

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2023, Legislative Day No. ____

Bill No. -23

Councilmembers Patoka and Ertel

By the County Council, , 2023

A BILL
ENTITLED

AN ACT concerning

Bring Your Own Bag Act

FOR the purpose of prohibiting, on or after a certain date, a retail establishment from distributing certain plastic carryout bags to a customer at the point of sale; establishing a minimum charge for certain paper and reusable carryout bags provided by a retail establishment; requiring certain signage be posted regarding certain charges for paper and reusable carryout bags; establishing a certain maximum civil penalty for a violation of this Act; establishing that the distribution of a certain number of plastic carryout bags at a single point of sale constitutes a single violation; prohibiting the imposition of a penalty under this Act unless certain conditions are met; providing for the enforcement of this Act; permitting the Department of Permits, Approvals, and Inspections to adopt certain regulations; defining certain terms; and generally relating to one-time use carryout bags.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BY adding

Sections 21-14-101 through 21-14-105
Article 21 – Permits, Licenses, and Business Regulation
Title 14 – One-Time Use Plastic Carryout Bag Reduction
Baltimore County Code, 2015

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
COUNTY, MARYLAND, that the Laws of Baltimore County read as follows:

ARTICLE 21 – PERMITS, LICENSES, AND BUSINESS REGULATION

Title 14 – ONE-TIME USE PLASTIC CARRYOUT BAG REDUCTION

§ 21-14-101. DEFINITIONS.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) “FOOD SERVICE FACILITY” HAS THE MEANING STATED IN § 21–301 OF
THE HEALTH – GENERAL ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(C) (1) “PLASTIC CARRYOUT BAG” MEANS A PLASTIC BAG THAT IS
PROVIDED BY A RETAIL ESTABLISHMENT TO A CUSTOMER AT THE POINT OF
SALE AND IS NOT A REUSABLE CARRYOUT BAG.

(2) “PLASTIC CARRYOUT BAG” INCLUDES A COMPOSTABLE PLASTIC
BAG THAT MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY OF TESTING
AND MATERIALS INTERNATIONAL STANDARD SPECIFICATION FOR
COMPOSTABLE PLASTICS D6400.

(3) “PLASTIC CARRYOUT BAG” DOES NOT INCLUDE:

1 (I) A PLASTIC BAG USED TO:

- 2 1. PACKAGE BULK ITEMS, INCLUDING FRUIT,
3 VEGETABLES, NUTS, GRAINS, CANDY, OR SMALL HARDWARE ITEMS;
4 2. CONTAIN OR WRAP FROZEN FOODS, MEAT, OR FISH,
5 WHETHER PREPACKAGED OR NOT;
6 3. CONTAIN OR WRAP FLOWERS, POTTED PLANTS, OR
7 OTHER DAMP ITEMS;
8 4. CONTAIN UNWRAPPED PREPARED FOODS OR
9 BAKERY GOODS;
10 5. CONTAIN GARMENTS OR DRY-CLEANED CLOTHES,
11 INCLUDING SUITS, JACKETS, AND DRESSES; OR
12 6. TAKE LIVE FISH, INSECTS, MOLLUSKS, OR
13 CRUSTACEANS AWAY FROM THE RETAIL ESTABLISHMENT; OR

14 (II) A PLASTIC BAG PROVIDED BY A FOOD SERVICE FACILITY
15 THAT IS NECESSARY TO MEET FOOD SAFETY AND CONTAMINATION
16 STANDARDS.

17 (D) "RETAIL ESTABLISHMENT" MEANS A STORE, A FOOD SERVICE
18 FACILITY, OR ANY OTHER ESTABLISHMENT THAT PROVIDES BAGS TO ITS
19 CUSTOMERS AS A RESULT OF THE SALE OF A PRODUCT.

20 (E) "REUSABLE CARRYOUT BAG" MEANS A BAG WITH STITCHED HANDLES
21 THAT IS SPECIFICALLY DESIGNED AND MANUFACTURED FOR MULTIPLE REUSE
22 AND IS MADE OF:

- 23 (1) CLOTH OR OTHER WASHABLE FABRIC; OR

1 (2) A DURABLE MATERIAL SUITABLE FOR MULTIPLE RE-USE THAT
2 IS NOT MADE OF PLASTIC FILM.

3
4 § 21-14-102. PLASTIC CARRYOUT BAGS PROHIBITED; PAPER AND REUSABLE
5 CARRYOUT BAG CHARGE.

6 (A) ON OR AFTER NOVEMBER 1, 2023, A RETAIL ESTABLISHMENT MAY NOT
7 PROVIDE A PLASTIC CARRYOUT BAG TO A CUSTOMER.

8 (B) (1) ON OR AFTER NOVEMBER 1, 2023, A RETAIL ESTABLISHMENT
9 SHALL CHARGE, COLLECT, AND RETAIN AT LEAST 10 CENTS FOR EACH PAPER
10 CARRYOUT BAG AND REUSABLE CARRYOUT BAG THAT IT PROVIDES TO A
11 CUSTOMER.

12 (2) A RETAIL ESTABLISHMENT MAY NOT ADVERTISE, HOLD OUT, OR
13 STATE TO THE PUBLIC OR TO A CUSTOMER, DIRECTLY OR INDIRECTLY, THAT
14 REIMBURSEMENT OF ANY PART OF THE MONEY COLLECTED UNDER
15 PARAGRAPH (1) OF THIS SUBSECTION WILL BE ASSUMED OR ABSORBED BY THE
16 STORE OR REFUNDED TO THE CUSTOMER.

17 (3) A RETAIL ESTABLISHMENT SHALL INDICATE ON THE CUSTOMER
18 TRANSACTION RECEIPT THE NUMBER OF PAPER OR REUSABLE CARRYOUT BAGS
19 PROVIDED BY THE ESTABLISHMENT AND THE AMOUNT CHARGED.

20 (4) A RETAIL ESTABLISHMENT SHALL POST A SIGN AT EACH POINT
21 OF SALE SUCH THAT IT IS VISIBLE TO CUSTOMERS AND EMPLOYEES DURING A
22 TRANSACTION THAT STATES THE CHARGE FOR EACH PAPER CARRYOUT BAG
23 AND REUSABLE CARRYOUT BAG IT PROVIDES TO A CUSTOMER.

1 (C) A RETAIL ESTABLISHMENT MAY NOT COLLECT A CHARGE REQUIRED
2 UNDER SUBSECTION (B) OF THIS SECTION FROM A CUSTOMER WHO USES STATE
3 OR FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAMS (SNAP), FOOD
4 COUPONS OR OTHER TYPE OF ALLOTMENT ISSUED UNDER 7 U.S.C. 2011-2036, OR
5 WITH FOOD INSTRUMENTS, FOOD VOUCHERS, OTHER TYPE OF CERTIFICATE
6 ISSUED UNDER 42 U.S.C. 1786 (SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR
7 WOMEN, INFANTS, AND CHILDREN), OR WITH PANDEMIC ELECTRONIC BENEFIT
8 TRANSFER (P-EBT), FOR ANY PART OF THE TRANSACTION.

9
10 § 21-14-103. PENALTY; NOTICE OF VIOLATION.

11 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A RETAIL
12 ESTABLISHMENT THAT VIOLATES § 21-14-102 OF THIS TITLE IS SUBJECT TO A
13 CIVIL PENALTY NOT EXCEEDING \$500.

14 (B) (1) (I) THE PROVISION OF ONE OR MORE PLASTIC CARRYOUT
15 BAGS AT A SINGLE POINT OF SALE IS A SINGLE VIOLATION.

16 (II) THE FAILURE TO CHARGE THE AMOUNT OF MONEY
17 REQUIRED UNDER § 21-14-102(B) OF THIS TITLE FOR THE PROVISION OF ONE OR
18 MORE PAPER OR REUSABLE CARRYOUT BAGS AT A SINGLE POINT OF SALE IS A
19 SINGLE VIOLATION.

20 (2) A PENALTY MAY NOT BE IMPOSED UNDER THIS SECTION UNLESS
21 A RETAIL ESTABLISHMENT:

22 (I) IS FIRST ISSUED A WRITTEN NOTICE OF VIOLATION; AND

23 (II) DOES NOT CORRECT THE VIOLATION WITHIN 7 DAYS

1 AFTER RECEIPT OF THE WRITTEN NOTICE.

2 (3) A PENALTY MAY NOT BE IMPOSED ON A RETAIL
3 ESTABLISHMENT MORE THAN ONCE WITHIN A 7-DAY PERIOD.

4
5 § 21-14-104. ENFORCEMENT; WAIVER; ANNUAL REPORT.

6 (A) THIS TITLE SHALL BE ENFORCED BY THE DEPARTMENT.

7 (B) THE DIRECTOR OR THEIR DESIGNEE MAY GRANT A RETAIL
8 ESTABLISHMENT UP TO TWO WAIVERS FROM THE REQUIREMENTS OF THIS TITLE
9 FOR A PERIOD OF UP TO 3 MONTHS FOR EACH WAIVER IF THE DIRECTOR
10 DETERMINES THAT ACHIEVING COMPLIANCE UNDER THIS TITLE WOULD CAUSE
11 THE RETAIL ESTABLISHMENT AN UNDUE HARDSHIP OR A PRACTICAL
12 DIFFICULTY NOT GENERALLY APPLICABLE TO OTHER RETAIL ESTABLISHMENTS
13 IN SIMILAR CIRCUMSTANCES.

14 (C) THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE
15 COUNTY EXECUTIVE AND COUNTY COUNCIL THAT INCLUDES A LIST OF ALL
16 ENFORCEMENT ACTIONS TAKEN AND PENALTIES ISSUED UNDER THIS TITLE.

17
18 § 21-14-105. REGULATIONS.

19 THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS TITLE.

20
21 SECTION 2. AND BE IT FURTHER ENACTED, that this Act, having been passed by
22 the affirmative vote of five members of the County Council, shall take effect 14 days from the
23 date of enactment.