

Bring Your Own Bag Plastic Reduction Act (Bill 19-23) Frequently Asked Questions

What businesses do the Bring Your Own Bag Plastic Reduction Act apply to?

The prohibition of the retail distribution of plastic carryout bags applies to a store, food service facility (an establishment licensed under § 11- 6-101), or any other establishment that provides bags to its customers as a result of the sale of goods or services. Retailers are subject to the exceptions discussed below.

The prohibition **does not apply** to a food service facility or cafeteria if the food service facility or cafeteria is operated by a school and other exceptions apply to other food service facilities as discussed in more detail below.

What is considered as a plastic carryout bag?

Any plastic bag that is provided by a retail establishment to a customer at the point of sale and is not a reusable carryout bag is considered as a plastic carryout bag.

What is considered as a reusable bag?

Any bag with stitched handles that is made of cloth or other washable fabric or a durable material suitable for multiple reuse, is specifically designed and manufactured for multiple reuse, and is not made of plastic film.

How about compostable bags?

A compostable plastic bag that meets the specifications of the American Society of Testing and Materials International standard specification for compostable plastics d6400 is still a plastic carryout bag and is therefore **prohibited**.

Are there any exceptions to plastic carryout bag use?

Yes, the plastic carryout bag prohibition **does not apply** to a plastic bag used to contain, package, or wrap:

1. Bakery goods or unwrapped prepared foods
2. Bulk items*, including fruit, vegetables, nuts, grains, candy, or small hardware items
3. Raw meat or seafood, or other foods the state or consistency of which is not conducive to the use of anything other than plastic carryout bags
4. Newspapers
5. Fresh flowers, potted plants, or herbs
6. Hanging garments or dry-cleaned clothes
7. Live fish, insects, mollusks, or crustaceans
8. Cigars or loose tobacco

*Bulk items are the types listed in the example that are typically displayed loosely for sale without packaging that are transferred from a display bin or container to a small bag or container for purchase, or in other words, loose items that require to be bagged up based on how many the customers want to buy.

What is the prohibition?

- Beginning January 1, 2024, retail establishments may not provide plastic carryout bags to customers at the point of sale that are not reusable carryout bags. "Point of sale"

means the physical or virtual place where a customer executes payment for goods or services or receives goods or services.

What are the required responsibilities of the businesses subject to the law?

- Beginning February 1, 2024, a retail establishment:
 - shall charge, collect, and retain at least 10 cents for each paper carryout bag and reusable carryout bag that it provides to a customer.
 - **May not charge** for a paper carryout bag provided by a pharmacist if the paper carryout bag contains prescription drugs.
 - Shall indicate on the consumer transaction receipt the number of paper and reusable carryout bags provided by the store and the total amount of money charged per type of bag.
 - May provide free reusable carryout bags for a nine-day period each year from April 22 through April 30 and during a promotional period established by the retail establishment up to 10 days per month.

- Beginning January 1, 2024, a retail establishment:
 - shall post notices that advise customers to bring reusable carryout bags or to purchase reusable carryout bags and that each paper carryout bag is subject to a charge of at least 10 cents.

 - **May not** advertise, hold out, or state to the public, directly or indirectly, that reimbursement of any part of the money collected will be assumed or absorbed by the store or refunded to the customer.

Are there any exemptions to the above- listed responsibilities?

Yes, they do not apply to a retail establishment that is a full-service restaurant, limited-service restaurant, fast food restaurant, café, delicatessen, coffee shop, vending truck or cart, food truck, business or institutional cafeteria, or other businesses selling or providing food for consumption on or off the premises provided that the business is not a supermarket or grocery store or located in or part of a convenience store. This list only applies to restaurants and similar facilities that provide prepared food for carryout or leftovers. These businesses are prohibited from providing plastic bags, but are not required to charge 10 cents for paper bags or post notices. As indicated above, a food service facility or cafeteria operated by a school is not subject to the plastic bag ban.

How does the bill apply to farmer's markets and farm stands ?

Farmer's markets and farm stands are not exempted from the bill. Items that fall under the listed exceptions may be bagged accordingly at the farm stand; however, plastic bags may not be provided to carry several sets of bagged exempt items. For example, apples and garlic stored in bulk at the farmer's stand may be bagged with plastic bags based on how many the customer chooses to buy. But plastic bags may not be provided at the point of sale to carry the bagged apples and garlic. The 10 cents minimum charge applies to any paper or reusable carryout bag that is provided to a customer.

Can retail establishments refuse to use reusable bags if they are from a different establishment?

No.

Can retail establishments refuse to bag your items if you bring your own reusable bags?

No.

Can the brown paper bags purchased for 10 cents or more be reused?

Yes, a customer can bring in their own bag and that can include a paper bag.

Can retail establishment reward program points be exchanged to cover the cost of purchasing paper/reusable bags?

No.

Are the paper bags or reusable bags subject to sales and use tax?

Bags are tangible personal property and are therefore subject to Maryland sales and use tax. .

Can retail establishments, if desired, begin charging for bags now before the February 1st date?

Yes.

Are plastic bags allowed to be used or reused by a customer?

The bill prohibits a retailer from providing a plastic carryout bag to a customer at the point of sale. It does not stop a customer from bringing in their own plastic bags to reuse.

What are the penalties for violations?

The Bring Your Own Bag Plastic Reduction Act will be enforced by the Department of Health and the Department of Inspections and Permits at all food service facilities and all non-food-service retail establishments, respectively.

A violation constitutes a Class C civil offense, and the fines are \$500 for the first violation and \$1,000 for the second or any subsequent violation. The County may enforce this section through injunctive proceedings or any other appropriate proceedings. There will be a warning for the first offense.

- Multiple violations during a consumer transaction at a single point of sale constitutes a single offense.
- The provision of one or more plastic carryout bags per consumer transaction at a single point of sale is a single offense.
- The failure to charge, collect, or retain at least 10 cents per paper or reusable carryout bag that a retail establishment provides to a customer is a single offense.

A fine may not be imposed against a retail establishment more than once in a seven-day period. The name and address of any retail establishment found to violate this section, including the date of the violation, the nature of the violation, and the amount of any fine imposed, will be posted on the County's website.