
SENATE BILL NO. 397—COMMITTEE ON COMMERCE AND LABOR

MARCH 23, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Establishes provisions relating to the use of certain plastic bags. (BDR 52-1143)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 6, 7)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trade regulations; establishing a fund for environmental cleanup; imposing a fee, for a certain period, on the use of certain plastic bags; banning the use of certain plastic bags; authorizing certain inspections by local health authorities; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 **Section 3** of this bill establishes the Plastic Bag Environmental Cleanup Fund
2 for the purpose of cleaning up the environment.
3 **Section 4** of this bill imposes a fee to be paid by a customer for the retailer’s
4 distribution of certain nonbiodegradable and noncompostable plastic bags to
5 the customer between October 1, 2009, and June 30, 2011.
6 **Section 5** of this bill imposes a ban, beginning July 1, 2011, on the distribution
7 by a retailer of certain nonbiodegradable and noncompostable plastic bags to a
8 customer and imposes fines for violations of the ban.
9 **Section 6** of this bill authorizes local health authorities to inspect retail
10 establishments for the purposes of enforcing the ban.
11 **Section 7** of this bill authorizes a local health authority to issue a citation for
12 violations of the ban. **Section 7** also sets forth the required contents of and means
13 of appealing a citation.
14 **Section 8** of this bill authorizes the Division of Environmental Protection of the
15 State Department of Conservation and Natural Resources to collect payments
16 which are in default in any manner provided by law for the enforcement of a
17 judgment.
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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 9, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 9, inclusive, of this act, unless*
5 *the context otherwise requires:*

6 1. *“Administrator” means the Administrator of the Division.*

7 2. *“Checkout” means point of sale.*

8 3. *“Division” means the Division of Environmental*
9 *Protection of the State Department of Conservation and Natural*
10 *Resources.*

11 4. *“Fund” means the Plastic Bag Environmental Cleanup*
12 *Fund created pursuant to section 3 of this act.*

13 5. *“Health authority” means the officers and agents of the*
14 *local boards of health.*

15 6. *“Plastic bag” means a bag composed of plastic, latex or*
16 *polypropylene. The term does not include bags that are:*

17 (a) *Used to cover clothes which have been dry cleaned; or*

18 (b) *Composed of biodegradable or compostable plastic.*

19 7. *“Retail establishment” means any place, structure,*
20 *premises, vehicle or vessel, or any part thereof, in which a retailer*
21 *makes sales as described in subsection 8.*

22 8. *“Retailer” includes:*

23 (a) *Every seller who makes any retail sale or sales of tangible*
24 *personal property, and every person engaged in the business of*
25 *making retail sales at auction of tangible personal property owned*
26 *by the person or others.*

27 (b) *Every person engaged in the business of making sales for*
28 *storage, use or other consumption or in the business of making*
29 *sales at auction of tangible personal property owned by the person*
30 *or others for storage, use or other consumption.*

31 (c) *Every person making more than two retail sales of tangible*
32 *personal property during any 12-month period, including sales*
33 *made in the capacity of assignee for the benefit of creditors, or*
34 *receiver or trustee in bankruptcy.*

35 **Sec. 3.** 1. *The Plastic Bag Environmental Cleanup Fund is*
36 *hereby created in the State Treasury.*

37 2. *The Division shall administer the Fund for the purpose of*
38 *cleaning the environment of this State.*

39 3. *Interest and income earned on the money in the Fund*
40 *must be credited to the Fund.*



1 4. *Money remaining in the Fund at the end of a fiscal year*
2 *does not revert to the State General Fund, and the balance in the*
3 *Fund must be carried forward.*

4 5. *The Administrator shall adopt regulations establishing:*

5 (a) *Provisions the Administrator deems necessary for the*
6 *administration and enforcement of sections 2 to 9, inclusive, of*
7 *this act; and*

8 (b) *The uses and methods of expenditure of money in the*
9 *Fund.*

10 **Sec. 4.** *1. A retailer who provides to a customer a plastic*
11 *bag at checkout for the purpose of storing, carrying or*
12 *transporting purchased goods shall collect from the customer a fee*
13 *of 10 cents per plastic bag.*

14 2. *The retailer shall account separately for all money owed to*
15 *and held in trust for the Division pursuant to subsection 1. In*
16 *accordance with the regulations adopted pursuant to this section*
17 *and subsection 5 of section 3 of this act, the retailer shall transmit*
18 *the money held in trust pursuant to this subsection to the Division*
19 *for deposit in and credit to the Fund.*

20 3. *The Administrator shall adopt regulations establishing*
21 *acceptable methods for accounting for and transmitting to the*
22 *Division money required to be paid by retailers pursuant to this*
23 *section. The regulations must include a designation of the persons*
24 *responsible for payment.*

25 **Sec. 5.** *1. A retailer shall not provide a plastic bag to a*
26 *customer at checkout for the purpose of storing, carrying or*
27 *transporting purchased goods.*

28 2. *A retailer who violates the provisions of subsection 1 shall*
29 *be punished:*

30 (a) *For the first violation, by an administrative fine of \$250.*

31 (b) *For the second violation within 120 days after the first*
32 *violation, by an administrative fine of \$500.*

33 (c) *For the third or subsequent violation within 120 days after*
34 *the first violation, by an administrative fine of \$1,000.*

35 3. *Each day on which a violation occurs constitutes a*
36 *separate violation.*

37 4. *All fines imposed pursuant to this section must be paid to*
38 *the Division to be held in trust for the State. In accordance with*
39 *the regulations adopted pursuant to subsection 5, the Division*
40 *shall transmit the money held in trust pursuant to this subsection*
41 *to the State Treasurer for deposit in and credit to the State General*
42 *Fund.*



1 5. *The Division, in consultation with the State Treasurer,*
2 *shall adopt regulations establishing acceptable methods for*
3 *accounting for and transmitting to the State Treasurer money*
4 *required to be paid by the Division pursuant to this section.*

5 **Sec. 6.** 1. *At least once every year, the applicable health*
6 *authority shall inspect each retail establishment located in the*
7 *State.*

8 2. *The health authority, after he has properly identified*
9 *himself, must be permitted to enter, at any reasonable time, any*
10 *retail establishment within the State for the purpose of making any*
11 *inspection to determine compliance with the provisions of sections*
12 *2 to 9, inclusive, of this act. He must be permitted to examine the*
13 *records of the retail establishment to obtain pertinent information*
14 *pertaining to bags purchased, received or provided to customers of*
15 *the retailer.*

16 3. *The health authority shall make as many additional*
17 *inspections and reinspections as are necessary for the enforcement*
18 *of sections 2 to 9, inclusive, of this act.*

19 4. *A person shall not interfere with the health authority in the*
20 *performance of his duties pursuant to sections 2 to 9, inclusive, of*
21 *this act.*

22 **Sec. 7.** 1. *If a health authority makes an inspection of a*
23 *retail establishment and discovers that the provisions of sections 2*
24 *to 9, inclusive, of this act have been violated, he shall notify the*
25 *retailer of the violation by means of a citation. The citation must:*

26 (a) *Set forth the specific violation found; and*

27 (b) *State that an opportunity for appeal from the citation will*
28 *be provided if a written request for a hearing is filed with the*
29 *health authority within the period established in the citation.*

30 2. *A citation provided for in subsection 1 shall be deemed to*
31 *have been properly served when the original of the citation has*
32 *been delivered personally to the retailer or person in charge of the*
33 *retail establishment, or the citation has been sent by registered or*
34 *certified mail, return receipt requested, to the last known address*
35 *of the retailer. A copy of the citation must be filed with the records*
36 *of the health authority.*

37 **Sec. 8.** *The Division may collect all payments due the*
38 *Division pursuant to sections 2 to 9, inclusive, of this act which*
39 *are in default, in any manner provided by law for the enforcement*
40 *of a judgment.*

41 **Sec. 9.** *Nothing in sections 2 to 9, inclusive, of this act shall*
42 *be construed as prohibiting a retailer from providing bags made of*
43 *nonplastic materials to a customer at checkout.*



- 1 **Sec. 10.** 1. This section and sections 1 to 4, inclusive, and 6
2 to 9, inclusive, of this act become effective on October 1, 2009.
3 2. Section 4 of this act expires by limitation on June 30, 2011.
4 3. Section 5 of this act becomes effective on July 1, 2011.

