

**General Assembly of North Carolina
Session 2009**

Session Law 2009-163

**AN ACT TO REDUCE PLASTIC AND NON-RECYCLED PAPER BAG USE ON
NORTH CAROLINA'S OUTER BANKS**

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

Part 2G. Plastic Bag Management

130A-309.120. Finding.

The General Assembly makes the following findings:

1. Distribution of plastic bags by retailers to consumers for use in carrying, transporting, or storing purchased goods has a detrimental effect on the environment of the State.
2. Discarded plastic bags contribute to overburdened landfills, threaten wildlife and marine life, degrade the beaches and other natural landscapes of North Carolina's coast, and in many cases, require consumption of oil and natural gas during the manufacturing process.
3. It is in the best interest of the citizens of this State to gradually reduce the distribution and use of plastic bags.
4. Environmental degradation is especially burdensome in counties with barrier islands where soundside and ocean pollution are more significant, where removing refuse from such isolated places is more difficult and expensive, where such refuse deters tourism, and where the presence of a National Wildlife Refuge or National Seashore shows that the federal government places special value on protecting the natural environment in that vicinity.
5. The barrier islands are most relevant in that they are where sea turtles come to nest. North Carolina has some of the most important sea turtle nesting areas on the East Coast, due to the proximity of the islands to the Gulf Stream. Plastic bag debris can be harmful to sea turtles and other land and marine life. The waters adjacent to the barrier islands, because they serve as habitat for the turtles, are particularly sensitive to waterborne debris pollution.
6. Inhabited barrier islands are visited by a high volume of tourists and therefore experience a high consumption of bags relative to their permanent population due to large numbers of purchases from restaurants, groceries, beach shops, and other retailers by the itinerant tourist population.
7. Barrier islands are small and narrow, and therefore the comparative impact of plastic bags on the barrier islands is high.

130A-309.121. Definitions:

As used in the Part, the following definitions apply:

Definitions:

1. Plastic bag – A carryout bag composed primarily of thermoplastic synthetic polymeric material, which is provided by a store to a customer at the point of sale and incidental to the purchase of other goods.
2. Prepared foods retailer – A retailer primarily engaged in the business of selling prepared foods, as that term is defined in G.S. 105-1643 to consumers.

- 2a. Recycled content – Content that is either postconsumer, postindustrial, or a mix of postconsumer and postindustrial.
3. Recycled paper bag – A paper bag that meets all of the following requirements:
 - a. The bag is manufactured from at least 40% recycled content.
 - b. The bag displays the words “made from recycled material” and “recyclable.”
4. Retailer – A person who offers goods for sale in this State to consumers who provides a single-use plastic bag to the consumer to carry or transport the goods for free or for a nominal charge.
5. Reusable bag – A bag with handles that is specifically designed and manufactured for multiple reuse and is made of one of the following materials:
 - a. Nonwoven polypropylene or other plastic material with a minimum weight of 80 grams per square meter.
 - b. Cloth or other machine washable fabric.

130A-309.122. Certain plastic bags banned.

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

1. Fresh fish or fresh fish products.
2. Fresh meat or fresh meat products.
3. Fresh poultry or fresh poultry products.
4. Fresh produce.

Section 10.10(b) G.S. 130A-309.123(a) and 12.10 (b) of S.L. 2010-31, reads as rewritten:

130A-309.123. Substitution of paper bags restricted.

- a. A retailer subject to G.S. 130A-309.122 may substitute paper bags for the plastic bags banned by that section, but only if all the following conditions are met:
 1. The paper bag is a recycled paper bag.
 2. The retailer offers one of the following: a cash refund to any customer who uses the customer’s own reusable bags instead of the bags provided by the retailer. The amount of the refund shall be equal to the cost to the retailer providing a recycled paper bag, multiplied by the number of reusable bags filled with the goods purchased by the customer. For the purposes of this subdivision, “cash refund” includes a credit against the cost of goods purchased.
- b. Nothing in this Part shall prevent customers with reused packaging materials originally used for goods received from the retailer’s wholesalers or suppliers.
- c. Notwithstanding subsection (a) of this section, a prepared foods retailer may package prepared foods in a recycled paper bag, regardless of the availability of a reusable bag, in order to comply with food sanitation or handling standards or best practices.

130A-309.124. Required signage.

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

130A-309.125. Applicability.

- (a) This Part applies only in a county which includes a barrier island or barrier peninsula, in which the barrier island or peninsula meets both of the following conditions:
 - 1. It has a permanent inhabitation of 200 or more residents and is separated from the North Carolina mainland by a sound.
 - 2. It contains either a National Wildlife Refuge or a portion of a National Seashore.
- (b) Within any county covered by the subsection (a) of this section, this Part applies only to an island or peninsula that both:
 - 1. Is bounded on the east by the Atlantic Ocean.
 - 2. Is bounded on the west by a coastal sound.

130A-22. Administrative penalties.

The penalty shall not exceed one hundred dollars (\$100.00) for a first violation; two hundred dollars (\$200.00) for a second violation within any 12-month period; and five hundred dollars (\$500.00) for each additional violation within any 12-month period for any violation of Part 2G of Article 9 of this Chapter.

Section 3. This act becomes effective September 1, 2009, and applies to retail sales made on or after that date. Approved 4:35 p.m. this 24th day of June, 2009.

Section 13.10.(c) From funds available to the Department of Environment and Natural Resources, the Division of Waste Management and the Division of Environmental Assistance and Outreach shall: (i) monitor plastic bag use reduction resulting from the implementation of Part 2G of Article 9 of Chapter 130A of the General Statutes and shall report to the Environmental Review Commission on or before January 15, 2012 the impacts the ban enacted by the Part has had on plastic bag litter in coastal waterways adjacent to areas where the Part applies; and (ii) provide written notification of the requirements of this section to all affected retailers by September 1, 2010.

Section 13.10.(d). Any retailer with less than 5,000 square feet of retail space that is not part of a retail chain may provide customers with plastic bags that do not comply with Part 2G of Article 9 of Chapter 130A of the General Statutes, provided that the bags were purchased or contracted for purchase prior to May 1, 2010. For purposes of this subsection, "retail chains" means five or more stores located within the State that are engaged in the same general field of business and (i) conduct business under the same business name or (ii) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

Section 13.10.(e) Subsections (a), (b), and (d) of this section become effective October 1, 2010. Subsection (d) of this section expires May 1, 2011. Approved 5:55 p.m. this 30th day of June, 2010.

NOTE: This is a compilation of the original bills. The original bills can be found on the North Carolina General Assembly website:

<http://www.ncga.state.nc.us/legislation/legislation.html>