

SENATE BILL 511

C2, M1, M3

2lr1872

By: **Senators Frosh, Raskin, Ferguson, Madaleno, Manno, Montgomery, Pinsky, Ramirez, Robey, and Rosapepe**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Community Cleanup and Greening Act of 2012**

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

28 BY adding to

29 Article – Business Regulation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 19–103
2 Annotated Code of Maryland
3 (2010 Replacement Volume and 2011 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Natural Resources
6 Section 1–704
7 Annotated Code of Maryland
8 (2005 Replacement Volume and 2011 Supplement)

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

11 **Article – Business Regulation**

12 **19–103.**

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

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

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

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

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

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

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

28 1. A DURABLE PLASTIC BAG WITH HANDLES THAT IS
29 DESIGNED AND MANUFACTURED FOR MULTIPLE REUSE;

30 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) “ELIGIBLE COUNTY” MEANS A COUNTY THAT HAS NOT**
18 **ENACTED A COUNTY-ADMINISTERED DISPOSABLE CARRYOUT BAG FEE**
19 **PROGRAM ON OR BEFORE MARCH 31, 2013.**

20 **(5) “OPERATOR” MEANS A PERSON IN CONTROL OF, OR HAVING**
21 **DAILY RESPONSIBILITY FOR, THE DAILY OPERATION OF A STORE, WHICH MAY**
22 **INCLUDE THE OWNER OF THE STORE.**

23 **(6) (I) “STORE” MEANS A RETAIL ESTABLISHMENT THAT**
24 **PROVIDES DISPOSABLE CARRYOUT BAGS TO ITS CUSTOMERS AS A RESULT OF**
25 **THE SALE OF A PRODUCT.**

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

28 **(B) THIS SECTION APPLIES ONLY TO A STORE IN AN ELIGIBLE COUNTY.**

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

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

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

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

6 **(3) A STORE MAY NOT ADVERTISE, HOLD OUT, OR STATE TO THE**
7 **PUBLIC OR TO A CUSTOMER, DIRECTLY OR INDIRECTLY, THAT THE**
8 **REIMBURSEMENT OF THE FEE OR ANY PART OF THE FEE COLLECTED BY THE**
9 **STORE WILL BE ASSUMED OR ABSORBED BY THE STORE OR REFUNDED TO THE**
10 **CUSTOMER.**

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

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

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

20 **(D) (1) FROM THE MONEY COLLECTED UNDER SUBSECTION (C) OF**
21 **THIS SECTION, THE COMPTROLLER SHALL:**

22 **(I) RETAIN AN AMOUNT NECESSARY FOR THE**
23 **ADMINISTRATION OF THIS SECTION;**

24 **(II) DISTRIBUTE A PORTION TO THE DEPARTMENT, IN AN**
25 **AMOUNT TO COVER THE COSTS OF IMPLEMENTING AND ENFORCING THIS**
26 **SECTION;**

27 **(III) DISTRIBUTE 50% OF THE MONEY THAT REMAINS AFTER**
28 **THE DISTRIBUTIONS UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH TO THE**
29 **CHESAPEAKE BAY TRUST; AND**

30 **(IV) DISTRIBUTE 50% OF THE MONEY THAT REMAINS AFTER**
31 **THE DISTRIBUTIONS UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH TO**

1 ELIGIBLE COUNTIES FOR COMMUNITY GREENING, STORMWATER CONTROL,
2 TRASH OR LITTER CLEANUP PROGRAMS AND PROJECTS IN PROPORTION TO THE
3 AMOUNT OF FUNDS ESTIMATED TO BE GENERATED BY EACH COUNTY.

4 (2) THE CHESAPEAKE BAY TRUST AND ANY ELIGIBLE COUNTY
5 THAT RECEIVES FUNDS UNDER THIS SUBSECTION SHALL REPORT TO THE
6 COMPTROLLER ON THE USE OF FUNDS ON AN ANNUAL BASIS AND IN THE
7 MANNER REQUIRED BY THE COMPTROLLER.

8 (E) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO
9 IMPLEMENT AND ENFORCE THIS SECTION IN ACCORDANCE WITH THIS
10 SUBSECTION.

11 (2) A PENALTY IMPOSED ON A STORE FOR A VIOLATION OF THIS
12 SECTION MAY NOT EXCEED:

13 (I) \$100 FOR A FIRST VIOLATION;

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

15 (III) \$500 FOR A THIRD OR SUBSEQUENT VIOLATION IN THE
16 SAME CALENDAR YEAR.

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

19 **Article – Natural Resources**

20 1–704.

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

25 (1) Public education of the State’s citizens concerning the Chesapeake
26 Bay;

27 (2) The preservation or enhancement of water quality and fishery or
28 wildlife habitat;

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

30 (4) Reforestation projects;

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

3 (6) Training in environmental studies or environmental enhancement,
4 **INCLUDING THROUGH THE CHESAPEAKE CONSERVATION CORPS ESTABLISHED**
5 **UNDER § 8-1914 OF THIS ARTICLE; OR**

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1,
10 2014, the Comptroller shall distribute a portion of the money collected under §
11 19-103(c) of the Business Regulation Article, as enacted by Section 1 of this Act, after
12 the distributions have been made under § 19-103(d)(1)(i) and (ii), but before the
13 distributions to the Chesapeake Bay Trust and eligible counties under §
14 19-103(d)(1)(iii) and (iv), to the Department of Human Resources in an amount to
15 cover the cost of a public outreach campaign that includes:

16 (1) a public-private partnership to provide reusable carryout bags to
17 the citizens of the State; and

18 (2) working with service providers that assist seniors and low-income
19 residents to distribute information and reusable carryout bags to low-income
20 households.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 January 1, 2013.