

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE DRS15069-MH-39 (03/03)

Short Title: Repeal Plastic Bag Ban.

(Public)

Sponsors: Senators Goolsby and Newton (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE BAN ON PLASTIC BAGS IN CERTAIN COASTAL AREAS.

Whereas, the General Assembly finds that large retailers were prohibited in September 2009 from supplying plastic bags on the barrier islands of the Outer Banks as a pilot program; and

Whereas, the General Assembly finds that the purpose of this pilot program was to change consumer behavior with regard to the use of plastic bags and to create incentives for the use of reusable shopping bags; and

Whereas, the General Assembly finds that the ban was expanded in October 2010 to apply to all businesses in the affected area; and

Whereas, the General Assembly finds that businesses were required to pay consumers for bringing reusable shopping bags to stores; and

Whereas, the General Assembly finds that businesses have expended substantial capital to comply with this prohibition during a difficult economy when this capital could have been utilized to hire additional employees or expand their business; and

Whereas, the General Assembly finds that State funds have been set aside for the Department of Environment and Natural Resources and the Department's Divisions of Waste Management and Environmental Assistance and Outreach to monitor and study the success of the prohibition, but these funds could be better spent in light of the State facing a large budget deficit; and

Whereas, the General Assembly finds that retailer data has not demonstrated a change in consumer behavior, with many businesses experiencing less than 1% of transactions involving a reusable shopping bag; and

Whereas, the General Assembly finds that this prohibition impacts North Carolina businesses large and small, located not only in the Outer Banks but throughout North Carolina, and hinders their ability to create jobs; and

Whereas, the General Assembly finds it is in the best interest of the citizens of this entire State to reduce the distribution and use of plastic bags through recycling, reuse, and the use of reusable bags; and

Whereas, the General Assembly finds that the states of Texas, Florida, and Virginia have developed similar successful voluntary educational programs to educate the public about the importance of the recycling of plastic bags; and

Whereas, the General Assembly finds that a voluntary educational program informing North Carolina citizens of the availability of recycling sites throughout the entire State benefits every citizen; Now, therefore,



1 The General Assembly of North Carolina enacts:

2 **SECTION 1.** Part 2G of Article 9 of Chapter 130A of the General Statutes is
3 repealed.

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

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 any violation of Part 2G of Article 9 of this Chapter.~~ For violations of Part 7 of Article 9 of this
23 Chapter and G.S. 130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the
24 penalty shall not exceed two hundred dollars (\$200.00) for a second violation; and (iii) the
25 penalty shall not exceed five hundred dollars (\$500.00) for subsequent violations. If a person
26 fails to pay a civil penalty within 60 days after the final agency decision or court order has been
27 served on the violator, the Secretary of Environment and Natural Resources shall request the
28 Attorney General to institute a civil action in the superior court of any county in which the
29 violator resides or has his or its principal place of business to recover the amount of the
30 assessment. Such civil actions must be filed within three years of the date the final agency
31 decision or court order was served on the violator.

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33 **SECTION 3.** Section 13.10(c) of S.L. 2010-31 is repealed.

34 **SECTION 4.** This act becomes effective July 1, 2011.