

HOUSE BILL 341

M3

11r0868

By: **Delegate Lafferty**

Introduced and read first time: February 2, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

Environment – At-Store Recycling – Plastic Carryout Bags

FOR the purpose of requiring the operator of certain retail stores to establish an at-store recycling program for plastic carryout bags; requiring certain retail stores to print or display certain language on plastic carryout bags provided by the store; requiring certain stores to provide certain collection bins for the recycling of plastic carryout bags in a certain manner; requiring certain stores to make reusable bags available to customers; requiring a plastic carryout bag manufacturer to develop and make available certain educational materials; providing that a county or municipality is not prohibited from adopting certain ordinances, resolutions, regulations, or rules under certain circumstances; establishing certain penalties for certain violations; providing for the recovery of the penalties in certain civil actions; requiring certain civil penalties to be deposited into a certain Fund; requiring the Department of the Environment to adopt certain regulations; defining certain terms; and generally relating to the recycling of plastic carryout bags.

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1701

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Environment

Section 9–1707(f)(2)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

BY adding to

Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 9–1733 through 9–1736 to be under the new part “Part V. Plastic Carryout Bag Recycling”
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

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

Article – Environment

9–1701.

(a) In this subtitle the following words have the meanings indicated.

(b) “Compost” means the product of composting in accordance with the standards established by the Secretary of Agriculture under § 6–221 of the Agriculture Article.

(c) “Composting” means the controlled biological decomposition of organic waste material in accordance with the standards established by the Secretary under this title.

(d) (1) “Computer” means a desktop personal computer or laptop computer, including the computer monitor.

(2) “Computer” does not include:

(i) A personal digital assistant device;

(ii) A computer peripheral device, including:

1. A mouse or other similar pointing device;

2. A printer; or

3. A detachable keyboard.

(e) (1) “Covered electronic device” means a computer or video display device with a screen that is greater than 4 inches measured diagonally.

(2) “Covered electronic device” does not include a video display device that is part of a motor vehicle or that is contained within a household appliance or commercial, industrial, or medical equipment.

(f) “Covered electronic device takeback program” means a program, established by a covered electronic device manufacturer, for the collection and recycling, refurbishing, or reuse of a covered electronic device labeled with the name of the manufacturer or the manufacturer’s brand label, including:

(1) Providing, at no cost to the returner, a method of returning a covered electronic device to the manufacturer, including postage paid mailing packages or designated collection points throughout the State;

(2) Contracting with a recycler, local government, other manufacturer, or any other person; or

(3) Any other program approved by the Department.

(g) “Director” means the Director of the Office of Recycling.

(h) “Manufacturer” means a person that is the brand owner of a covered electronic device sold or offered for sale in the State, by any means, including transactions conducted through sales outlets, catalogs, or the Internet.

(i) (1) “Natural wood waste” means tree and other natural vegetative refuse.

(2) “Natural wood waste” includes tree stumps, brush and limbs, root mats, logs, and other natural vegetative material.

(j) (1) “Natural wood waste recycling facility” means a facility where recycling services for natural wood waste are provided.

(2) “Natural wood waste recycling facility” does not include a collection or processing facility operated by:

(i) A nonprofit or governmental organization located in the State; or

(ii) A single individual or business that provides recycling services for its own employees or for its own recyclable materials generated on its own premises.

(k) “Office” means the Office of Recycling within the Department.

(L) “OPERATOR” MEANS A PERSON IN CONTROL OF, OR HAVING DAILY RESPONSIBILITY FOR, THE DAILY OPERATION OF A STORE AND MAY INCLUDE THE OWNER OF THE STORE.

(M) “PLASTIC CARRYOUT BAG” MEANS A PLASTIC CARRYOUT BAG PROVIDED BY A STORE TO A CUSTOMER AT THE POINT OF SALE.

(N) “PLASTIC CARRYOUT BAG MANUFACTURER” MEANS THE PRODUCER OF A PLASTIC CARRYOUT BAG SOLD TO A STORE.

[(l)] (O) “Recyclable materials” means those materials that:

(1) Would otherwise become solid waste for disposal in a refuse disposal system; and

(2) May be collected, separated, or processed and returned to the marketplace in the form of raw materials or products.

[(m)] (P) (1) “Recycling” means any process in which materials that would otherwise become solid waste are collected, separated, or processed and returned to the marketplace in the form of raw materials or products.

(2) “Recycling” includes composting.

[(n)] (Q) “Recycling services” means the services provided by persons engaged in the business of recycling, including the collection, processing, storage, purchase, sale, or disposition of recyclable materials.

[(o)] (R) “Resource recovery facility” means a facility in existence as of January 1, 1988 that:

(1) Processes solid waste to produce valuable resources, including steam, electricity, metals, or refuse–derived fuel; and

(2) Achieves a volume reduction of at least 50 percent of its solid waste stream.

(S) “REUSABLE BAG” MEANS:

(1) A BAG, WITH HANDLES, MADE OF CLOTH OR ANY OTHER FABRIC; OR

(2) A DURABLE PLASTIC BAG, WITH HANDLES, THAT IS AT LEAST 2.25 MILLIMETERS THICK AND IS SPECIFICALLY DESIGNED AND MANUFACTURED FOR REUSE.

[(p)] (T) (1) “Solid waste stream” means garbage or refuse that would, unless recycled, be disposed of in a refuse disposal system located in this State.

(2) “Solid waste stream” does not include:

(i) Hospital waste;

(ii) Rubble;

(iii) Scrap material;

(iv) Land clearing debris;

(v) Sewage sludge; or

(vi) Waste generated by a single individual or business and disposed of in a facility dedicated solely for that entity's waste.

(U) "STORE" MEANS A RETAIL ESTABLISHMENT THAT PROVIDES PLASTIC CARRYOUT BAGS TO ITS CUSTOMERS AS A RESULT OF THE SALE OF A PRODUCT AND HAS OVER 1,000 SQUARE FEET OF RETAIL SPACE.

[(q)] (V) (1) "Video display device" means an electronic device with an output surface that displays or is capable of displaying moving graphical images or visual representations of image sequences or pictures that show a number of quickly changing images on a screen to create the illusion of motion.

(2) "Video display device" includes a device that is an integral part of the display and cannot easily be removed from the display by the consumer and that produces the moving image on the screen.

(3) A video display device may use a cathode-ray tube (CRT), liquid crystal display (LCD), gas plasma, digital light processing, or other image-projection technology.

[(r)] (W) "White goods" includes:

- (1) Refrigerators;
- (2) Stoves;
- (3) Washing machines;
- (4) Dryers;
- (5) Water heaters; and
- (6) Air conditioners.

[(s)] (X) (1) "Yard waste" means organic plant waste derived from gardening, landscaping, and tree trimming activities.

(2) "Yard waste" includes leaves, garden waste, lawn cuttings, weeds, and prunings.

- (f) (2) The Fund shall consist of:
- (i) The newsprint recycling incentive fee;
 - (ii) The telephone directory recycling incentive fee collected under § 9–1709 of this subtitle;
 - (iii) The covered electronic device manufacturer registration fee collected under § 9–1728 of this subtitle;
 - (iv) The mercury switch or mercury switch assembly removal fees collected under § 6–905.4(c)(6)(iii)3 of this article;
 - (v) All fines and penalties collected under this subtitle and under §§ 6–905.4 and 6–905.6 of this article;
 - (vi) Money appropriated in the State budget to the Fund; and
 - (vii) Any other money from any other source accepted for the benefit of the Fund.

9–1731. RESERVED.

9–1732. RESERVED.

PART V. PLASTIC CARRYOUT BAG RECYCLING.

9–1733.

(A) THE OPERATOR OF A STORE SHALL ESTABLISH AN AT-STORE RECYCLING PROGRAM THAT PROVIDES AN OPPORTUNITY FOR A CUSTOMER OF THE STORE TO RETURN CLEAN PLASTIC CARRYOUT BAGS TO THE STORE.

(B) AN AT-STORE RECYCLING PROGRAM SHALL INCLUDE THE FOLLOWING REQUIREMENTS:

(1) PLASTIC CARRYOUT BAGS PROVIDED BY THE STORE SHALL HAVE PRINTED OR DISPLAYED ON THE BAG IN A MANNER VISIBLE TO THE CONSUMER THE WORDS “PLEASE RETURN TO A PARTICIPATING STORE FOR RECYCLING”;

(2) A PLASTIC CARRYOUT BAG COLLECTION BIN SHALL BE PLACED AT EACH STORE AND BE VISIBLE, EASILY ACCESSIBLE TO THE CONSUMER, AND CLEARLY MARKED THAT THE COLLECTION BIN IS AVAILABLE

FOR THE PURPOSE OF COLLECTING AND RECYCLING PLASTIC CARRYOUT BAGS;
AND

(3) THE OPERATOR OF THE STORE SHALL MAKE REUSABLE BAGS AVAILABLE TO CUSTOMERS WITHIN THE STORE THAT MAY BE PURCHASED INSTEAD OF USING A PLASTIC CARRYOUT BAG OR PAPER BAG.

9-1734.

A PLASTIC CARRYOUT BAG MANUFACTURER SHALL DEVELOP EDUCATIONAL MATERIALS TO ENCOURAGE REUSING, RECYCLING, AND THE REDUCTION OF PLASTIC CARRYOUT BAGS, AND SHALL MAKE THOSE MATERIALS AVAILABLE TO STORES REQUIRED TO COMPLY WITH THIS PART.

9-1735.

THIS PART DOES NOT PROHIBIT THE ADOPTION, IMPLEMENTATION, OR ENFORCEMENT OF ANY LOCAL ORDINANCE, RESOLUTION, REGULATION, OR RULE GOVERNING CURBSIDE OR DROP-OFF RECYCLING PROGRAMS OPERATED BY, OR IN ACCORDANCE WITH, A CONTRACT WITH A COUNTY OR MUNICIPALITY, INCLUDING ANY ACTION RELATING TO FEES FOR THESE PROGRAMS.

9-1736.

(A) A PERSON WHO VIOLATES ANY PROVISION OF THIS PART IS LIABLE FOR A CIVIL PENALTY NOT EXCEEDING:

- (1) \$250 FOR A FIRST VIOLATION;
- (2) \$500 FOR A SECOND VIOLATION; AND
- (3) \$1,000 FOR A THIRD OR SUBSEQUENT VIOLATION.

(B) (1) IF A LOCAL GOVERNMENT INITIATES A CIVIL ACTION TO ENFORCE THIS PART, THE LOCAL GOVERNMENT SHALL RECOVER THE CIVIL PENALTIES UNDER THIS SECTION IN A CIVIL ACTION.

(2) IF THE STATE INITIATES A CIVIL ACTION TO ENFORCE THIS PART, THE CIVIL PENALTIES UNDER THIS SECTION IN A CIVIL ACTION SHALL BE DEPOSITED IN THE STATE RECYCLING TRUST FUND, ESTABLISHED UNDER § 9-1707(F) OF THIS SUBTITLE.

(C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS PART.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.