

REFERENCE TITLE: plastic bag recycling program

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2416

Introduced by
Representative Young Wright

AN ACT

AMENDING TITLE 49, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.1; RELATING TO PLASTIC BAG RECYCLING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 49, chapter 4, Arizona Revised Statutes, is amended
3 by adding article 4.1, to read:

4 ARTICLE 4.1. PLASTIC BAG RECYCLING

5 49-777. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "COMPOSTABLE PLASTIC BAG" MEANS A PLASTIC BAG THAT AT A MINIMUM
8 MEETS THE AMERICAN SOCIETY FOR TESTING AND MATERIALS STANDARD D6400 FOR
9 COMPOSTABLE PLASTIC.

10 2. "MANUFACTURER" MEANS THE PRODUCER OF A PLASTIC CARRYOUT BAG SOLD TO
11 A STORE OR THE MANUFACTURER'S AGENT OR BROKER WHO SOLD THE PLASTIC CARRYOUT
12 BAG TO THE STORE.

13 3. "OPERATOR" MEANS A PERSON IN CONTROL OF OR HAVING DAILY
14 RESPONSIBILITY FOR THE DAILY OPERATION OF A STORE, INCLUDING THE OWNER OF THE
15 STORE.

16 4. "PLASTIC CARRYOUT BAG" MEANS A PLASTIC CARRYOUT BAG PROVIDED BY A
17 STORE TO A CUSTOMER AT THE POINT OF SALE.

18 5. "REUSABLE BAG" MEANS EITHER OF THE FOLLOWING:

19 (a) A BAG THAT IS MADE OF CLOTH OR OTHER MACHINE WASHABLE FABRIC AND
20 THAT HAS HANDLES.

21 (b) A DURABLE PLASTIC BAG THAT HAS HANDLES AND THAT IS SPECIFICALLY
22 DESIGNED AND MANUFACTURED FOR MULTIPLE REUSE.

23 6. "STORE" MEANS A RETAIL ESTABLISHMENT THAT PROVIDES PLASTIC CARRYOUT
24 BAGS TO ITS CUSTOMERS AS A RESULT OF THE SALE OF A PRODUCT AND THAT HAS OVER
25 TEN THOUSAND SQUARE FEET OF RETAIL SPACE OR THAT IS PART OF A CHAIN THAT IS
26 ENGAGED IN THE SAME GENERAL FIELD OF BUSINESS, THAT OPERATES FIVE OR MORE
27 UNITS OF OVER FIVE THOUSAND SQUARE FEET OF RETAIL SPACE IN THIS STATE AND
28 THAT IS UNDER COMMON OWNERSHIP AND MANAGEMENT.

29 49-777.01. Store operator recycling responsibilities

30 A. THE OPERATOR OF A STORE SHALL ESTABLISH AN AT-STORE RECYCLING
31 PROGRAM PURSUANT TO THIS ARTICLE THAT PROVIDES AN OPPORTUNITY FOR A CUSTOMER
32 OF THE STORE TO RETURN TO THE STORE CLEAN PLASTIC CARRYOUT BAGS.

33 B. ANY RETAIL ESTABLISHMENT THAT IS NOT A STORE BUT THAT PROVIDES
34 PLASTIC CARRYOUT BAGS TO CUSTOMERS AT THE POINT OF SALE MAY ALSO ADOPT AN
35 AT-STORE RECYCLING PROGRAM.

36 49-777.02. Recycling program requirements

37 AN AT-STORE RECYCLING PROGRAM PROVIDED BY THE OPERATOR OF A STORE SHALL
38 REQUIRE ALL OF THE FOLLOWING:

39 1. A PLASTIC CARRYOUT BAG PROVIDED BY THE STORE TO HAVE PRINTED OR
40 DISPLAYED ON THE BAG IN A MANNER VISIBLE TO A CONSUMER THE WORDS "PLEASE
41 RETURN TO A PARTICIPATING STORE FOR RECYCLING", EXCEPT THAT FOR ONE YEAR
42 AFTER THE EFFECTIVE DATE OF THIS ARTICLE A STORE MAY USE ITS EXISTING STOCK
43 OF PLASTIC CARRYOUT BAGS. A STORE MAY ALSO APPLY TO THE DEPARTMENT FOR
44 APPROVAL OF AN ALTERNATIVE PLASTIC BAG RECYCLING MESSAGE. THE DEPARTMENT
45 SHALL APPROVE OR REJECT THE PROPOSED MESSAGE WITHIN FORTY-FIVE DAYS.

1 2. A PLASTIC CARRYOUT BAG COLLECTION BIN THAT IS VISIBLE, EASILY
2 ACCESSIBLE TO THE CONSUMER AND CLEARLY MARKED THAT THE COLLECTION BIN IS
3 AVAILABLE FOR THE PURPOSE OF COLLECTING AND RECYCLING PLASTIC CARRYOUT BAGS.
4 THIS PARAGRAPH APPLIES TO STORES THAT ARE NOT IN AN ENCLOSED SHOPPING MALL
5 AND STORES THAT HAVE AT LEAST FIFTY THOUSAND SQUARE FEET AND THAT ARE IN AN
6 ENCLOSED SHOPPING MALL. FOR AN ENCLOSED SHOPPING MALL, THE OWNER OF THE
7 ENCLOSED MALL SHALL PLACE BINS AT REASONABLE INTERVALS THROUGHOUT THE
8 ENCLOSED MALL AREA.

9 3. ALL PLASTIC CARRYOUT BAGS COLLECTED BY THE STORE TO BE COLLECTED,
10 TRANSPORTED AND RECYCLED ALONG WITH ANY OTHER IN-STORE PLASTIC RECYCLING,
11 EXCEPT FOR PLASTIC BAGS THAT ARE NOT SUFFICIENTLY FREE OF FOREIGN MATERIAL TO
12 ENTER THE RECYCLING STREAM. PLASTIC CARRYOUT BAGS COLLECTED BY THE STORE OR
13 THE MANUFACTURER AND THAT ARE FREE OF FOREIGN MATERIAL SHALL NOT BE DISPOSED
14 OF IN ANY SOLID WASTE DISPOSAL FACILITY PERMITTED OR AUTHORIZED PURSUANT TO
15 THIS TITLE.

16 4. THE STORE OR ITS AGENT TO MAINTAIN FOR A MINIMUM OF THREE YEARS
17 RECORDS DESCRIBING THE COLLECTION, TRANSPORT AND RECYCLING OF PLASTIC
18 CARRYOUT BAGS COLLECTED BY WEIGHT, EXCEPT THAT STORES OR THEIR AGENTS MAY
19 WEIGH BAGS AND ANY OTHER IN-STORE PLASTIC RECYCLING AT A REGIONAL COLLECTION
20 CENTER. ON REQUEST, THOSE RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT
21 TO DEMONSTRATE COMPLIANCE WITH THIS ARTICLE.

22 5. THE OPERATOR OF THE STORE TO MAKE REUSABLE BAGS AVAILABLE TO
23 CUSTOMERS IN THE STORE FOR PURCHASE AND PERMIT A REUSABLE BAG TO BE USED IN
24 PLACE OF A PLASTIC CARRYOUT BAG OR PAPER BAG.

25 49-777.03. Manufacturer recycling responsibilities

26 A. A MANUFACTURER OR ITS AGENT THAT ACCEPTS PLASTIC CARRYOUT BAGS FOR
27 RETURN SHALL MAINTAIN FOR A MINIMUM OF THREE YEARS RECORDS DESCRIBING THE
28 COLLECTION, TRANSPORT AND RECYCLING OF PLASTIC CARRYOUT BAGS COLLECTED BY
29 WEIGHT, EXCEPT THAT THE MANUFACTURER OR ITS AGENTS MAY WEIGH BAGS AND ANY
30 OTHER PLASTIC RESINS AT A REGIONAL COLLECTION CENTER. ON REQUEST, THOSE
31 RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT, TO DEMONSTRATE COMPLIANCE
32 WITH THIS ARTICLE.

33 B. MANUFACTURERS OF COMPOSTABLE PLASTIC BAGS THAT ARE SOLD TO STORES
34 IN THIS STATE THAT ARE SUBJECT TO THIS ARTICLE SHALL HAVE PRINTED ON THE BAG
35 IN A MANNER VISIBLE TO THE CONSUMER THE WORDS "COMPOSTABLE BAG -- DO NOT
36 PLACE IN RECYCLING BIN", EXCEPT THAT THOSE BAGS MAY BE SOLD OR DISTRIBUTED
37 FOR ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ARTICLE TO USE THE STORE'S
38 EXISTING STOCK OF COMPOSTABLE BAGS.

39 49-777.04. Department duties; rules

40 A. THE DEPARTMENT SHALL DEVELOP EDUCATIONAL MATERIALS TO ENCOURAGE THE
41 REDUCTION, REUSE AND RECYCLING OF PLASTIC CARRYOUT BAGS AND SHALL MAKE THOSE
42 MATERIALS AVAILABLE TO STORES THAT ARE REQUIRED TO COMPLY WITH THIS ARTICLE.

1 B. THE DEPARTMENT SHALL PROVIDE INFORMATION REGARDING THE AVAILABILITY
2 OF RECYCLING FACILITIES AND COMPANIES THAT RECYCLE PLASTIC BAGS, INCLUDING
3 THE ADDRESSES AND PHONE NUMBERS OF THOSE FACILITIES AND COMPANIES TO STORES
4 THAT ARE REQUIRED TO COMPLY WITH THIS ARTICLE.
5 C. THE DEPARTMENT MAY ADOPT RULES TO IMPLEMENT THIS ARTICLE AND SHALL
6 ADOPT BY RULE THE MOST RECENT VERSION OF THE DEFINITION OF COMPOSTABLE AS
7 PRESCRIBED IN AMERICAN SOCIETY FOR TESTING AND MATERIALS STANDARD D6400.
8 49-777.05. Enforcement; civil penalties; injunction
9 A. ANY PERSON WHO KNOWINGLY OR INTENTIONALLY VIOLATES ANY PROVISION OF
10 OR FAILS TO PERFORM ANY DUTY IMPOSED PURSUANT TO THIS ARTICLE SHALL BE
11 PROVIDED, ON THE FIRST FINDING OF A VIOLATION, WITH A WARNING THAT FUTURE
12 VIOLATIONS SHALL RESULT IN THE IMPOSITION OF A CIVIL PENALTY. ANY PERSON
13 FOUND RESPONSIBLE OF A SECOND VIOLATION OF THIS ARTICLE IS SUBJECT TO A CIVIL
14 PENALTY OF UP TO ONE HUNDRED DOLLARS. ANY PERSON FOUND RESPONSIBLE OF A
15 THIRD OR SUBSEQUENT VIOLATION OF THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY
16 OF UP TO FIVE HUNDRED DOLLARS.
17 B. PENALTIES UNDER THIS SECTION SHALL BE ASSESSED BY THE DEPARTMENT
18 AFTER A HEARING OR OPPORTUNITY TO BE HEARD AND ANY PERSON FOUND TO HAVE
19 VIOLATED THIS ARTICLE MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH
20 VIOLATION.
21 C. ALL CIVIL PENALTIES COLLECTED FOR ANY VIOLATION OF THIS ARTICLE
22 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE RECYCLING
23 FUND ESTABLISHED BY SECTION 49-837.