

COMMITTEE ON ENERGY AND ENVIRONMENTAL
PROTECTION

BILL NO. 30-0387

Thirtieth Legislature of the Virgin Islands

May 19, 2014

An Act to prohibit retailers from providing customers with plastic bags to carry items purchased by the customer

PROPOSED BY: Senators Shawn-Michael Malone and Nereida Rivera O'Reilly

1 **WHEREAS**, the Legislature has a strong interest in protecting the marine environment
2 an element which contributes to the unique quality of life in the Virgin Islands; and

3 **WHEREAS**, plastic bags are discarded in the environment and end up polluting our
4 waterways; clogging sewers, endangering marine life and causing unsightly litter; and

5 **WHEREAS**, plastic bags can entangle or choke fish, turtles, birds and other animals that
6 mistake plastic for food; and

7 **WHEREAS**, plastic bags contribute to litter, especially because they are easily carried by
8 the wind; and

9 **WHEREAS**, plastic bags last hundreds of years in a landfill and are a potential source of
10 harmful chemicals when they break down; and

11 **WHEREAS**, because plastic bags do not biodegrade, but instead break down into smaller
12 and smaller pieces, plastic bags simplify the introduction of toxins into the marine environment,

1 increasing the overall toxin concentration into the oceans, and inevitably into fish and other
2 marine wildlife; and

3 **WHEREAS**, a high-quality reusable bag has the potential to replace over 600 single-use
4 plastic bags over its lifetime; and

5 **WHEREAS**, reusable bags reduce litter and conserve natural resources; making them the
6 best choice; and

7 **WHEREAS**, the Legislature recognizes the need to proactively address the
8 environmental harm resulting from the proliferation of plastic bags; and

9 **WHEREAS**, the Legislature recognizes that it has a duty to reduce the use of plastic bags
10 in the Virgin Islands and to encourage the use of environmentally preferable alternatives, such as
11 reusable bags; and

12 **WHEREAS**, the Legislature encourages the use of recyclable bags and banning the use
13 of plastic bags for retail checkout; Now, Therefore,

14 ***Be it enacted by the Legislature of the Virgin Islands:***

15 **SECTION 1.** Short Title

16 “This Act may be referred to as the "Plastic Bag Ban of 2014”

17 **SECTION 2.** Title 3 Virgin Islands Code is amended by inserting new sections 500 to
18 read as follows:

19 **“§500. Administration**

20 The Commissioner of the Department of Planning and Natural Resources has primary
21 responsibility for the administration of this chapter, and shall adopt rules and regulations within
22 one hundred eighty days from the effective date of this Act.

23 **§501. Definitions**

24 As used in this chapter, unless it is otherwise provided or the context requires a different
25 construction, application, or meaning--

1 (1) "Carryout bag" means a bag provided by a store at the point of sale for customers
2 to carry their goods out of the store.

3 (2) "Customer" means any person purchasing goods.

4 (3) "Compostable plastic bag" means a plastic carryout bag that meets the current
5 American Society for Testing and Materials International standard (ASTM) D6400 for
6 compostable plastic, as that standard may be amended from time to time.

7 (4) "Department" means the Department of Planning and Natural Resources.

8 (5) "Operator" means a person in control of, or having daily responsibility for, the
9 daily operation of a store, which may include, but is not limited to, the owner of the store.

10 (6) "Plastic carryout bag" means a plastic carryout bag provided by a store to a
11 customer at the point of sale.

12 (7) "Produce bag" or "product bag" means any bag without handles used exclusively
13 to carry produce, meats, nuts, fish, grains, fresh fruits and vegetables, candy, cookies or other
14 food items to the point of sale inside a store or to prevent such food items from coming into
15 direct contact with other purchased items. It does not include the following:

16 (a) Produce bags or product bags;

17 (b) Plastic used to contain or wrap flowers or potted plants;

18 (c) Bags sold in packages containing multiple bags intended for use as
19 garbage, pet waste or yard waste bags;

20 (d) Laundry dry cleaning bags

21 (8) "Recyclable paper bag" means a paper bag that meets all the following
22 requirements:

23 (1) the bag contains no old growth fiber;

24 (2) the bag is 100% recyclable overall and contains a minimum of 40% post-
25 consumer recycled content; and

1 (3) the bag displays the words "reusable" and "recyclable".

2 (9) "Reusable bag" means:

3 (1) a bag made of cloth or other machine washable fabric that has handles; or

4 (2) a durable plastic bag with handles that is at least 2.25 mils thick and is
5 specifically designed and manufactured for multiple reuses.

6 (10) "Store" means a drug store, supermarket or retail establishment that has over
7 1,000 square feet of retail space, shops, eating places, food vendors and retail food vendors, and
8 that provides plastic carryout bags to its customers as a result of the sale of a product. It does not
9 include sales for not-for-profit organizations.

10 **§502. Restriction on Plastic Carryout Bag**

11 (a) Beginning November 30, 2014, every operator of a store shall restrict the use of
12 non-compostable plastic bags by 50% of the current volume and by December 31, 2016, all non-
13 compostable plastic bags shall be banned from use in the Virgin Islands.

14 (b) Every operator of a store shall submit a report documenting the reduction in usage
15 of non-compostable plastic bags to the department on or before November 30, 2014.

16 (c) Beginning January 1, 2017, every operator of a store shall provide as carryout
17 bags to customers a recyclable paper bag, a compostable bag, or a reusable bag.

18 (d) All stores must provide reusable bags to customers, either for sale or at no charge.

19 (e) Each store must post signs in conspicuous places encouraging customers to use
20 reusable bags.

21 (f) Nothing in this Chapter prohibits customers from using bags of any type that they
22 bring to the store themselves or from carrying away goods that are not placed in a bag, in lieu of
23 using bags provided or sold by the store.

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1 **§503. Penalties**

2 (a) The Commissioner of the Department is authorized to take any and all other
3 actions reasonable and necessary to enforce this Chapter, including, but not limited to,
4 investigating violations, issuing fines and entering the premises of any store during business
5 hours.

6 (b) The Commissioner of the Department of Licensing and Consumer Affairs, and the
7 Commissioner of the Department of Health may assist with this enforcement responsibility by
8 entering the premises of a store as part of their regular inspection functions and reporting any
9 alleged violations to the Commissioner of the Department of Planning and Natural Resources. If
10 the Commissioner of the Department of Planning and Natural Resources determines that a
11 violation of this Chapter has occurred, a written warning notice to the operator of a store that a
12 violation has occurred and the potential penalties that will apply for future violations shall be
13 issued within ten (10) working days.

14 (c) Any store that violates or fails to comply with any of the requirements of this
15 Chapter after a written warning notice has been issued for that violation shall be guilty of an
16 infraction.

17 (d) If a store has subsequent violations of this Chapter that are similar in kind to the
18 violation addressed in a written warning notice, the following penalties will be imposed and shall
19 be payable by the operator of the store:

20 (1) A fine not exceeding five hundred dollars (\$500.00) for the first violation
21 after the written warning notice is given;

22 (2) A fine not exceeding one thousand dollars (\$1,000.00) for the second
23 violation after the written warning notice is given; or

24 (3) A fine not exceeding one thousand five hundred dollars (\$1,500.00) for
25 the third;

1 (4) A fine not exceeding five thousand dollars (\$5,000.00) for any subsequent
2 violations after the written warning notice is given.

3 (e) A fine shall be imposed for each day a violation occurs or is allowed to continue.

4 (f) All fines collected pursuant to this Chapter shall be deposited in the Plastic Bag
5 Ban Fund pursuant to title 33 Virgin Islands Code section 3100().

6 (g) Any store operator who receives a written warning notice or fine may request an
7 administrative review of the accuracy of the determination or the propriety of any fine issued, by
8 filing a written notice of appeal with the Commissioner of the Department of Planning and
9 Natural Resources no later than 30 days after receipt of a written warning notice or fine, as
10 applicable. The notice of appeal must include all facts supporting the appeal and any statements
11 and evidence, including copies of all written documentation and a list of any witnesses that the
12 appellant wishes to be considered in connection with the appeal. The appeal will be heard by a
13 hearing officer designated by the Commissioner of the Department of Planning and Natural
14 Resources. The hearing officer will conduct a hearing concerning the appeal within 45 days
15 from the date that the notice of appeal is filed, or on a later date if agreed upon by the appellant
16 and the Department, and will give the appellant no less than five days prior written notice of the
17 date of the hearing. The hearing officer may sustain, rescind, or modify the written warning
18 notice or fine, as applicable, by written decision. The hearing officer will have the power to
19 waive any portion of the fine in a manner consistent with the decision. The decision of the
20 hearing officer is final and effective on the date of service of the written decision, is not subject
21 to further administrative review, and constitutes the final administrative decision.

22 **§504. Outreach and Implementation**

23 The Department's responsibilities for implementing this Chapter include conducting
24 outreach to stores, providing multi-lingual information to educate store employees and customers
25 through public hearings.

1 **SECTION 3.** Title 33 Virgin Islands Code is amended by inserting a new section.

2 **§ 3100 () Plastic Bag Ban Maintenance Fund**

3 (a) There is hereby established in the Treasury of the Government of the Virgin
4 Islands, a special fund to be designated as the "Plastic Bag Ban Maintenance Fund". The fund
5 shall consist of one-hundred percent of the monies collected under subsection (b) of this section,
6 any funding appropriated thereto from time to time by the Legislature and all gifts, contributions,
7 and requests made thereto. All contributions to the fund shall remain available until expended
8 from the purposes enumerated under this section.

9 (b) The Commissioner of the Department of Planning and Natural Resources shall
10 deposit all fines collected under Title 3 Virgin Islands Code, section 503 into the Plastic Bag Ban
11 Maintenance Fund.

12 (c) Monies shall be disbursed from the fund by the Commissioner of Finance upon
13 the authorization of the Commissioner of Planning and Natural Resources. Monies appropriated
14 under this act shall not be used for any purpose other than to comply with the outreach mandates
15 prescribed by Title 3 Virgin Islands Code, section 504 and plastic bag cleanup efforts.

16 **BILL SUMMARY**

17 This bill provides for the decrease and eventual ban on use of non-compostable plastic
18 grocery bags at retail stores. Specifically, by November 30, 2014, every operator of a retail store
19 must restrict the use of non-compostable plastic bags by 50% of the current volume and by
20 December 31, 2016, all non-compostable plastic bags would be banned from use in this
21 Territory.

22 Every operator of a retail store must submit a report documenting the reduction in usage
23 of non-compostable plastic bags to the Department of Environmental Protection on or before
24 November 30, 2014.

1 After January 1, 2017, every operator of a retail store must provide as carryout bags to
2 customers either a recyclable paper bag, a compostable bag, or a reusable bag.

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4 **BR13-0128/January 24, 2014/MMH**

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