

**First Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 09-0478.01 Kate Meyer

**SENATE BILL 09-156**

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**SENATE SPONSORSHIP**

**Veiga,**

**HOUSE SPONSORSHIP**

**Miklosi,**

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**Senate Committees**  
Business, Labor and Technology

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE REDUCTION OF PLASTIC BAG USE.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Creates the "Plastic Bag Reduction Act" (act), which prohibits a store that meets the following criteria from providing plastic bags to customers on and after July 1, 2012:

! The store has a retail floor space of at least 10,000 square feet; and

! The store has gross annual sales of at least \$1,000,000.

Exempts any store operated pursuant to a franchise agreement from the scope of the act.

Makes noncompliance with the plastic bag prohibition a class 2

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

petty offense and sets the following penalties upon conviction thereof:

- ! A fine not to exceed \$200 for a first violation within a calendar year;
- ! A fine not to exceed \$300 for a second violation within a calendar year; and
- ! Fines not to exceed \$500 for each additional violation within a calendar year.

Specifies that each plastic bag provided shall be deemed a separate violation.

Beginning September 1, 2009, imposes on customers a fee of 6 cents for every plastic bag provided to a customer by a store meeting the above criteria. Requires the store providing the bags to retain 3 cents and transfer the other 3 cents to the state treasurer. Creates the plastic bag reduction education fund (fund) in the state treasury, consisting of the plastic bag fees that are transmitted to the state. Requires the fund to be used to educate people on the upcoming plastic bag prohibition. Repeals the fund on July 1, 2013.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** Title 25, Colorado Revised Statutes, is amended BY  
3 THE ADDITION A NEW ARTICLE to read:

4                                   **ARTICLE 16.7**

5                                   **Reduction of Plastic Bags**

6           **25-16.7-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND  
7 MAY BE CITED AS THE "PLASTIC BAG REDUCTION ACT".

8           **25-16.7-102. Legislative declaration.** THE GENERAL ASSEMBLY  
9 HEREBY FINDS, DETERMINES, AND DECLARES THAT THE DISTRIBUTION OF  
10 PLASTIC BAGS, PARTICULARLY BY LARGE RETAIL ESTABLISHMENTS, TO  
11 CONSUMERS FOR USE IN CARRYING, TRANSPORTING, OR STORING GOODS  
12 PURCHASED AT SUCH ESTABLISHMENTS, HAS A DETRIMENTAL EFFECT ON  
13 COLORADO'S ENVIRONMENT. SUCH BAGS, WHICH ARE SLOW TO  
14 BIODEGRADE, CONTRIBUTE TO OVERBURDENED LANDFILLS, THREATEN  
15 WILDLIFE, DEGRADE THE NATURAL LANDSCAPE, AND, IN MANY CASES,  
16 REQUIRE CONSUMPTION OF OIL DURING THE MANUFACTURING PROCESS.

1 THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS IN THE BEST  
2 INTERESTS OF THE PEOPLE OF COLORADO TO GRADUALLY REDUCE THE  
3 DISTRIBUTION OF PLASTIC BAGS.

4 **25-16.7-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
5 CONTEXT OTHERWISE REQUIRES:

6 (1) "CHECKOUT" MEANS POINT OF SALE.

7 (2) "CUSTOMER" MEANS A PERSON WHO MAKES A PURCHASE AT A  
8 STORE.

9 (3) "PLASTIC BAG" MEANS A BAG COMPOSED OF PLASTIC, LATEX,  
10 OR POLYPROPYLENE.

11 (4) "PROVIDE" MEANS SELL, GIVE FREE OF CHARGE, OR OTHERWISE  
12 DISTRIBUTE OR MAKE AVAILABLE.

13 (5) (a) "STORE" MEANS A BUSINESS OR ESTABLISHMENT IN THIS  
14 STATE ENGAGED IN THE SALE OF GOODS THAT HAS:

15 (I) A RETAIL FLOOR SPACE OF AT LEAST TEN THOUSAND SQUARE  
16 FEET; AND

17 (II) GROSS ANNUAL SALES OF ONE MILLION DOLLARS OR MORE.

18 (b) "STORE" DOES NOT INCLUDE ANY BUSINESS OR ESTABLISHMENT  
19 OPERATED PURSUANT TO A FRANCHISE AGREEMENT.

20 **25-16.7-104. Prohibition on distribution of plastic bags -**  
21 **violations.** (1) BEGINNING JULY 1, 2012, A STORE MAY NOT PROVIDE A  
22 PLASTIC BAG TO A CUSTOMER AT CHECKOUT FOR THE PURPOSE OF  
23 STORING, CARRYING, OR TRANSPORTING PURCHASED GOODS.

24 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS  
25 PROHIBITING A STORE FROM PROVIDING BAGS MADE OF NONPLASTIC  
26 MATERIAL TO CUSTOMERS AT CHECKOUT.

27 (3) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION

1       COMMITTS A CLASS 2 PETTY OFFENSE AND, UPON CONVICTION THEREOF,  
2       SHALL BE PUNISHED BY A FINE NOT TO EXCEED ONE HUNDRED DOLLARS  
3       FOR A FIRST VIOLATION WITHIN A CALENDAR YEAR, A FINE NOT TO EXCEED  
4       TWO HUNDRED DOLLARS FOR A SECOND VIOLATION WITHIN A CALENDAR  
5       YEAR, AND A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH  
6       ADDITIONAL VIOLATION WITHIN A CALENDAR YEAR. EACH PLASTIC BAG  
7       PROVIDED SHALL BE DEEMED A SEPARATE VIOLATION. ALL FINES  
8       COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE  
9       STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

10               **25-16.7-105. Plastic bag fee - plastic bag reduction education**

11       **fund - repeal.** (1) (a) BEGINNING SEPTEMBER 1, 2009, AND ENDING ON  
12       JUNE 30, 2012, A CUSTOMER SHALL PAY A FEE OF SIX CENTS FOR EVERY  
13       PLASTIC BAG PROVIDED AT CHECKOUT TO THE CUSTOMER BY A STORE.

14               (b) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS REQUIRING  
15       A CUSTOMER TO ACCEPT OR USE PLASTIC BAGS PROVIDED BY A STORE.

16               (2) A STORE THAT PROVIDES PLASTIC BAGS TO CUSTOMERS SHALL  
17       COLLECT SAID FEE AT THE TIME OF SALE AND SHALL:

18               (a) RETAIN THREE CENTS, WHICH MAY BE, BUT IS NOT REQUIRED TO  
19       BE, USED TO DEFRAY COSTS ASSOCIATED WITH THE PLASTIC BAG  
20       PROHIBITION DESCRIBED IN SECTION 25-16.7-104; AND

21               (b) TRANSMIT THREE CENTS TO THE STATE TREASURER, WHO  
22       SHALL CREDIT THE SAME TO THE PLASTIC BAG REDUCTION EDUCATION  
23       FUND CREATED IN SUBSECTION (3) OF THIS SECTION.

24               (3) THERE IS HEREBY CREATED IN THE STATE TREASURY THE  
25       PLASTIC BAG REDUCTION EDUCATION FUND, WHICH SHALL CONSIST OF ALL  
26       FEES COLLECTED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS  
27       SECTION AND ALL INTEREST EARNED ON SUCH FEES. ALL MONEYS IN THE

1 FUND SHALL BE ANNUALLY APPROPRIATED TO THE DEPARTMENT OF PUBLIC  
2 HEALTH AND ENVIRONMENT BY THE GENERAL ASSEMBLY FOR THE  
3 PURPOSE OF EDUCATING CUSTOMERS ABOUT THE PLASTIC BAG  
4 PROHIBITION OF SECTION 25-16.7-104. ANY UNEXPENDED AND  
5 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY  
6 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE  
7 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND; EXCEPT THAT,  
8 ON JUNE 30, 2013, ANY UNEXPENDED AND UNENCUMBERED MONEYS IN  
9 THE FUND SHALL BE TRANSFERRED TO THE GENERAL FUND.

10 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2013.

11 **SECTION 2. Act subject to petition - effective date.** (1) This  
12 act shall take effect September 1, 2009.

13 (2) However, if a referendum petition is filed against this act or  
14 an item, section, or part of this act during the ninety-day period after final  
15 adjournment of the general assembly that is allowed for submitting a  
16 referendum petition pursuant to article V, section 1 (3) of the state  
17 constitution, then the act, item, section, or part, shall not take effect unless  
18 approved by the people at a biennial regular general election and shall  
19 take effect on the date specified in subsection (1) or on the date of the  
20 official declaration of the vote thereon by proclamation of the governor,  
21 whichever is later.