

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1018
State and Local Government Committee Substitute Adopted 5/12/09

Short Title: Ban Certain Single-Use Bags. (Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE PLASTIC AND NONRECYCLED PAPER BAG USE ON NORTH
3 CAROLINA'S OUTER BANKS.

4 The General Assembly of North Carolina enacts:

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

7 "Part 2F. Plastic Bag Management.

8 "§ 130A-309.100. Findings.

9 The General Assembly makes the following findings:

- 10 (1) Distribution of plastic bags by retailers to consumers for use in carrying,
11 transporting, or storing purchased goods has a detrimental effect on the
12 environment of the State.
- 13 (2) Discarded plastic bags contribute to overburdened landfills, threaten wildlife
14 and marine life, degrade the beaches and other natural landscapes of North
15 Carolina's coast, and, in many cases, require consumption of oil and natural
16 gas during the manufacturing process.
- 17 (3) It is in the best interest of the citizens of this State to gradually reduce the
18 distribution and use of plastic bags.
- 19 (4) Environmental degradation is especially burdensome in counties with barrier
20 islands where soundside and ocean pollution are more significant, where
21 removing refuse from such isolated places is more difficult and expensive,
22 where such refuse deters tourism, and where the presence of a National
23 Wildlife Refuge or National Seashore shows that the federal government
24 places special value on protecting the natural environment in that vicinity.
- 25 (5) The barrier islands are most relevant in that they are where sea turtles come
26 to nest. North Carolina has some of the most important sea turtle nesting
27 areas on the East Coast, due to the proximity of the islands to the Gulf
28 Stream. Plastic bag debris can be harmful to sea turtles and other land and
29 marine life. The waters adjacent to the barrier islands, because they serve as
30 habitat for the turtles, are particularly sensitive to waterborne debris
31 pollution.
- 32 (6) Inhabited barrier islands are visited by a high volume of tourists and
33 therefore experience a high consumption of bags relative to their permanent
34 population due to large numbers of purchases from restaurants, groceries,
35 beach shops, and other retailers by the itinerant tourist population.
- 36 (7) Barrier islands are small and narrow, and therefore the comparative impact
37 of plastic bags on the barrier islands is high.



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"§ 130A-309.101. Definitions.

As used in this Part, the following definitions apply:

- (1) Plastic bag. – A carryout bag that is less than 2.25 mils in thickness and composed primarily of thermoplastic synthetic polymeric material, which is provided by a store to a customer at the point of sale and incidental to the purchase of other goods.
- (2) Recycled paper bag. – A paper bag that meets all of the following requirements:
 - a. The bag is manufactured from one hundred percent (100%) postconsumer recycled content.
 - b. The bag displays the words "made from recycled material" and "recyclable."
- (3) Retail chain. – Five or more stores located within the State that are engaged in the same general field of business and (i) conduct business under the same business name or (ii) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.
- (4) Retailer. – A person who offers goods for sale in this State to consumers and who provides a single-use plastic bag to the consumer to carry or transport the goods and (i) has more than 5,000 square feet of retail or wholesale space or (ii) is one of a retail chain.
- (5) Reusable bag. – A durable plastic bag with handles that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse or a bag made of cloth or other machine washable fabric with handles.

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

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

- (1) Fresh fish or fresh fish products.
- (2) Fresh meat or fresh meat products.
- (3) Fresh poultry or fresh poultry products.
- (4) Fresh produce.

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

A retailer subject to G.S. 130A-309.102 may substitute paper bags for the plastic bags banned by that section, but only if all of the following conditions are met:

- (1) The paper bag is a recycled paper bag.
- (2) The retailer offers a refund equal to the cost to the retailer of providing an equivalent number of recycled paper bags to any customer who uses the customer's own reusable bags instead of the bags provided by the retailer.

"§ 130A-309.104. Required signage.

A retailer subject to G.S. 130A-309.102 shall display a sign in a location viewable by customers containing the following notice: "[county name] County discourages the use of single-use plastic and paper bags to protect our environment from excess litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you are not able to, a 100% recycled paper bag will be furnished for your use." The name of the county where the retailer displaying the sign is located should be substituted for "[county name]" in the language set forth in this section.

"§ 130A-309.105. Applicability.

This act applies only in a county that:

- (1) Has a barrier island with permanent inhabitation separated from the mainland by a sound.

1 (2) Contains either a National Wildlife Refuge or a portion of a National
2 Seashore."

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

4 "**§ 130A-22. Administrative penalties.**

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

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30 **SECTION 3.** This act becomes effective September 1, 2009, and applies to retail
31 sales made on or after that date.