

Plastic and Paper Bag Legislation
DC, MD, and VA
March 19, 2009
Metropolitan Washington Council of Governments

District of Columbia (Wells)	2
Maryland	
HB 1210 (Carr)	9
Virginia	
HB 2010 (Ebbin)	12
HB1814 (Morrissey)	13
SB 873 (Ticer).....	14
SB 971 (Blevins)	15

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2 Councilmember Vincent C. Gray

Councilmember Tommy Wells

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6 Councilmember Mary M. Cheh

Councilmember Kwame R. Brown

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10 Councilmember Marion Barry

Councilmember Yvette Alexander

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14 Councilmember Harry Thomas, Jr

Councilmember Michael A. Brown

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18 Councilmember David A. Catania

Councilmember Jack Evans

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22 Councilmember Phil Mendelson

Councilmember Muriel Bowser

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25
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29
30 A BILL

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32 _____
33
34 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

35
36 _____
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38
39 Councilmember Tommy Wells, Vincent C. Gray, Mary M. Cheh, Kwame R. Brown, Marion
40 Barry, Yvette Alexander, Harry Thomas, Jr., Michael A. Brown, David A. Catania, Jack
41 Evans, Phil Mendelson, and Muriel Bowser introduced the following bill, which was
42 referred to the Committee on _____.

43
44 To protect the aquatic and environmental assets of the District of Columbia; to ban the use of
45 disposable non-recyclable plastic carryout bags; to establish a fee on all other disposable
46 carryout bags provided by grocery stores, drug stores, liquor stores, restaurants, and food

1 vendors; to give the Mayor the authority to implement rules and procedures to collect the
2 fee; to establish a non-lapsing recurring Anacostia River Cleanup and Protection Fund.
3

4 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
5 act may be cited as the "Anacostia River Clean Up and Protection Act of 2009".
6

7 Sec. 2. Findings.

8 The Council of District of Columbia finds that:

9 (1) The widespread provision of carryout bags to consumers creates significant problems
10 relating to their disposal and effect on the environment.

11 (2) Plastic carryout bags are the largest single source of trash in the Anacostia River
12 tributaries and of the three largest sources in the entire river.

13 (3) Plastic carryout bags clog sewer systems, and pose a risk to marine animals that ingest
14 them or become entangled in them along the River.

15 (4) The Anacostia River soon will be subject to an Environmental Protection Agency
16 mandated Total Maximum Daily Load (TDML), which sets the level of allowable pollution;
17 exceeding this figure will result in severe fines for the District.

18 (5) There exists a need to discourage the use of single-use, disposable plastic and paper bags
19 and encourage the use of reusable bags by consumers and retailers in order to minimize the impact of
20 disposable bags on the Anacostia River, on the health and environment of the District and its
21 residents, and on the District's fiscal welfare.

22 (6) Other jurisdictions worldwide have seen a dramatic decrease in disposable bag use when
23 small fees have been implemented that encourage consumers to choose reusable shopping bags.
24

25 Sec. 3. Definitions.

26 (a) "Disposable carryout bag" means a bag of any material, commonly plastic or kraft
27 paper, which is provided to a consumer at the point of sale to carry purchases. "Disposable
28 carryout bag" does not include: bags used by consumers inside stores to package bulk items such
29 as fruit, vegetables, nuts, grains, candy, or small hardware items, such as nails and bolts; bags
30 used to contain or wrap frozen foods, meat or fish, whether prepackaged or not, flowers or potted
31 plants, or other items where dampness may be a problem; bags used to protect prepared foods or
32 bakery goods; bags provided by pharmacists to contain prescription drugs; or newspaper bags,
33 door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags
34 intended for use as garbage, pet waste, or yard waste bags.

1 (b) "Recyclable paper carryout bag" means a paper bag that meets all of the following
2 requirements: (1) contains no old growth fiber, (2) is 100% recyclable overall and contains a
3 minimum of 40% post-consumer recycled content, and (3) displays the word "Recyclable" in a
4 highly visible manner on the outside.

5 (c) "Recyclable plastic carryout bag" means a plastic bag that (1) is made of high-density
6 polyethylene film (HDPE) marked with the SPI resin identification code 2 or low-density
7 polyethylene film (LDPE) marked with the SPI resin identification code 4, and (2) displays the
8 words "Please Recycle This Bag," or substantially similar language, in a highly visible manner
9 on the outside.

10 (d) "Retail Establishment" means any licensee under a Department of Consumer and
11 Regulatory Affairs Basic Business License category Public Health: Food Establishment Retail
12 (D.C. Official Code Sec. § 47-2851.03(10)(J)) license or under an Alcoholic Beverage
13 Regulation Administration off-premises retailer's license, class A or B.

14 (e) "Reusable carryout bag" means a bag with handles that is specifically designed and
15 manufactured for multiple reuse and is either (1) made of cloth, fiber or other machine washable
16 fabric, and/or (2) made of durable plastic that is at least 2.25 millimeters thick.

17
18 Sec. 4. Ban use of disposable non-recyclable plastic carryout bags.

19 (a) Disposable non-recyclable plastic bags shall not be sold or distributed, retail or
20 wholesale, in the District of Columbia.

21 (b) All Retail Establishments shall provide only the following as carryout bags to
22 consumers:

- 23 (1) recyclable paper carryout bags;
- 24 (2) recyclable plastic carryout bags; and
- 25 (3) reusable bags

26 (c) Nothing in this section shall preclude stores from making the allowable carryout bags
27 in section 4 (b)(3) available through sale to consumers.

28 (d) Violation of requirements set forth in section 4 shall subject the establishment to the
29 penalties set forth in section 6.

30
31 Sec. 5. Establishment of fee.

1 (a) A fee of \$.05 per recyclable paper and plastic carryout bag is hereby established for
2 consumers making purchases from Retail Establishments.

3 (1) Fees must be paid by the consumer at the time of purchase.

4 (2) Retail Establishments may not pay the fee on behalf of consumers.

5 (3) All Retail Establishments shall indicate on the consumer transaction receipt
6 the number of disposable carryout bags provided and the total amount of fee charged.

7 (4) Fees shall be collected by the Office of Tax and Revenue (OTR) and allocated
8 as defined in subsection 5(b).

9 (b) The \$.05 fee per recyclable paper and plastic carryout bag shall be distributed as
10 follows:

11 (1) To the Retail Establishment:

12 (A) From each \$.05 fee collected, \$.01 will remain with the establishment;
13 however, an establishment that chooses to offer a carryout bag credit program to
14 its customers, as outlined in subsection 5(b)(1)(B), will retain an additional \$.01
15 from each fee collected, for a total of \$.02 per fee collected.

16 (B) For an establishment to retain an additional \$.01 from each fee
17 collected, its carryout bag credit program must:

18 (i) credit the consumer a minimum of \$.05 for each carryout bag
19 provided by the consumer for packaging their purchases, regardless of
20 whether that bag is paper, plastic, or reusable;

21 (ii) be prominently advertised at each checkout register; and

22 (iii) reflect the total credit amount on the consumer transaction
23 receipt.

24 (C) The fees retained by the establishment pursuant to this section shall
25 not be classified as revenue and shall be tax exempt.

26 (2) The remaining amount from each fee collected shall be deposited in the
27 Anacostia River Cleanup and Protection Fund as described in section 7.

28 (c) OTR shall develop rules for frequency and method for reporting and transmitting the
29 fees, as described in subsection 5(a), to the District.

30
31 Sec. 6. Enforcement and Penalties for Violation.

1 (a) The Mayor shall promulgate rules necessary to enforce the requirements of this act
2 within 90 days of the effective date of this Act.

3 (b) If the Mayor determines that a violation has occurred

4 (1) First violation. A written warning notice shall be issued to the Retail
5 Establishment that a violation has occurred. No fine shall be issued for the first violation.

6 (2) Subsequent violations. If after the warning notice the Retail Establishment
7 continues to violate the requirements of this Act, the Mayor shall issue a fine to the Retail
8 Establishment. The fines may not exceed:

9 (A) \$100 for the first violation in a calendar year;

10 (B) \$200 for the second violation in the same calendar year; or

11 (C) \$500 for each additional violation in the same calendar year.

12 (3) No more than one fine shall be issued to a Retail Establishment within a 7-day
13 period.

14 (c) If payment of any amounts due under this section is not received by or before the due
15 date, a penalty shall be added.

16 (d) Revenues collected through citations for violation of this act shall only be used for
17 enforcement costs including hiring inspectors and other staff, and administrative costs associated
18 with enforcement of this act.

19
20 Sec. 7. Establishment of the Anacostia River Clean Up and Protection Fund

21 (a) There is established as a non-lapsing recurring fund, titled the Anacostia River Clean
22 Up and Protection Fund (“Fund”), where the fees generated by the purchase of disposable paper
23 and plastic carryout bags from Retail Establishments shall be deposited. The Fund shall be used
24 solely for the purposes set forth in subsection (b) and be administered by the Office of the
25 Director of the District Department of the Environment (DDOE).

26 (b) The Fund shall be used solely for the purposes of cleaning and protecting the
27 Anacostia River. Funds may be used for projects including, but not limited to:

28 (1) A public education campaign to educate residents, businesses, and tourists
29 about the impact of trash on the District’s environmental health;

30 (2) Providing reusable carryout bags to District residents, with priority to assisting
31 seniors and low-income residents;

- 1 (3) Creating youth-oriented water resource and water pollution educational
- 2 campaigns for students at the District of Columbia public and charter schools;
- 3 (4) Monitoring and recording pollution indices for the Anacostia River;
- 4 (5) Preserving or enhancing water quality and fishery or wildlife habitat in the
- 5 Anacostia River;
- 6 (6) Promoting conservation programs for the Anacostia River, including programs
- 7 for wildlife and endangered species;
- 8 (7) Purchasing and installing equipment designed to minimize trash pollution
- 9 reaching the Anacostia watershed, including trash traps, recycling containers, and covered trash
- 10 receptacles;
- 11 (8) Restoring and enhancing wetlands and green infrastructure to protect the
- 12 health of the Anacostia River and restore the aquatic and land resources of its watershed;
- 13 (9) Funding community cleanup events and other activities that reduce trash, such
- 14 as increased litter collection;
- 15 (10) Funding a Circuit Rider Program with neighboring jurisdictions to focus
- 16 river and tributary clean up efforts upstream;
- 17 (11) Supporting vocational and job training experiences in environmental and
- 18 sustainable professions that enhance the health of the Anacostia River;
- 19 (12) Maintaining a public web site that educates District residents on the progress
- 20 of Anacostia clean up efforts; and
- 21 (13) Paying for the administration of this program.

22 (c) The Fund shall not be used to supplant funds dedicated as part of an approved annual
23 budget for Anacostia River cleaning activities by DDOE.

24 (d)(1) All funds deposited into the Fund, and any interest earned on those funds, shall not
25 revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end
26 of the fiscal year, or at any other time, but shall be continually available for the uses and
27 purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject
28 to authorization from Congress.

29 (2) Any funds that are transferred through intra-District transfers and are not
30 expended in a fiscal year shall revert to the Fund.

31

1 Sec. 8. Applicability.

2 (a) The requirements of this act shall become operative 6 months from the effective
3 date.

4 (b) Beginning at least 90 days before the effective date of the fee, DDOE shall:

5 (1) Conduct an intensive public information campaign, aimed at educating the
6 public on the importance of reducing the number of disposable bags entering the waste
7 stream and the impact of disposable bags on the rivers, tributaries, and environmental
8 health of the District;

9 (2) Conduct an outreach campaign that includes:

10 (A) A public-private partnership to provide reusable carryout bags to
11 District residents;

12 (B) Working with service providers that assist seniors and low-income
13 residents to distribute information and multiple reusable bags to low-income
14 households.

15
16 Sec. 9. Effective Date.

17 This act shall take effect following approval by the Mayor (or in the event of veto by the
18 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
19 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
20 24, 1973 (87 Stat.813; D.C. Official Code Sec. § 1-206.02(c)(1)), and publication in the District
21 of Columbia Register.

22
23 Sec. 10. Fiscal impact statement.

24 The Council adopts the fiscal impact statement in the committee report as the fiscal
25 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
26 approved December 24, 1973 (87 Stat. 813; D.C. Official Code Sec. § 1-206.02(c)(3)).

HOUSE BILL 1210

C2, M1

9lr2091

By: **Delegates Carr, Ali, Frush, Haynes, Hecht, Holmes, Hucker, Ivey, Lee, Montgomery, and Schuler**

Introduced and read first time: February 13, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake Bay Restoration Consumer Retail Choice Act of 2009**

3 FOR the purpose of requiring a store to charge and collect a certain fee for each
4 carryout bag it provides to a customer; authorizing a store to retain a certain
5 amount of a certain fee under certain circumstances; providing that the sales
6 and use tax does not apply to a certain amount of money retained by a store
7 under certain circumstances; requiring the operator of a store to remit a certain
8 amount of money to the Chesapeake and Atlantic Coastal Bays 2010 Trust
9 Fund; requiring the Department of Labor, Licensing, and Regulation to adopt
10 certain regulations; defining certain terms; and generally relating to carryout
11 bags and Chesapeake Bay restoration.

12 BY adding to

13 Article – Business Regulation
14 Section 19–103
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2008 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Natural Resources
19 Section 8–2A–02(e)
20 Annotated Code of Maryland
21 (2007 Replacement Volume and 2008 Supplement)

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

24 **Article – Business Regulation**

25 **19–103.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (2) (I) "CARRYOUT BAG" MEANS A PAPER OR PLASTIC BAG
4 PROVIDED BY A STORE TO A CUSTOMER AT THE POINT OF SALE.

5 (II) "CARRYOUT BAG" DOES NOT INCLUDE:

6 1. A DURABLE PLASTIC BAG WITH HANDLES THAT IS
7 AT LEAST 2.25 MILS THICK AND IS DESIGNED AND MANUFACTURED FOR
8 MULTIPLE REUSE; OR

9 2. A PLASTIC BAG USED TO CARRY ICE CREAM, MEAT,
10 FISH, OR POULTRY.

11 (3) "CUSTOMER BAG CREDIT PROGRAM" MEANS A PROGRAM
12 IMPLEMENTED IN A STORE THAT:

13 (I) REQUIRES A STORE TO PAY A CUSTOMER A CREDIT OF
14 AT LEAST 5 CENTS FOR EACH BAG PROVIDED BY THE CUSTOMER FOR
15 PACKAGING THEIR PURCHASES;

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

19 (III) IS PROMINENTLY ADVERTISED AT EACH CHECKOUT
20 REGISTER IN THE STORE.

21 (4) "OPERATOR" MEANS A PERSON IN CONTROL OF, OR HAVING
22 DAILY RESPONSIBILITY FOR, THE DAILY OPERATION OF A STORE, WHICH MAY
23 INCLUDE THE OWNER OF THE STORE.

24 (5) "STORE" MEANS A RETAIL ESTABLISHMENT THAT PROVIDES
25 CARRYOUT BAGS TO ITS CUSTOMERS AS A RESULT OF THE SALE OF A PRODUCT.

26 (B) (1) A STORE SHALL CHARGE AND COLLECT A FEE OF 5 CENTS FOR
27 EACH CARRYOUT BAG IT PROVIDES TO A CUSTOMER.

28 (2) A STORE MAY RETAIN:

29 (I) 1 CENT FROM EACH 5 CENT FEE IT COLLECTS; OR

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

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

6 **(4) THE OPERATOR OF A STORE SHALL REMIT THE AMOUNT OF**
7 **MONEY COLLECTED FROM THE FEE THAT IS NOT RETAINED BY THE STORE**
8 **UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE CHESAPEAKE AND**
9 **ATLANTIC COASTAL BAYS 2010 TRUST FUND UNDER § 8-2A-02 OF THE**
10 **NATURAL RESOURCES ARTICLE.**

11 **(C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT**
12 **AND ENFORCE THIS SECTION.**

13 **Article – Natural Resources**

14 8-2A-02.

15 (e) The Fund consists of:

16 (1) Money appropriated in the State budget for the Fund;

17 (2) Money distributed to the Fund under §§ 2-1104 and 2-1302.1 of
18 the Tax – General Article; [and]

19 (3) **MONEY REMITTED TO THE FUND UNDER § 19-103 OF THE**
20 **BUSINESS REGULATION ARTICLE; AND**

21 (4) Any other money from any other source accepted for the benefit of
22 the Fund.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2009.

091933492

HOUSE BILL NO. 2010

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend the Code of Virginia by adding in Chapter 17 of Title 58.1 an article numbered 8, consisting of sections numbered [58.1-1731](#) through [58.1-1733](#), relating to the plastic bag fee.

Patron-- Ebbin

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 17 of Title 58.1 an article numbered 8, consisting of sections numbered [58.1-1731](#) through [58.1-1733](#) as follows:

*Article 8.
Paper and Plastic Bag Fee.*

§ [58.1-1731](#). *Paper and plastic bag fee.*

There is hereby levied, upon every consumer of tangible personal property, a fee in the amount of \$0.05 for each disposable paper bag and each disposable plastic bag provided to the consumer in grocery stores, convenience stores, and drugstores. The fee shall be collected, along with the purchase price and any other fees and taxes, at the time the consumer pays for such personal property.

§ [58.1-1732](#). *Exemptions.*

The fee imposed by this article shall not apply to the following:

- 1. Durable plastic bags, with handles, that are at least 2.25 mils thick and are specifically designed and manufactured for multiple reuse.*
- 2. Plastic bags used to carry ice cream, meat, fish, or poultry.*

§ [58.1-1733](#). *Remittance of fees to the Department; Water Quality Improvement Fund.*

A. The fees collected shall be remitted to the Department of Taxation at the same time and in the same manner as the sales and use tax revenues are remitted in accordance with the provisions of § [58.1-615](#).

B. The revenue resulting from the remittance of the fee authorized herein shall be deposited into the Water Quality Improvement Fund as established by Article 4 (§ [10.1-2128](#) et seq.) of Chapter 21.1 of Title 10.1 .

098542653

HOUSE BILL NO. 1814

Offered January 14, 2009

Prefiled January 12, 2009

A *BILL to amend the Code of Virginia by adding a section numbered 10.1-1415.3, relating to plastic bags.*

Patrons—Morrissey, BaCote, Bouchard, Ebbin, Eisenberg and Ward

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-1415.3 as follows:

§ 10.1-1415.3. Plastic carryout bags.

No retailer, as defined in § 58.1-602, shall provide customers with plastic carryout bags at the point of sale unless such bags are (i) durable plastic bags with handles; (ii) at least 2.25 mils thick; and (iii) specifically designed and manufactured for multiple reuse.

INTRODUCED

HB1814

098240336

SENATE BILL NO. 873

Offered January 14, 2009

Prefiled December 29, 2008

A BILL to amend the Code of Virginia by adding a section numbered 10.1-1415.3, relating to plastic bags.

Patron—Ticer

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-1415.3 as follows:

§ 10.1-1415.3. Plastic carryout bags.

No retailer, as defined in § 58.1-602, shall provide customers with plastic carryout bags at the point of sale unless such bags are (i) durable plastic bags with handles; (ii) at least 2.25 mils thick; and (iii) specifically designed and manufactured for multiple reuse.

INTRODUCED

SB873

097751204

SENATE BILL NO. 971

Offered January 14, 2009

Prefiled January 12, 2009

A BILL to amend the Code of Virginia by adding in Chapter 14 of Title 10.1 an article numbered 3.7, consisting of sections numbered 10.1-1425.39 through 10.1-1425.42, relating to the recycling of plastic bags; penalty.

Patron—Blevins

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 14 of Title 10.1 an article numbered 3.7, consisting of sections numbered 10.1-1425.39 through 10.1-1425.42 as follows:

Article 3.7

Plastic Bag Recycling.

§ 10.1-1425.39. Definitions.

As used in this title, unless the context requires a different meaning:

"Chain of stores" means five or more stores located within the Commonwealth that are engaged in the same general field of business and either conduct business under the same business name, operate under common ownership or management, or pursuant to a franchise agreement with the same franchisor.

"Operator" means a person who owns or is in control of or has responsibility for the daily operation of a store.

"Plastic bag" means a plastic carryout bag provided by a store to consumers at the point of sale that is not a reusable bag.

"Reusable bag" means a bag made of cloth or other machine-washable fabric that has handles or a durable plastic bag with handles that is at least 2.25 mils thick and specifically designed and manufactured for multiple reuses.

"Store" means a retail or wholesale establishment that sells products and provides plastic bags to consumers in which to place these products and either: (i) occupies more than 5,000 square feet or (ii) is one of a chain of stores.

§ 10.1-1425.40. Recycling program requirements.

The operator of any store shall establish an in-store recycling program with the following provisions:

1. Every plastic bag provided by a store shall have printed or displayed on the outside face of the bag (i) the words "PLEASE REUSE OR RECYCLE AT A PARTICIPATING STORE" using letters at least one half inch in height or (ii) a similar message encouraging the reuse or recycling of plastic carryout bags that is no less than one inch in height and uses letters at least one quarter inch in height.

2. A bin for the collection of plastic bags shall be placed in a visible location that is easily accessible to the consumer and clearly marked as available for the purpose of collecting plastic bags.

3. All plastic bags returned to a store shall be collected, transported, and recycled. Such bags shall not be disposed of in any solid waste or hazardous waste facility.

4. Reusable bags that can be purchased and used in lieu of plastic bags will be offered at or near the point of sale.

§ 10.1-1425.41. Manufacturer responsibilities.

Any person who manufactures plastic bags that are distributed to stores subject to the provisions of this article shall, upon the request of the operator, arrange for the collection, transport, and recycling of such plastic bags.

§ 10.1-1425.42. Penalty.

Any person violating any provision of this article shall be assessed a civil penalty of up to \$100 per violation. Each day of violation shall constitute a separate offense. Any civil penalty assessed pursuant to this article shall be paid into the Litter Control and Recycling Fund (§ 10.1-1422.01).

2. That the provisions of this act shall become effective on January 1, 2010.

INTRODUCED

SB971