

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1018
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/12/09
House Committee Substitute Favorable 6/9/09
House Committee Substitute #2 Favorable 6/17/09

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 2G. Plastic Bag Management.

8 "§ 130A-309.120. 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.



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- 1 (7) Barrier islands are small and narrow, and therefore the comparative impact
2 of plastic bags on the barrier islands is high.

3 **"§ 130A-309.121. Definitions.**

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

- 5 (1) Plastic bag. – A carryout bag composed primarily of thermoplastic synthetic
6 polymeric material, which is provided by a store to a customer at the point of
7 sale and incidental to the purchase of other goods.
- 8 (2) Prepared foods retailer. – A retailer primarily engaged in the business of
9 selling prepared foods, as that term is defined in G.S. 105-164.3, to
10 consumers.
- 11 (3) Recycled paper bag. – A paper bag that meets all of the following
12 requirements:
- 13 a. The bag is manufactured from one hundred percent (100%) recycled
14 content, including postconsumer content, postindustrial content, or a
15 mix of postconsumer and postindustrial content.
- 16 b. The bag displays the words "made from recycled material" and
17 "recyclable."
- 18 (4) Retail chain. – Five or more stores located within the State that are engaged
19 in the same general field of business and (i) conduct business under the same
20 business name or (ii) operate under common ownership or management or
21 pursuant to a franchise agreement with the same franchisor.
- 22 (5) Retailer. – A person who offers goods for sale in this State to consumers and
23 who provides a single-use plastic bag to the consumer to carry or transport
24 the goods and (i) has more than 5,000 square feet of retail or wholesale
25 space or (ii) is one of a retail chain.
- 26 (6) Reusable bag. – A durable plastic bag with handles that is at least 2.25 mils
27 thick and is specifically designed and manufactured for multiple reuse or a
28 bag made of cloth or other machine washable fabric with handles.

29 **"§ 130A-309.122. Certain plastic bags banned.**

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

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

37 **"§ 130A-309.123. Substitution of paper bags restricted.**

38 (a) A retailer subject to G.S. 130A-309.122 may substitute paper bags for the plastic
39 bags banned by that section, but only if all of the following conditions are met:

- 40 (1) The paper bag is a recycled paper bag.
- 41 (2) The retailer offers one of the following incentives to any customer who uses
42 the customer's own reusable bags instead of the bags provided by the
43 retailer: (i) a cash refund; (ii) a store coupon or credit for general store use;
44 or (iii) a value or reward under the retailer's customer loyalty or rewards
45 program for general store use. The amount of the incentive shall be equal to
46 or greater than the cost to the retailer of providing a recycled paper bag,
47 multiplied by the number of reusable bags filled with the goods purchased
48 by the customer.

49 (b) Nothing in this Part shall prevent a retailer from providing customers with reused
50 packaging materials originally used for goods received from the retailer's wholesalers or
51 suppliers.

1 (c) Notwithstanding subsection (a) of this section, a prepared foods retailer may
2 package prepared foods in a recycled paper bag, regardless of the availability of a reusable bag,
3 in order to comply with food sanitation or handling standards or best practices.

4 **"§ 130A-309.124. Required signage.**

5 A retailer subject to G.S. 130A-309.122 other than a prepared foods retailer shall display a
6 sign in a location viewable by customers containing the following notice: "[county name]
7 County discourages the use of single-use plastic and paper bags to protect our environment
8 from excess litter and greenhouse gases. We would appreciate our customers using reusable
9 bags, but if you are not able to, a 100% recycled paper bag will be furnished for your use." The
10 name of the county where the retailer displaying the sign is located should be substituted for
11 "[county name]" in the language set forth in this section.

12 **"§ 130A-309.125. Applicability.**

13 (a) This Part applies only in a county which includes a barrier island or barrier
14 peninsula, in which the barrier island or peninsula meets both of the following conditions:

15 (1) It has permanent inhabitation of 200 or more residents and is separated from
16 the North Carolina mainland by a sound.

17 (2) It contains either a National Wildlife Refuge or a portion of a National
18 Seashore.

19 (b) Within any county covered by subsection (a) of this section, this Part applies only to
20 an island or peninsula that both:

21 (1) Is bounded on the east by the Atlantic Ocean.

22 (2) Is bounded on the west by a coastal sound."

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

24 **"§ 130A-22. Administrative penalties.**

25 (a) The Secretary of Environment and Natural Resources may impose an administrative
26 penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission
27 pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each
28 day of a continuing violation shall constitute a separate violation. The penalty shall not exceed
29 fifteen thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous
30 waste. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day
31 in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or
32 involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a
33 manner that results in medical waste entering waters or lands of the State; and shall not exceed
34 fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal
35 of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in
36 medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two
37 thousand five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial
38 action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant
39 to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars (\$100.00) for a first
40 violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;
41 and five hundred dollars (\$500.00) for each additional violation within any 12-month period for
42 any violation of Part 2G of Article 9 of this Chapter. If a person fails to pay a civil penalty
43 within 60 days after the final agency decision or court order has been served on the violator, the
44 Secretary of Environment and Natural Resources shall request the Attorney General to institute
45 a civil action in the superior court of any county in which the violator resides or has his or its
46 principal place of business to recover the amount of the assessment. Such civil actions must be
47 filed within three years of the date the final agency decision or court order was served on the
48 violator.

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