

HOUSE BILL 1034

C2, M1, M3

11r0512
CF SB 602

By: **Delegates Carr, Hucker, Anderson, Barnes, Bobo, Burns, Cardin, Cullison, Dumais, Frush, Gaines, Gilchrist, Gutierrez, Guzzone, Hixson, Hubbard, Ivey, Kaiser, A. Kelly, Lafferty, Lee, Luedtke, A. Miller, Mizeur, Morhaim, Murphy, Niemann, Pena-Melnyk, Reznik, B. Robinson, S. Robinson, Ross, V. Turner, Valderrama, Washington, Wilson, and Zucker**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Clean the Streams and Beautify the Bay Act of 2011**

3 FOR the purpose of prohibiting a store from providing disposable carryout bags unless
4 the bags meet certain requirements; requiring a store to charge and collect a
5 certain fee for each disposable carryout bag the store provides to a customer;
6 authorizing a store to retain a certain amount of a certain fee under certain
7 circumstances; prohibiting a store from advertising or stating certain
8 information under certain circumstances; requiring a store to include certain
9 information on certain receipts; providing that the sales and use tax does not
10 apply to a certain amount of money retained by a store under certain
11 circumstances; requiring the operator of a store to remit a certain amount of
12 money to the Comptroller; requiring the Comptroller to retain a certain amount
13 of money for a certain purpose; requiring the Comptroller to distribute certain
14 amounts of money to the Department of Labor, Licensing, and Regulation and
15 the Chesapeake Bay Trust; requiring the Department of Labor, Licensing, and
16 Regulation to adopt certain regulations in accordance with certain
17 requirements; establishing certain maximum penalties for certain violations;
18 altering the list of allowable grants that may be made by the Chesapeake Bay
19 Trust; requiring the Comptroller to distribute a certain amount of money to the
20 Department of Human Resources on or before a certain date for a certain
21 purpose; requiring the Department of Human Resources to conduct a certain
22 public outreach campaign in accordance with certain requirements; providing
23 for a delayed effective date; defining certain terms; and generally relating to
24 carryout bags and the restoration of the Chesapeake Bay.

25 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Business Regulation
2 Section 19–103
3 Annotated Code of Maryland
4 (2010 Replacement Volume and 2010 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Natural Resources
7 Section 1–704
8 Annotated Code of Maryland
9 (2005 Replacement Volume and 2010 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Business Regulation**

13 **19–103.**

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
15 MEANINGS INDICATED.

16 (2) “CUSTOMER BAG CREDIT PROGRAM” MEANS A PROGRAM
17 IMPLEMENTED IN A STORE THAT:

18 (I) REQUIRES THE STORE TO PAY A CUSTOMER A CREDIT
19 OF AT LEAST 5 CENTS FOR EACH BAG PROVIDED BY THE CUSTOMER FOR
20 PACKAGING THE CUSTOMER’S PURCHASES;

21 (II) REQUIRES THE TOTAL AMOUNT OF THE CREDIT PAID TO
22 A CUSTOMER UNDER ITEM (I) OF THIS PARAGRAPH TO BE DISPLAYED ON THE
23 CUSTOMER TRANSACTION RECEIPT; AND

24 (III) IS PROMINENTLY ADVERTISED AT EACH CHECKOUT
25 REGISTER IN THE STORE.

26 (3) (I) “DISPOSABLE CARRYOUT BAG” MEANS A PAPER OR
27 PLASTIC BAG PROVIDED BY A STORE TO A CUSTOMER AT THE POINT OF SALE.

28 (II) “DISPOSABLE CARRYOUT BAG” DOES NOT INCLUDE:

29 1. A DURABLE PLASTIC BAG WITH HANDLES THAT IS
30 AT LEAST 2.25 MILS THICK AND IS DESIGNED AND MANUFACTURED FOR
31 MULTIPLE REUSE;

32 2. A BAG USED TO:

1 **A. PACKAGE BULK ITEMS, INCLUDING FRUIT,**
2 **VEGETABLES, NUTS, GRAINS, CANDY, OR SMALL HARDWARE ITEMS;**

3 **B. CONTAIN OR WRAP FROZEN FOODS, MEAT, OR**
4 **FISH, WHETHER PREPACKAGED OR NOT;**

5 **C. CONTAIN OR WRAP FLOWERS, POTTED PLANTS,**
6 **OR OTHER DAMP ITEMS;**

7 **D. CONTAIN UNWRAPPED PREPARED FOODS OR**
8 **BAKERY GOODS; AND**

9 **E. CONTAIN A NEWSPAPER OR DRY CLEANING;**

10 **3. A BAG PROVIDED BY A PHARMACIST TO CONTAIN**
11 **PRESCRIPTION DRUGS;**

12 **4. PLASTIC BAGS SOLD IN PACKAGES CONTAINING**
13 **MULTIPLE PLASTIC BAGS INTENDED FOR USE AS GARBAGE BAGS, PET WASTE**
14 **BAGS, OR YARD WASTE BAGS; AND**

15 **5. A BAG THAT A RESTAURANT PROVIDES TO A**
16 **CUSTOMER TO TAKE FOOD OR DRINK AWAY FROM THE RESTAURANT.**

17 **(4) “OPERATOR” MEANS A PERSON IN CONTROL OF, OR HAVING**
18 **DAILY RESPONSIBILITY FOR, THE DAILY OPERATION OF A STORE, WHICH MAY**
19 **INCLUDE THE OWNER OF THE STORE.**

20 **(5) (I) “STORE” MEANS A RETAIL ESTABLISHMENT THAT**
21 **PROVIDES DISPOSABLE CARRYOUT BAGS TO ITS CUSTOMERS AS A RESULT OF**
22 **THE SALE OF A PRODUCT.**

23 **(II) “STORE” DOES NOT INCLUDE A ROADSIDE STAND OR**
24 **FARMERS MARKET.**

25 **(B) (1) A STORE MAY NOT PROVIDE A DISPOSABLE CARRYOUT BAG TO**
26 **A CUSTOMER AT THE POINT OF SALE UNLESS THE DISPOSABLE CARRYOUT BAG**
27 **IS MADE OF 100% RECYCLABLE MATERIAL.**

28 **(2) A DISPOSABLE CARRYOUT BAG MADE OF PAPER THAT IS**
29 **PROVIDED TO A CUSTOMER BY A STORE AT THE POINT OF SALE MUST:**

1 **(I) CONTAIN A MINIMUM OF 40% POSTCONSUMER**
2 **RECYCLED CONTENT; AND**

3 **(II) DISPLAY THE PHRASE “PLEASE RECYCLE THIS BAG”,**
4 **OR A SUBSTANTIALLY SIMILAR PHRASE, IN A HIGHLY VISIBLE MANNER ON THE**
5 **EXTERIOR OF THE CARRYOUT BAG.**

6 **(3) A DISPOSABLE CARRYOUT BAG MADE OF PLASTIC THAT IS**
7 **PROVIDED TO A CUSTOMER BY A STORE AT THE POINT OF SALE MUST:**

8 **(I) BE MADE OF:**

9 **1. HIGH-DENSITY POLYETHYLENE FILM MARKED**
10 **WITH THE SPI RESIN IDENTIFICATION CODE “2”; OR**

11 **2. LOW-DENSITY POLYETHYLENE FILM MARKED**
12 **WITH THE SPI RESIN IDENTIFICATION CODE “4”; AND**

13 **(II) DISPLAY THE PHRASE “PLEASE RECYCLE THIS BAG”,**
14 **OR A SUBSTANTIALLY SIMILAR PHRASE, IN A HIGHLY VISIBLE MANNER ON THE**
15 **EXTERIOR OF THE CARRYOUT BAG.**

16 **(C) (1) A STORE SHALL CHARGE AND COLLECT A FEE OF 5 CENTS FOR**
17 **EACH DISPOSABLE CARRYOUT BAG THE STORE PROVIDES TO A CUSTOMER.**

18 **(2) A STORE MAY RETAIN:**

19 **(I) 1 CENT FROM EACH 5-CENT FEE THE STORE COLLECTS;**
20 **OR**

21 **(II) 2 CENTS FROM EACH 5-CENT FEE THE STORE COLLECTS**
22 **IF THE STORE HAS A CUSTOMER BAG CREDIT PROGRAM.**

23 **(3) A STORE MAY NOT ADVERTISE, HOLD OUT, OR STATE TO THE**
24 **PUBLIC OR TO A CUSTOMER, DIRECTLY OR INDIRECTLY, THAT THE**
25 **REIMBURSEMENT OF THE FEE OR ANY PART OF THE FEE COLLECTED BY THE**
26 **STORE WILL BE ASSUMED OR ABSORBED BY THE STORE OR REFUNDED TO THE**
27 **CUSTOMER.**

28 **(4) A STORE SHALL INDICATE ON THE CONSUMER TRANSACTION**
29 **RECEIPT THE NUMBER OF CARRYOUT BAGS PROVIDED BY THE STORE AND THE**
30 **TOTAL AMOUNT OF THE FEE CHARGED.**

1 **(5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE**
2 **SALES AND USE TAX DOES NOT APPLY TO THE AMOUNT OF MONEY RETAINED BY**
3 **A STORE UNDER PARAGRAPH (2) OF THIS SUBSECTION.**

4 **(6) THE OPERATOR OF A STORE SHALL REMIT THE AMOUNT OF**
5 **MONEY COLLECTED FROM THE FEE THAT IS NOT RETAINED BY THE STORE**
6 **UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE COMPTROLLER.**

7 **(D) FROM THE MONEY COLLECTED UNDER SUBSECTION (C) OF THIS**
8 **SECTION, THE COMPTROLLER SHALL:**

9 **(1) RETAIN AN AMOUNT NECESSARY FOR THE ADMINISTRATION**
10 **OF THIS SECTION;**

11 **(2) DISTRIBUTE A PORTION TO THE DEPARTMENT, IN AN**
12 **AMOUNT TO COVER THE COSTS OF IMPLEMENTING AND ENFORCING THIS**
13 **SECTION; AND**

14 **(3) DISTRIBUTE THE MONEY THAT REMAINS AFTER THE**
15 **DISTRIBUTIONS UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION TO THE**
16 **CHESAPEAKE BAY TRUST.**

17 **(E) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO**
18 **IMPLEMENT AND ENFORCE THIS SECTION IN ACCORDANCE WITH THIS**
19 **SUBSECTION.**

20 **(2) A PENALTY IMPOSED ON A STORE FOR A VIOLATION OF THIS**
21 **SECTION MAY NOT EXCEED:**

22 **(I) \$100 FOR A FIRST VIOLATION;**

23 **(II) \$200 FOR A SECOND VIOLATION; AND**

24 **(III) \$500 FOR A THIRD OR SUBSEQUENT VIOLATION IN THE**
25 **SAME CALENDAR YEAR.**

26 **(3) A PENALTY MAY NOT BE IMPOSED ON A STORE MORE THAN**
27 **ONCE WITHIN A 7-DAY PERIOD.**

28 **Article – Natural Resources**

29 1-704.

1 The Chesapeake Bay Trust shall use the funds it receives under § 1–703 of this
2 subtitle only to provide grants to nonprofit organizations, community associations,
3 civic groups, schools, or public agencies for citizen involvement projects that will
4 enhance or promote:

5 (1) Public education of the State’s citizens concerning the Chesapeake
6 Bay;

7 (2) The preservation or enhancement of water quality and fishery or
8 wildlife habitat;

9 (3) The restoration of aquatic or land resources;

10 (4) Reforestation projects;

11 (5) The publication or production of educational materials on the
12 Chesapeake Bay; [or]

13 (6) Training in environmental studies or environmental enhancement,
14 **INCLUDING THROUGH THE CHESAPEAKE CONSERVATION CORPS ESTABLISHED**
15 **UNDER § 5–218 OF THIS ARTICLE; OR**

16 (7) **PUBLIC EDUCATION ON THE IMPORTANCE OF REDUCING THE**
17 **NUMBER OF DISPOSABLE CARRYOUT BAGS FROM ENTERING THE WASTE**
18 **STREAM.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1,
20 2013, the Comptroller shall distribute a portion of the money collected under §
21 19–103(c) of the Business Regulation Article, as established by Section 1 of this Act,
22 after the distributions have been made under § 19–103(d)(1) and (2), but before the
23 distribution to the Chesapeake Bay Trust under § 19–103(d)(3), to the Department of
24 Human Resources in an amount to cover the cost of a public outreach campaign that
25 includes:

26 (1) a public–private partnership to provide reusable carryout bags to
27 the citizens of the State; and

28 (2) working with service providers that assist seniors and low–income
29 residents to distribute information and reusable carryout bags to low–income
30 households.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 January 1, 2012.