

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0478.01 Kate Meyer

SENATE BILL 09-156

SENATE SPONSORSHIP

Veiga,

HOUSE SPONSORSHIP

Miklosi,

Senate Committees
Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REDUCTION OF PLASTIC BAG USE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates the "Plastic Bag Reduction Act" (act), which prohibits a store that meets the following criteria from providing plastic bags to customers on and after July 1, 2012:

! The store has a retail floor space of at least 10,000 square feet; and

! The store has gross annual sales of at least \$1,000,000.

Exempts any store operated pursuant to a franchise agreement from the scope of the act.

Makes noncompliance with the plastic bag prohibition a class 2

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

- petty offense and sets the following penalties upon conviction thereof:
- ! A fine not to exceed \$200 for a first violation within a calendar year;
 - ! A fine not to exceed \$300 for a second violation within a calendar year; and
 - ! Fines not to exceed \$500 for each additional violation within a calendar year.

Specifies that each plastic bag provided shall be deemed a separate violation.

Beginning September 1, 2009, imposes on customers a fee of 6 cents for every plastic bag provided to a customer by a store meeting the above criteria. Requires the store providing the bags to retain 3 cents and transfer the other 3 cents to the state treasurer. Creates the plastic bag reduction education fund (fund) in the state treasury, consisting of the plastic bag fees that are transmitted to the state. Requires the fund to be used to educate people on the upcoming plastic bag prohibition. Repeals the fund on July 1, 2013.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 25, Colorado Revised Statutes, is amended BY
3 THE ADDITION A NEW ARTICLE to read:

4 **ARTICLE 16.7**

5 **Reduction of Plastic Bags**

6 **25-16.7-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
7 MAY BE CITED AS THE "PLASTIC BAG REDUCTION ACT".

8 **25-16.7-102. Legislative declaration.** THE GENERAL ASSEMBLY
9 HEREBY FINDS, DETERMINES, AND DECLARES THAT THE DISTRIBUTION OF
10 PLASTIC BAGS, PARTICULARLY BY LARGE RETAIL ESTABLISHMENTS, TO
11 CONSUMERS FOR USE IN CARRYING, TRANSPORTING, OR STORING GOODS
12 PURCHASED AT SUCH ESTABLISHMENTS, HAS A DETRIMENTAL EFFECT ON
13 COLORADO'S ENVIRONMENT. SUCH BAGS, WHICH ARE SLOW TO
14 BIODEGRADE, CONTRIBUTE TO OVERBURDENED LANDFILLS, THREATEN
15 WILDLIFE, DEGRADE THE NATURAL LANDSCAPE, AND, IN MANY CASES,
16 REQUIRE CONSUMPTION OF OIL DURING THE MANUFACTURING PROCESS.

1 THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS IN THE BEST
2 INTERESTS OF THE PEOPLE OF COLORADO TO GRADUALLY REDUCE THE
3 DISTRIBUTION OF PLASTIC BAGS.

4 **25-16.7-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
5 CONTEXT OTHERWISE REQUIRES:

6 (1) "CHECKOUT" MEANS POINT OF SALE.

7 (2) "CUSTOMER" MEANS A PERSON WHO MAKES A PURCHASE AT A
8 STORE.

9 (3) "PLASTIC BAG" MEANS A BAG COMPOSED OF PLASTIC, LATEX,
10 OR POLYPROPYLENE.

11 (4) "PROVIDE" MEANS SELL, GIVE FREE OF CHARGE, OR OTHERWISE
12 DISTRIBUTE OR MAKE AVAILABLE.

13 (5) (a) "STORE" MEANS A BUSINESS OR ESTABLISHMENT IN THIS
14 STATE ENGAGED IN THE SALE OF GOODS THAT HAS:

15 (I) A RETAIL FLOOR SPACE OF AT LEAST TEN THOUSAND SQUARE
16 FEET; AND

17 (II) GROSS ANNUAL SALES OF ONE MILLION DOLLARS OR MORE.

18 (b) "STORE" DOES NOT INCLUDE ANY BUSINESS OR ESTABLISHMENT
19 OPERATED PURSUANT TO A FRANCHISE AGREEMENT.

20 **25-16.7-104. Prohibition on distribution of plastic bags -**
21 **violations.** (1) BEGINNING JULY 1, 2012, A STORE MAY NOT PROVIDE A
22 PLASTIC BAG TO A CUSTOMER AT CHECKOUT FOR THE PURPOSE OF
23 STORING, CARRYING, OR TRANSPORTING PURCHASED GOODS.

24 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS
25 PROHIBITING A STORE FROM PROVIDING BAGS MADE OF NONPLASTIC
26 MATERIAL TO CUSTOMERS AT CHECKOUT.

27 (3) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION

1 COMMITTS A CLASS 2 PETTY OFFENSE AND, UPON CONVICTION THEREOF,
2 SHALL BE PUNISHED BY A FINE NOT TO EXCEED ONE HUNDRED DOLLARS
3 FOR A FIRST VIOLATION WITHIN A CALENDAR YEAR, A FINE NOT TO EXCEED
4 TWO HUNDRED DOLLARS FOR A SECOND VIOLATION WITHIN A CALENDAR
5 YEAR, AND A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH
6 ADDITIONAL VIOLATION WITHIN A CALENDAR YEAR. EACH PLASTIC BAG
7 PROVIDED SHALL BE DEEMED A SEPARATE VIOLATION. ALL FINES
8 COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE
9 STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

10 **25-16.7-105. Plastic bag fee - plastic bag reduction education**

11 **fund - repeal.** (1) (a) BEGINNING SEPTEMBER 1, 2009, AND ENDING ON
12 JUNE 30, 2012, A CUSTOMER SHALL PAY A FEE OF SIX CENTS FOR EVERY
13 PLASTIC BAG PROVIDED AT CHECKOUT TO THE CUSTOMER BY A STORE.

14 (b) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS REQUIRING
15 A CUSTOMER TO ACCEPT OR USE PLASTIC BAGS PROVIDED BY A STORE.

16 (2) A STORE THAT PROVIDES PLASTIC BAGS TO CUSTOMERS SHALL
17 COLLECT SAID FEE AT THE TIME OF SALE AND SHALL:

18 (a) RETAIN THREE CENTS, WHICH MAY BE, BUT IS NOT REQUIRED TO
19 BE, USED TO DEFRAY COSTS ASSOCIATED WITH THE PLASTIC BAG
20 PROHIBITION DESCRIBED IN SECTION 25-16.7-104; AND

21 (b) TRANSMIT THREE CENTS TO THE STATE TREASURER, WHO
22 SHALL CREDIT THE SAME TO THE PLASTIC BAG REDUCTION EDUCATION
23 FUND CREATED IN SUBSECTION (3) OF THIS SECTION.

24 (3) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
25 PLASTIC BAG REDUCTION EDUCATION FUND, WHICH SHALL CONSIST OF ALL
26 FEES COLLECTED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS
27 SECTION AND ALL INTEREST EARNED ON SUCH FEES. ALL MONEYS IN THE

1 FUND SHALL BE ANNUALLY APPROPRIATED TO THE DEPARTMENT OF PUBLIC
2 HEALTH AND ENVIRONMENT BY THE GENERAL ASSEMBLY FOR THE
3 PURPOSE OF EDUCATING CUSTOMERS ABOUT THE PLASTIC BAG
4 PROHIBITION OF SECTION 25-16.7-104. ANY UNEXPENDED AND
5 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY
6 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE
7 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND; EXCEPT THAT,
8 ON JUNE 30, 2013, ANY UNEXPENDED AND UNENCUMBERED MONEYS IN
9 THE FUND SHALL BE TRANSFERRED TO THE GENERAL FUND.

10 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2013.

11 **SECTION 2. Act subject to petition - effective date.** (1) This
12 act shall take effect September 1, 2009.

13 (2) However, if a referendum petition is filed against this act or
14 an item, section, or part of this act during the ninety-day period after final
15 adjournment of the general assembly that is allowed for submitting a
16 referendum petition pursuant to article V, section 1 (3) of the state
17 constitution, then the act, item, section, or part, shall not take effect unless
18 approved by the people at a biennial regular general election and shall
19 take effect on the date specified in subsection (1) or on the date of the
20 official declaration of the vote thereon by proclamation of the governor,
21 whichever is later.