

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

FILED SENATE
Apr 1, 2021
S.B. 451
PRINCIPAL CLERK

S

D

SENATE BILL DRS15201-MH-105

Short Title: Ban Single-Use and Non-Recyclable Products. (Public)

Sponsors: Senators Mayfield and Murdock (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE USE OF NON-RECYCLABLE, NON-COMPOSTABLE, OR
3 SINGLE-USE PLASTIC FOOD SERVICE WARE AND SINGLE-USE PLASTIC BAGS.
4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 130A-309.14 is amended by adding a new subsection to read:
6 "§ 130A-309.14. Duties of State agencies.

7 ...
8 (n) No State agency, department, and institution or political subdivision of the State that
9 receives State funds shall sell or provide food or beverages, for consumption on or off the
10 premises, in or with disposable food service ware, unless such food service ware is reusable,
11 compostable, or recyclable. For the purposes of this subdivision, "disposable food service ware"
12 means single-use disposable products used by a food provider for serving or transporting
13 prepared, ready-to-consume food or beverages, including, but not limited to, plates, cups, bowls,
14 trays, utensils, plastic straws, cup lids, and hinged or lidded containers, and the terms
15 "compostable," "recyclable," and "reusable" shall be defined as provided in G.S. 130A-309.237."

16 SECTION 2. Article 9 of Chapter 130A of the General Statutes is amended by
17 adding a new Part to read:

18 "Part 2J. Management of Disposable Food Service Ware.
19 "§ 130A-309.235. Findings.

20 The General Assembly makes the following findings:

- 21 (1) Distribution of disposable food service ware by retailers to consumers for use
22 in carrying or consuming purchased food and beverages has a detrimental
23 effect on the environment of the State.
24 (2) Discarded disposable food service ware contributes to overburdened landfills,
25 threatens wildlife and marine life, degrades the State's environment, and, in
26 many cases, requires consumption of oil and natural gas during the
27 manufacturing process.
28 (3) It is in the best interest of the citizens of this State to gradually reduce the
29 distribution and use of disposable food service ware.

30 "§ 130A-309.237. Definitions.

31 As used in this Part, the following definitions apply:

- 32 (1) Compostable. – Meets American Society of Testing and Materials (ASTM)
33 standard D6400-19, "Standard Specification for Labeling of Plastics Designed
34 to be Aerobically Composted in Municipal or Industrial Facilities."
35 (2) Disposable food service ware. – Single-use disposable products used by a food
36 provider for serving or transporting prepared, ready-to-consume food or



1 beverages, including, but not limited to, plates, cups, bowls, trays, utensils,
 2 plastic straws, cup lids, and hinged or lidded containers.

3 (3) Prepared foods retailer. – A retailer primarily engaged in the business of
 4 selling prepared foods, as that term is defined in G.S. 105-164.3, to
 5 consumers.

6 (4) Recyclable. – Capable of being collected, separated, or otherwise recovered
 7 from the waste stream through an established recycling program in this State
 8 for reuse or use in manufacturing or assembling another item.

9 (5) Reusable. – Capable of being used again for its original purpose or for a
 10 similar purpose without significantly altering the physical form of the item.

11 **"§ 130A-309.239. Certain disposable food service ware banned.**

12 No prepared food retailer shall sell or provide food or beverages, for consumption on or off
 13 the premises, in or with disposable food service ware, unless such food service ware is reusable,
 14 compostable, or recyclable."

15 **SECTION 3.** Part 2G of Article 9 of Chapter 130A of the General Statutes is
 16 reenacted as it existed immediately before its repeal and reads as rewritten:

17 "Part 2G. Plastic Bag Management.

18 **"§ 130A-309.120. Findings.**

19 The General Assembly makes the following findings:

20 (1) Distribution of plastic bags by retailers to consumers for use in carrying,
 21 transporting, or storing purchased goods has a detrimental effect on the
 22 environment of the State.

23 (2) Discarded plastic bags contribute to overburdened landfills, threaten wildlife
 24 and marine life, degrade the beaches and other natural landscapes of ~~North~~
 25 ~~Carolina's coast,~~ North Carolina, and, in many cases, require consumption of
 26 oil and natural gas during the manufacturing process.

27 (3) It is in the best interest of the citizens of this State to gradually reduce the
 28 distribution and use of plastic bags.

29 (4) ~~Environmental degradation is especially burdensome in counties with barrier~~
 30 ~~islands where soundside and ocean pollution are more significant, where~~
 31 ~~removing refuse from such isolated places is more difficult and expensive,~~
 32 ~~where such refuse deters tourism, and where the presence of a National~~
 33 ~~Wildlife Refuge or National Seashore shows that the federal government~~
 34 ~~places special value on protecting the natural environment in that vicinity.~~

35 (5) ~~The barrier islands are most relevant in that they are where sea turtles come~~
 36 ~~to nest. North Carolina has some of the most important sea turtle nesting areas~~
 37 ~~on the East Coast, due to the proximity of the islands to the Gulf Stream.~~
 38 ~~Plastic bag debris can be harmful to sea turtles and other land and marine life.~~
 39 ~~The waters adjacent to the barrier islands, because they serve as habitat for the~~
 40 ~~turtles, are particularly sensitive to waterborne debris pollution.~~

41 (6) ~~Inhabited barrier islands are visited by a high volume of tourists and~~
 42 ~~therefore experience a high consumption of bags relative to their permanent~~
 43 ~~population due to large numbers of purchases from restaurants, groceries,~~
 44 ~~beach shops, and other retailers by the itinerant tourist population.~~

45 (7) ~~Barrier islands are small and narrow, and therefore the comparative impact of~~
 46 ~~plastic bags on the barrier islands is high.~~

47 **"§ 130A-309.121. Definitions.**

48 As used in this Part, the following definitions apply:

49 (1) Plastic bag. – A carryout bag composed primarily of thermoplastic synthetic
 50 polymeric material, which is provided by a store to a customer at the point of
 51 sale and incidental to the purchase of other goods.

- 1 (2) Prepared foods retailer. – A retailer primarily engaged in the business of
2 selling prepared foods, as that term is defined in G.S. 105-164.3, to
3 consumers.
- 4 ~~(2a)~~(3) Recycled content. – Content that is either postconsumer, postindustrial, or a
5 mix of postconsumer and postindustrial.
- 6 ~~(3)~~(4) Recycled paper bag. – A paper bag that meets all of the following
7 requirements:
- 8 a. The bag is manufactured from at least forty percent (40%) recycled
9 content.
- 10 b. The bag displays the words "made from recycled material" and
11 "recyclable."
- 12 (5) Retailer. – A person who offers goods for sale in this State to consumers and
13 who provides a single-use plastic bag to the consumer to carry or transport the
14 goods for free or for a nominal charge.
- 15 (6) Reusable bag. – A bag with handles that is specifically designed and
16 manufactured for multiple reuse and is made of one of the following materials:
- 17 a. Nonwoven polypropylene or other plastic material with a minimum
18 weight of 80 grams per square meter.
- 19 b. Cloth or other machine washable fabric.

20 **"§ 130A-309.122. Certain plastic bags banned.**

21 No retailer shall provide customers with plastic bags unless the bag is a reusable bag, or the
22 bag is used solely to hold sales to an individual customer of otherwise unpackaged portions of
23 the following items:

- 24 (1) Fresh fish or fresh fish products.
25 (2) Fresh meat or fresh meat products.
26 (3) Fresh poultry or fresh poultry products.
27 (4) Fresh produce.

28 **"§ 130A-309.123. Substitution of paper bags restricted.**

29 (a) A retailer subject to G.S. 130A-309.122 may substitute paper bags for the plastic bags
30 banned by that section, but only if all of the following conditions are met:

- 31 (1) The paper bag is a recycled paper bag.
32 (2) The retailer offers a cash refund to any customer who uses the customer's own
33 reusable bags instead of the bags provided by the retailer. The amount of the
34 refund shall be equal to the cost to the retailer of providing a recycled paper
35 bag, multiplied by the number of reusable bags filled with the goods purchased
36 by the customer. For purposes of this subdivision, "cash refund" includes a
37 credit against the cost of goods purchased.

38 (b) Nothing in this Part shall prevent a retailer from providing customers with reused
39 packaging materials originally used for goods received from the retailer's wholesalers or
40 suppliers.

41 (c) Notwithstanding subsection (a) of this section, a prepared foods retailer may package
42 prepared foods in a recycled paper bag, regardless of the availability of a reusable bag, in order
43 to comply with food sanitation or handling standards or best practices.

44 **"§ 130A-309.124. Required signage.**

45 A retailer subject to G.S. 130A-309.122 other than a prepared foods retailer shall display a
46 sign in a location viewable by customers containing the following notice: "[county name] County
47 discourages the use of single-use plastic and paper bags to protect our environment from excess
48 litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you
49 are not able to, a 100% recycled paper bag will be furnished for your use." The name of the
50 county where the retailer displaying the sign is located should be substituted for "[county name]"
51 in the language set forth in this section.

1 ~~"§ 130A-309.125. Applicability.~~

2 (a) ~~This Part applies only in a county which includes a barrier island or barrier peninsula,~~
3 ~~in which the barrier island or peninsula meets both of the following conditions:~~

4 (1) ~~It has permanent inhabitation of 200 or more residents and is separated from~~
5 ~~the North Carolina mainland by a sound.~~

6 (2) ~~It contains either a National Wildlife Refuge or a portion of a National~~
7 ~~Seashore.~~

8 (b) ~~Within any county covered by subsection (a) of this section, this Part applies only to~~
9 ~~an island or peninsula that both:~~

10 (1) ~~Is bounded on the east by the Atlantic Ocean.~~

11 (2) ~~Is bounded on the west by a coastal sound."~~

12 **SECTION 4.** Notwithstanding G.S. 130A-309.14(n), as enacted by Section 1 of this
13 act, State agencies and agencies of political subdivisions of the State may continue to use stocks
14 of food service ware purchased prior to October 1, 2023, until such stocks are exhausted.
15 Notwithstanding G.S. 130A-309.239, as enacted by Section 2 of this act, prepared foods retailers
16 in the State may continue to use stocks of food service ware purchased prior to October 1, 2023,
17 until the earlier of July 1, 2024, or when such stocks are exhausted. Notwithstanding Part 2G of
18 Article 9 of Chapter 130A of the General Statutes, as reenacted by Section 3 of this act, a retailer
19 may continue to use stocks of plastic bags subject to the ban enacted by that Part until the earlier
20 of July 1, 2024, or when such stocks are exhausted.

21 **SECTION 5.** Sections 1, 2, and 3 of this act become effective October 1, 2023, and
22 apply to retail sales on or after that date. The remainder of this act is effective when it becomes
23 law.