

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**HOUSE DRH50293-MH-39C\* (2/20)**

Short Title: Reduce Plastic Bag Use.

(Public)

Sponsors: Representatives Harrison, Justice, and Martin (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REDUCE PLASTIC BAG USE IN NORTH CAROLINA.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Article 9 of Chapter 130A of the General Statutes is amended by  
5 adding a new Part to read:

6 "Part 2F. Plastic Bag Management.

7 **"§ 130A-309.100. Findings.**

8 The General Assembly makes the following findings:

- 9 (1) Distribution of plastic bags by retailers to consumers for use in carrying,  
10 transporting, or storing purchased goods has a detrimental effect on the  
11 environment of the State.  
12 (2) Discarded plastic bags contribute to overburdened landfills, threaten wildlife  
13 and marine life, degrade the natural landscape, and, in many cases, require  
14 consumption of oil and natural gas during the manufacturing process.  
15 (3) It is in the best interests of the citizens of this State to gradually reduce the  
16 distribution and use of plastic bags.

17 **"§ 130A-309.101. Definitions.**

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

- 19 (1) Compostable plastic bag. – A plastic bag that meets the current American  
20 Society for Testing and Materials (ASTM) D6400 Standard for compostable  
21 plastic.  
22 (2) Plastic bag. – A carryout bag that is composed primarily of thermoplastic  
23 synthetic polymeric material, which is provided by a store to a customer at  
24 the point of sale and incidental to the purchase of other goods.  
25 (3) Recyclable paper bag. – A paper bag that meets all of the following  
26 requirements:  
27 a. The bag is one hundred percent (100%) recyclable and contains a  
28 minimum of forty percent (40%) postconsumer recycled content.  
29 b. The bag displays the words "reusable" and "recyclable."  
30 (4) Retail chain. – Five or more stores located within the State that are engaged  
31 in the same general field of business and (i) conduct business under the same  
32 business name or (ii) operate under common ownership or management or  
33 pursuant to a franchise agreement with the same franchisor.  
34 (5) Retailer. – A person who offers goods for sale in this State to consumers and  
35 who provides a single-use plastic bag to the consumer to carry or transport



1                    the goods and (i) has more than 5,000 square feet of retail or wholesale  
2                    space or (ii) is one of a retail chain.

3                    (6)                Reusable bag. – A durable plastic bag with handles that is at least 2.25 mils  
4                    thick and is specifically designed and manufactured for multiple reuse or a  
5                    bag made of cloth or other machine washable fabric that has handles.

6                    **"§ 130A-309.102. Certain plastic bags banned.**

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

10                    (1)                Fresh fish or fresh fish products.

11                    (2)                Fresh meat or fresh meat products.

12                    (3)                Fresh poultry or fresh poultry products.

13                    (4)                Fresh produce.

14                    **"§ 130A-309.103. Substitution of paper bags restricted.**

15                    A retailer subject to G.S. 130A-309.102 may substitute paper bags for the plastic bags  
16                    banned by that section, but only if the paper bag is a recyclable paper bag."

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

18                    **"§ 130A-22. Administrative penalties.**

19                    (a)                The Secretary of Environment and Natural Resources may impose an administrative  
20                    penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission  
21                    pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each  
22                    day of a continuing violation shall constitute a separate violation. The penalty shall not exceed  
23                    fifteen thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous  
24                    waste. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day  
25                    in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or  
26                    involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a  
27                    manner that results in medical waste entering waters or lands of the State; and shall not exceed  
28                    fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal  
29                    of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in  
30                    medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two  
31                    thousand five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial  
32                    action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant  
33                    to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars (\$100.00) for a first  
34                    violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;  
35                    and five hundred dollars (\$500.00) for each additional violation within any 12-month period for  
36                    a violation of the ban on certain plastic bags set forth in G.S. 130A-309.102. If a person fails to  
37                    pay a civil penalty within 60 days after the final agency decision or court order has been served  
38                    on the violator, the Secretary of Environment and Natural Resources shall request the Attorney  
39                    General to institute a civil action in the superior court of any county in which the violator  
40                    resides or has his or its principal place of business to recover the amount of the assessment.  
41                    Such civil actions must be filed within three years of the date the final agency decision or court  
42                    order was served on the violator.

43                    ...."

44                    **SECTION 3.** This act becomes effective October 1, 2011, and applies to retail  
45                    sales made on or after that date.