entering waters or lands of the State; and shall not exceed
28 fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal
29 of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in
30 medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two
31 thousand five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial
32 action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant
33 to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars (\$100.00) for a first
34 violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;
35 and five hundred dollars (\$500.00) for each additional violation within any 12-month period for
36 a violation of the ban on certain plastic bags set forth in G.S. 130A-309.102. If a person fails to
37 pay a civil penalty within 60 days after the final agency decision or court order has been served
38 on the violator, the Secretary of Environment and Natural Resources shall request the Attorney
39 General to institute a civil action in the superior court of any county in which the violator
40 resides or has his or its principal place of business to recover the amount of the assessment.
41 Such civil actions must be filed within three years of the date the final agency decision or court
42 order was served on the violator.

43 "

44 **SECTION 3.** This act becomes effective October 1, 2011, and applies to retail
45 sales made on or after that date.