

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2023 Legislative Session

Bill No. CB-032-2023

Chapter No. 44

Proposed and Presented by Council Members Dernoga, Blegay, and Olson

Introduced by Council Members Dernoga, Blegay, Olson, Ivey, Fisher, Hawkins, Harrison

Co-Sponsors Council Member Watson

Date of Introduction May 2, 2023

BILL

1 AN ACT concerning

2 Better Bag Bill

3 For the purpose of providing for legislative intent; defining certain terms; prohibiting, after a
 4 certain date, a retail establishment from providing certain plastic carryout bags to a customer at
 5 the point of sale; establishing a minimum charge for certain paper and reusable carryout bags
 6 provided by a retail establishment, with certain exceptions; providing for a certain prohibition on
 7 certain advertising; providing for a certain promotion; providing for certain information on a
 8 certain receipt; providing for a certain notice; providing for education and outreach; establishing
 9 a certain maximum civil penalty for a violation of this Division; establishing that the provision of
 10 a certain number of plastic carryout bags at a single point of sale constitutes a single violation;
 11 establishing that the failure to charge the amount of money required under this Division for the
 12 provision of one or more paper or reusable carryout bags at a single point of sale is a single
 13 violation; prohibiting the imposition of a penalty under this Division unless certain conditions are
 14 met; providing for the oversight for the enforcement of this Division; providing for filing certain
 15 actions; providing for a certain waiver; providing for a certain report; providing for certain
 16 citations; permitting the Department of the Environment to adopt certain regulations; providing
 17 for the applicability of this Division; and generally relating to one-time use plastic carryout bags.

18 BY adding:

19 SUBTITLE 19. POLLUTION.

20 Sections 19-162, 19-163, 19-164, 19-165, 19-166,

21 19-167, 19-168, and 19-169

The Prince George's County Code
(2019 Edition; 2022 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 19-162, 19-163, 19-164, 19-165, 19-166, 19-167, 19-168 and 19-169 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 19. POLLUTION.

DIVISION 9. PLASTIC BAG REDUCTION.

Sec. 19-162. - Legislative Intent.

(a) The world's oceans are taking in million tons of plastic from land-based sources annually and plastic bags are among the top five plastic products collected in beach cleanups in the United States.

(b) At major grocery chains in Prince George's County, as of 2022, a small percentage of shoppers do not use single-use carryout bags provided at no charge by retailers. Nearly all of these bags are plastic, resulting in County residents using hundreds of millions of plastic carryout bags annually.

(c) Littered plastic bags end up in waterways where they are ingested by marine life, injuring, and killing fish, seabirds, and marine mammals.

(d) Single-use plastic bags remain in the environment for lifetimes, degrading over time into microplastic particles that absorb toxic chemicals, are found in the deepest ocean trenches, pristine natural areas, and house dust, and are impossible to clean up, and that humans are ingesting as much as a credit card's worth of plastic weekly.

(e) Plastic carryout bags are not recyclable at the County's recycling facility and impose costs to county government and taxpayers in the form of removal of litter and repair and wear-and-tear on recycling machinery due to the improper disposal of plastic bags in recycling bins.

(f) Single-use plastic bags are made from fossil fuels and their production results in harmful greenhouse gas emissions at every stage of their life cycle from extraction to production to disposal, contributing to climate change.

(g) The manufacture of single-use paper bags destroys forests that mitigate climate change, involves toxic chemicals, and generates significant air pollution.

(h) Single-use carryout bags are provided free of charge by many retail establishments as a service, but shoppers are actually paying for them as part of their grocery bill, in a higher price for

1 merchandise. Single-use carryout bags provided by retail establishments impose unseen costs on
 2 consumers, local governments, and taxpayers, and constitute a public nuisance.

3 (i) The County Council finds that the use of single-use carryout bags by consumers at retail
 4 establishments is detrimental to the environment, public health, and welfare of County residents,
 5 and that it is in the best interests of maintaining the health, safety, and welfare of County residents
 6 and visitors to reduce the distribution of single-use carryout bags and incentivize the use of
 7 reusable bags by prohibiting provision of single-use plastic carryout bags and requiring retailers
 8 to charge at least 10 cents for each paper bag.

9 **Sec. 19-163. Definitions.**

10 (a) In this Division, the following words have the meanings indicated.

11 (1) **Department** means the Prince George’s County Department of the Environment.

12 (2) **Director** means the Prince George’s County Director of the Department of the Environment
 13 or their designee.

14 (3) **Food Service Facility** has the meaning stated in § 21–301 of the Health - General Article of
 15 the Annotated Code of Maryland.

16 (4) (A) **Plastic Carryout Bag** means a plastic bag that is provided by a retail establishment to a
 17 customer at the point of sale and is not a reusable carryout bag.

18 (B) **Plastic Carryout Bag** includes a compostable plastic bag that meets the specifications
 19 of the American Society of Testing and Materials International Standard Specification for
 20 Compostable Plastics D6400.

21 (C) **Plastic Carryout Bag** does not include: a plastic bag used to:

22 (i) package bulk items, including fruit, vegetables, nuts, grains, candy, or small
 23 hardware items;

24 (ii) contain or wrap frozen foods, meat, or fish, whether prepackaged or not;

25 (iii) contain or wrap flowers, potted plants, or other damp items;

26 (iv) contain unwrapped prepared foods or bakery goods;

27 (v) protect suits, dresses, and formal wear, and bags used to protect dry cleaning;

28 or

29 (vi) take live fish, insects, mollusks, or crustaceans away from the retail
 30 establishment.

31 (5) **Retail Establishment** means a store, a food service facility, or any other establishment that

1 provides bags to its customers as a result of the sale of a product, or service whether for-profit or
2 not-for-profit.

3 (c) **Reusable Carryout Bag** means a bag with stitched handles that is specifically designed and
4 manufactured for multiple reuse and is made of:

5 (1) cloth or other washable fabric; or

6 (2) a durable material suitable for multiple re-use that is not made of plastic film.

7 **Sec. 19-164. Prohibited Acts; Paper and Reusable Carryout Bag Charge.**

8 (a) After December 31, 2023, a retail establishment may not provide a plastic carryout bag to a
9 customer.

10 (b) (1) After December 31, 2023, with certain exceptions, a retail establishment shall charge,
11 collect, and retain at least 10 cents for each paper carryout bag and reusable carryout bag that it
12 provides to a customer.

13 (2) The charge for paper carryout bags shall not apply to a paper bag containing prescription
14 medication provided by a pharmacy to a customer.

15 (3) The charge for paper carryout bags shall not apply to a paper bag containing prepared
16 food provided at the drive-through window of a restaurant or a paper bag provided by a full-service
17 restaurant after a meal for leftovers.

18 (4) A retail establishment may not advertise, hold out, or state to the public or to a customer,
19 directly or indirectly, that any part of the money collected under paragraph (1) of this subsection
20 will be assumed or absorbed by the establishment or refunded to the customer.

21 (5) Notwithstanding subsections (1)-(4), above, the Department may designate one week per
22 year when retail establishments may provide reusable bags free of charge as a promotion.

23 (6) A retail establishment shall indicate on the customer transaction receipt the number of
24 paper or reusable carryout bags provided by the establishment and the amount charged.

25 (7) A retail establishment shall post a notice at the public entrance to the retail establishment
26 or at each point of sale that advises customers to bring reusable carryout bags or to skip the bag
27 and that all carryout bags provided by the retailer are subject to a charge. The notices shall be
28 posted in English and Spanish. The County shall post an example of a notice in English and
29 Spanish on the County website.

30 **Sec. 19-165. Education and Outreach.**

31 (a) The Department shall conduct an education and outreach campaign before and during

1 implementation of the provisions of this Division. This campaign should include: (1) informational
 2 mailers to and direct contact with affected businesses; (2) distribution of information through
 3 County internet and web-based resources; and (3) news releases and news events.

4 (b) The Department may collaborate with organizations in the environmental community and
 5 other interested parties to inform community members of the provisions of this Division.

6 **Sec. 19-166. Penalty; notice of violation.**

7 (a) Subject to subsection (b) of this section, a retail establishment that violates the provisions of
 8 this Division is subject to a civil penalty not exceeding \$500.

9 (b) (1) (i) the provision of one or more plastic carryout bags at a single point of sale is a single
 10 violation.

11 (ii) the failure to charge the amount of money required under this Division for the
 12 provision of one or more paper or reusable carryout bags at a single point of sale is a single
 13 violation.

14 (2) a penalty may not be imposed under this section unless a retail establishment:

15 (i) is first issued a written notice of violation; and

16 (ii) does not correct the violation within 7 days after receipt of the written notice.

17 **Sec. 19-167. Enforcement; waiver; annual report.**

18 (a) The Department of the Environment shall oversee the enforcement of this Division and may
 19 partner with inspectors of other departments to address violations, as determined in this Division.

20 (b) The County Attorney or any affected party may file an action in court with jurisdiction to enjoin
 21 repeated violations of this Division.

22 (c) The Director or their designee may grant a retail establishment a waiver from the requirements
 23 of this Division for a period of up to 3 months if the Director determines that achieving compliance
 24 under this Division would cause the retail establishment an undue hardship or a practical difficulty
 25 not generally applicable to other retail establishments in similar circumstances.

26 (d) The Department shall submit an annual report to the County Executive and County Council
 27 that includes a list of all enforcement actions taken and penalties issued under this Division.

28 **Sec. 19-168. Citations.**

29 An inspector shall not issue a citation with a monetary penalty for the first 90 days after the
 30 provisions of this Division take effect; however, during this period an inspector may issue a
 31 correction notice and shall attempt to educate any non-compliant retail establishment on the

1 requirements of this Division.

2 **Sec. 19-169. Regulations.**

3 The Department may adopt regulations to implement the provisions of this Division.

4 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
5 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
6 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
7 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words,
8 phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since
9 the same would have been enacted without the incorporation in this Act of any such invalid or
10 unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection, or section.

11 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
12 calendar days after it becomes law.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive