

COUNCIL BILL 08-205

UNOFFICIAL REPRINT TO SHOW CONTEXT  
OF COMMITTEE AMENDMENTS

A BILL ENTITLED

AN ORDINANCE concerning

**Plastic Bag Reduction**

FOR the purpose of prohibiting ~~certain markets and formula retail stores~~ retail food dealers from using certain types of checkout bags; establishing an exception for those agreeing to participate in a Plastic Bag Reduction Program; imposing certain requirement on certain other dealers; defining certain terms; authorizing civil enforcement action; imposing criminal penalties; and providing for a special effective date.

By adding

Article 15 - Licensing and Regulation  
Section(s) 16-1 to ~~16-9~~ 16-13, to be under the new subtitle,  
“Subtitle 16. Plastic Bag Reduction”  
Baltimore City Code  
(Edition 2000)

By repealing and reordaining, with amendments

Article 1 - Mayor, City Council, and Municipal Agencies  
Section(s) 40-14(e)(2)  
Baltimore City Code  
(Edition 2000)

**SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the Laws of Baltimore City read as follows:

**Baltimore City Code**

**Article 15. Licensing and Regulation**

**SUBTITLE 16. PLASTIC BAG REDUCTION**

**§ 16-1 DEFINITIONS.**

(A) *IN GENERAL.*

IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(B) *FORMULA RETAIL ESTABLISHMENT.*~~

~~“FORMULA RETAIL ESTABLISHMENT” MEANS ANY RETAIL ESTABLISHMENT THAT HAS 2 OR MORE OF THE FOLLOWING FEATURES IN COMMON WITH 11 OR MORE OTHER RETAIL ESTABLISHMENTS IN THE UNITED STATES:~~

- ~~(1) TRADEMARK, SERVICE MARK, LOGO, OR OTHER IDENTIFYING NAME OR SYMBOL;~~
- ~~(2) BUSINESS METHOD;~~
- ~~(3) MERCHANDISE ARRAY;~~
- ~~(4) FACADE OR ARCHITECTURE;~~
- ~~(5) DECOR AND COLOR SCHEME;~~
- ~~(6) LAYOUT;~~
- ~~(7) SIGNAGE; OR~~
- ~~(8) UNIFORMS.~~

~~(C) *MARKET.*~~

~~“MARKET” MEANS A RETAIL STORE THAT:~~

- ~~(1) SELLS A LINE OF DRY GROCERY, CANNED GOODS, OR NONFOOD ITEMS, AS WELL AS SOME PERISHABLE ITEMS; AND~~
- ~~(2) HAS GROSS ANNUAL SALES OF \$500,000 OR MORE.~~

(B) *COMMISSION ON SUSTAINABILITY.*

“COMMISSION ON SUSTAINABILITY” MEANS THE COMMISSION ON SUSTAINABILITY ESTABLISHED BY CITY CODE ARTICLE 5, SUBTITLE 34.

(C) *DEALER.*

“DEALER” MEANS A PERSON ENGAGED IN THE RETAIL SALE OF GOODS.

(D) *FOOD.*

“FOOD” HAS THE MEANING STATED IN HEALTH ARTICLE § 6-101 OF THE CITY CODE.

(E) *FOOD DEALER.*

(1) “FOOD DEALER” MEANS A PERSON ENGAGED IN ANY BUSINESS THAT INCLUDES THE RETAIL SALE OF FOOD ITEMS.

(2) “FOOD DEALER” INCLUDES ANY:

- (1) SUPERMARKET;

(II) GROCERY STORE;

(III) CONVENIENCE STORE;

(IV) TAKE-OUT FOOD STORE; OR

(V) OTHER FOOD SERVICE FACILITY.

(F) OFFICE OF SUSTAINABILITY.

“OFFICE OF SUSTAINABILITY” MEANS THE BALTIMORE CITY OFFICE OF SUSTAINABILITY ESTABLISHED BY CITY CODE ARTICLE 1, SUBTITLE 34.

(G) ~~(D)~~ PERSON.

“PERSON” MEANS:

- (1) AN INDIVIDUAL;
- (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY KIND; OR
- (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND.

~~(E) RECYCLABLE.~~

~~“RECYCLABLE” MEANS MATERIAL THAT CAN BE SORTED, CLEANSED, AND RECONSTITUTED, USING THE CITY’S AVAILABLE RECYCLING COLLECTION PROGRAMS, FOR THE PURPOSE OF USING THE ALTERED FORM IN THE MANUFACTURE OF A NEW PRODUCT.~~

~~(F) RECYCLABLE PAPER BAG.~~

~~“RECYCLABLE PAPER BAG” MEANS A PAPER BAG THAT:~~

- ~~(1) CONTAINS NO OLD-GROWTH FIBER;~~
- ~~(2) IS 100% RECYCLABLE OVERALL AND CONTAINS A MINIMUM OF 40% POST-CONSUMER RECYCLED CONTENT; AND~~
- ~~(3) CLEARLY DISPLAYS THE WORDS “REUSABLE” AND “RECYCLABLE” ON THE FRONT OR BACK OF THE BAG.~~

(H) ~~(G)~~ REUSABLE BAG.

“REUSABLE BAG” MEANS A BAG THAT:

- (1) HAS HANDLES;
- (2) IS SPECIFICALLY DESIGNED AND MANUFACTURED FOR MULTIPLE REUSE; AND
- (3) EITHER:

(I) IS MADE OF CLOTH OR OTHER MACHINE WASHABLE FABRIC; OR

(II) IS MADE OF DURABLE PLASTIC AT LEAST 2.25 MILS THICK.

**§ 16-2. PURPOSE OF SUBTITLE.**

(A) *IN GENERAL.*

THE PURPOSE OF THIS SUBTITLE IS TO REDUCE THE QUANTITY OF PLASTIC BAGS DISTRIBUTED BY DEALERS IN BALTIMORE CITY AND, THEREBY, REDUCE THE ENVIRONMENTAL AND ECONOMIC COSTS OF HANDLING PLASTIC IN CITY LANDFILLS, STORMWATER DRAINS, OUTFALLS, AND THE INNER HARBOR.

(B) *EVALUATING AND REPORTING EFFECTS.*

(1) THE DIRECTOR OF THE OFFICE OF SUSTAINABILITY AND THE PUBLIC WORKS DIRECTOR SHALL PERIODICALLY EVALUATE THE SUCCESS OF THIS SUBTITLE BY:

(i) REVIEWING THE BAG COUNTS REPORTED UNDER § 16-8(G) {"PROGRAM REQUIREMENTS: REPORTS AND RECORDS"} OF THIS SUBTITLE; AND

(ii) ASSESSING THE VOLUME OF PLASTIC BAGS THAT ENTER THE CITY'S WASTE STREAM.

(2) THEY SHALL REPORT THEIR FINDINGS AND EVALUATION TO THE MAYOR AND CITY COUNCIL SEMI-ANNUALLY, WITHIN 60 DAYS AFTER DEALER REPORTS HAVE BEEN SUBMITTED UNDER § 16-8(G).

**§ 16-3. §16-2. RULES AND REGULATIONS.**

(A) *IN GENERAL.*

(1) THE CITY'S SUSTAINABILITY COORDINATOR MAY COMMISSION ON SUSTAINABILITY SHALL ADOPT RULES AND REGULATIONS TO CARRY OUT AND ENFORCE THIS SUBTITLE.

(2) THESE RULES AND REGULATIONS SHALL INCLUDE PROVISIONS TO ADMINISTER, FURTHER DEFINE, MONITOR, AND ENFORCE THE PLASTIC BAG REDUCTION PROGRAM ESTABLISHED BY § 16-7 OF THIS SUBTITLE.

(B) *FILING.*

A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

**§ 16-4. §16-3. {RESERVED}**

**§ 16-5. §16-4. LIMITATIONS ON CHECKOUT BAGS.**

~~MARKETS AND FORMULA RETAIL ESTABLISHMENTS:~~

~~(1) MAY ELECT NOT TO PROVIDE CUSTOMERS WITH CHECKOUT OR CARRYOUT BAGS; OR~~

~~(2) MAY PROVIDE CUSTOMERS ONLY WITH THE FOLLOWING AS CHECKOUT OR CARRYOUT BAGS:~~

~~(i) RECYCLABLE PAPER BAGS; OR~~

~~(ii) REUSABLE BAGS.~~

(A) FOOD DEALERS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, NO FOOD DEALER MAY PROVIDE PURCHASERS OF ANY PRODUCT WITH A PLASTIC BAG (OTHER THAN A REUSABLE PLASTIC BAG) FOR USE AS A CHECKOUT OR CARRYOUT BAG.

(2) THIS SECTION DOES NOT APPLY TO A FOOD DEALER WHO ENROLLS IN THE PLASTIC BAG REDUCTION PROGRAM ESTABLISHED UNDER THIS SUBTITLE AND COMPLIES WITH THE REQUIREMENTS OF THE PROGRAM.

(B) ALL DEALERS.

(1) ALL DEALERS, WHETHER OF FOOD OR OTHER GOODS, WHO OFFER TO PROVIDE CHECKOUT OR CARRYOUT BAGS MUST PROMINENTLY POST AT THEIR REGISTERS A POLICY OF PROVIDING PLASTIC BAGS ONLY IF REQUESTED BY THE CUSTOMER.

(2) §§ 16-10 {"INJUNCTIVE RELIEF"}, 16-11 {"ENFORCEMENT BY CITATION"}, AND 16-13 {"PENALTIES"} DO NOT APPLY TO VIOLATIONS OF THIS SUBSECTION.

**§ 16-6 {RESERVED}**

**§ 16-7. PLASTIC BAG REDUCTION PROGRAM – ESTABLISHMENT AND ENROLLMENT.**

(A) PROGRAM ESTABLISHED.

THERE IS A PLASTIC BAG REDUCTION PROGRAM, TO BE ADMINISTERED AND ENFORCED BY THE DIRECTOR OF THE OFFICE OF SUSTAINABILITY.

(B) ENROLLMENT FEE.

THE ENROLLMENT FEE FOR THE PROGRAM IS AS FOLLOWS:

(1) ENROLLMENT ON OR BEFORE AUGUST 31, 2010 – No FEE.

(2) ENROLLMENT ON OR AFTER SEPTEMBER 1, 2010 – \$500.

**§ 16-8. PLASTIC BAG REDUCTION PROGRAM – REQUIREMENTS.**

(A) IN GENERAL.

A FOOD DEALER WHO ENROLLS IN THE PLASTIC BAG REDUCTION PROGRAM AGREES TO ABIDE BY THE FOLLOWING REQUIREMENTS OF THE PROGRAM.

(B) BAGS LABELED FOR RECYCLING.

ALL PLASTIC CHECKOUT OR CARRYOUT BAGS MUST HAVE PRINTED OR DISPLAYED ON THEM, IN A MANNER VISIBLE TO THE CUSTOMER, THE WORDS "PLEASE RETURN TO A PARTICIPATING STORE FOR RECYCLING".

(C) COLLECTION BIN.

(1) THE FOOD DEALER MUST PROVIDE AT LEAST 1 COLLECTION BIN THAT IS:

(i) VISIBLE AND EASILY ACCESSIBLE TO CUSTOMERS; AND

(ii) CLEARLY MARKED AS AVAILABLE FOR COLLECTING AND RECYCLING PLASTIC BAGS AND PLASTIC FILM.

(2) THE FOOD DEALER MUST CONTRACT FOR THE PERIODIC RECYCLING OF THE BIN'S CONTENTS.

(D) REUSABLE BAGS FOR SALE.

THE FOOD DEALER MUST MAKE REUSABLE BAGS AVAILABLE ON THE PREMISES FOR PURCHASE BY CUSTOMERS..

(E) SIGNAGE.

THE FOOD DEALER MUST MAINTAIN:

(1) A SIGN AT THE ENTRANCE THAT REMINDS CUSTOMERS TO BRING IN ANY REUSABLE BAG THEY MIGHT HAVE; AND

(2) A SIGN AT EACH REGISTER THAT STATES A POLICY OF PROVIDING PLASTIC BAGS ON REQUEST ONLY.

(F) REPORTS AND RECORDS.

(1) THE FOOD DEALER MUST MAINTAIN RECORDS OF AND SUBMIT TO THE OFFICE OF SUSTAINABILITY A SEMI-ANNUAL REPORT THAT SPECIFIES:

(i) THE NUMBER OF PLASTIC AND PAPER CHECKOUT OR CARRYOUT BAGS IN INVENTORY AT THE START OF THE REPORTING PERIOD;

(ii) THE NUMBER OF PLASTIC AND PAPER CHECKOUT OR CARRYOUT BAGS PURCHASED DURING THE REPORTING PERIOD;

(iii) THE NUMBER OF PLASTIC AND PAPER CHECKOUT OR CARRYOUT BAGS IN INVENTORY AT THE END OF THE REPORTING PERIOD;

(iv) THE NUMBER OF REUSABLE BAGS IN INVENTORY AT THE START OF THE REPORTING PERIOD;

(v) THE NUMBER OF REUSABLE BAGS PURCHASED DURING THE REPORTING PERIOD;

(vi) THE NUMBER OF REUSABLE BAGS SOLD DURING THE REPORTING PERIOD;

(VII) THE NUMBER OF REUSABLE BAGS IN INVENTORY AT THE END OF THE REPORTING PERIOD;

(VIII) THE TOTAL WEIGHT OF PLASTIC RECYCLED THROUGH ITS COLLECTION BINS DURING THE REPORTING PERIOD;

(IX) IF THE FOOD DEALER OFFERS CUSTOMERS A CASH INCENTIVE FOR USING REUSABLE BAGS, THE NUMBER OF TRANSACTIONS IN WHICH CUSTOMERS TOOK ADVANTAGE OF THE INCENTIVE AND THE NUMBER OF REUSABLE BAGS THEY USED; AND

(X) ANY OTHER MEASURES OR STANDARDS THAT THE COMMISSION ON SUSTAINABILITY REQUIRES.

(2) THE FOOD DEALER MUST MAINTAIN FOR AT LEAST 2 YEARS AND, ON REQUEST, MAKE AVAILABLE TO THE OFFICE OF SUSTAINABILITY RECORDS OF THE COLLECTION, TRANSPORTING, AND RECYCLING OF PLASTIC COLLECTED IN ITS COLLECTION BINS.

**§ 16-9. §16-5. {RESERVED}**

**§ 16-10. §16-6. INJUNCTIVE RELIEF.**

THE MAYOR AND CITY COUNCIL MAY FILE A PETITION IN CIRCUIT COURT TO COMPEL COMPLIANCE WITH ~~THIS SUBTITLE~~ OR TO SEEK OTHER LEGAL OR EQUITABLE RELIEF FOR VIOLATIONS OF THIS SUBTITLE OR ANY RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE.

**§ 16-11. §16-7. ENFORCEMENT BY CITATION.**

(A) *IN GENERAL.*

IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE, THIS SUBTITLE AND THE RULES AND REGULATIONS ADOPTED UNDER IT MAY BE ENFORCED BY ISSUANCE OF AN ENVIRONMENTAL CITATION AS AUTHORIZED BY CITY CODE ARTICLE 1, SUBTITLE 40 {"ENVIRONMENTAL CONTROL BOARD"}.

(B) *PROCESS NOT EXCLUSIVE.*

THE ISSUANCE OF AN ENVIRONMENTAL CITATION ~~TO ENFORCE THIS SUBTITLE~~ DOES NOT PRECLUDE PURSUING ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

**§ 16-12. §16-8. {RESERVED}**

**§ 16-13. §16-9. PENALTIES.**

(A) *IN GENERAL.*

ANY PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE OR OF A RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO THE FOLLOWING FINES:

(1) FOR A 1<sup>ST</sup> OFFENSE, \$250;

(2) FOR A 2<sup>ND</sup> OFFENSE IN THE SAME 6-MONTH PERIOD, \$500; AND

(3) FOR A 3<sup>RD</sup> OR SUBSEQUENT OFFENSE IN THE SAME 6-MONTH PERIOD, \$1,000.

(B) *EACH DAY A SEPARATE OFFENSE.*

EACH DAY IN WHICH A VIOLATION OCCURS IS A SEPARATE OFFENSE.

## **Article 1. Mayor, City Council, and Municipal Agencies**

### **Subtitle 40. Environmental Control Board**

#### **§ 40-14. Violations to which subtitle applies.**

(e) *Provisions and penalties enumerated.*

#### **(2) Article 15. Licensing and Regulation**

##### SUBTITLE 16. PLASTIC BAG REDUCTIONS

1 <sup>ST</sup> OFFENSE	\$ 250
2 <sup>ND</sup> OFFENSE IN SAME 6-MONTH PERIOD	\$ 500
3 <sup>RD</sup> OR SUBSEQUENT OFFENSE IN SAME 6-MONTH PERIOD	\$1,000
§ 17-23. Food vendors - Receptacles; clean-up	\$ 100

**SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

**SECTION 3. AND BE IT FURTHER ORDAINED,** That ~~this Ordinance takes effect 6 months after the date it is enacted~~ new Article 15, § 16-5 {"Limitations on checkout bags"}, takes effect on September 1, 2010; the rest of this Ordinance takes effect on the date this Ordinance is enacted.