

FIRST REGULAR SESSION

# SENATE BILL NO. 340

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time February 9, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1663S.011

## AN ACT

To amend chapter 260, RSMo, by adding thereto three new sections relating to plastic bag reduction act, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 260, RSMo, is amended by adding thereto three new sections, to be known as sections 260.282, 260.283, and 260.284, to read as follows:

**260.282. 1. Sections 260.282 to 260.284 shall be known and may be cited as the "Plastic Bag Reduction Act".**

**2. For the purposes of sections 260.282 to 260.284, the following terms shall mean:**

**(1) "ASTM Standard", the American Society for Testing and Materials (ASTM)'s International Standard D6400 for compostable plastic, as that standard may be amended from time to time;**

**(2) "Checkout bag", a carryout bag that is provided by a store to a customer at the point of sale for the purpose of holding the customer's purchased items;**

**(3) "Compostable plastic bag", a plastic bag that:**

**(a) Meets current ASTM Standard specifications for compostability;**

**(b) Is certified and labeled as meeting the ASTM Standard by a recognized verification entity such as the Biodegradable Product Institute; and**

**(c) Displays the words "Compostable" and "Reusable" in a highly visible manner;**

**(4) "Department", the department of natural resources;**

**(5) "Director", the director of the department of natural**

21 resources;

22 (6) "Highly visible manner", letters at least two inches high  
23 displayed in a color contrasting with the bag's background color on  
24 either the front or back of the bag;

25 (7) "Person", an individual, trust, firm, joint stock company,  
26 corporation, cooperative, partnership, or association;

27 (8) "Pharmacy", a retail use where the profession of pharmacy by  
28 a pharmacist licensed by the state or another acting under the  
29 supervision and authority of a pharmacist licensed by the state is  
30 practiced and where prescriptions, and possibly other merchandise, are  
31 offered for sale, excluding such retail uses located inside a hospital;

32 (9) "Recyclable", material that can be sorted, cleansed, and  
33 reconstituted for the purpose of using the altered form in the  
34 manufacture of a new product. Recycling does not include burning,  
35 incinerating, converting, or otherwise thermally destroying solid waste;

36 (10) "Recyclable paper bag", a paper bag that meets all of the  
37 following requirements:

38 (a) Contains no old growth fiber;

39 (b) Is one hundred percent recyclable overall and contains a  
40 minimum of forty percent post-consumer recycled content; and

41 (c) Displays the words "Reusable" and "Recyclable" in a highly  
42 visible manner on the outside of the bag;

43 (11) "Reusable bag", a bag with handles that is specifically  
44 designed and manufactured for multiple reuse and is either made of  
45 cloth or other machine washable fabric or made of durable plastic that  
46 is at least two and twenty-five hundredths mils thick;

47 (12) "Store", a retail establishment located within the state that  
48 meets either of the following requirements:

49 (a) Is a full-line, self-service supermarket with gross annual sales  
50 of two million dollars or more, and which sells a line of dry grocery,  
51 canned goods, or nonfood items and some perishable items. For  
52 purposes of determining which retail establishments are supermarkets,  
53 the department shall use the annual updates of the Progressive Grocer  
54 Marketing Guidebook and any computer printouts developed in  
55 conjunction with the guidebook; or

56 (b) Is a retail pharmacy with at least five locations under the  
57 same ownership within the geographical limits of the state.

260.283. 1. All stores shall provide only the following as checkout  
2 bags to customers: recyclable paper bags, compostable plastic bags,  
3 reusable bags, or any combination of the three.

4 2. Nothing in this section shall be construed as to preclude stores  
5 from making reusable bags available for sale to customers.

6 3. Any person who violates the requirements of subsection 1 of  
7 this section shall be guilty of an infraction. If charged as an infraction,  
8 upon conviction thereof, such person shall be punished by:

9 (1) A fine not exceeding one hundred dollars for a first violation;

10 (2) A fine not exceeding two hundred dollars for a second  
11 violation within the same year; and

12 (3) A fine not exceeding five hundred dollars for each additional  
13 violation within the same year.

14 4. In addition to any other administrative or judicial remedy  
15 provided by this section or by rules adopted under this section, the  
16 director is authorized to impose by order the following administrative  
17 penalties:

18 (1) In an amount not exceeding two hundred dollars for the first  
19 violation;

20 (2) In an amount not exceeding four hundred dollars for the  
21 second violation in the same year; and

22 (3) In an amount not exceeding six hundred dollars for each  
23 subsequent violation in the same year.

24 5. The director is hereby granted the authority to adopt such  
25 further regulations as necessary to insure the proper implementation  
26 and enforcement of the provisions of this section. Any rule or portion  
27 of a rule, as that term is defined in section 536.010, RSMo, that is  
28 created under the authority delegated in this section shall become  
29 effective only if it complies with and is subject to all of the provisions  
30 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
31 section and chapter 536, RSMo, are nonseverable and if any of the  
32 powers vested with the general assembly pursuant to chapter 536,  
33 RSMo, to review, to delay the effective date, or to disapprove and annul  
34 a rule are subsequently held unconstitutional, then the grant of  
35 rulemaking authority and any rule proposed or adopted after August  
36 28, 2009, shall be invalid and void.

37 6. For stores that meet the criteria under paragraph (a) of

38 subdivision (12) of subsection 2 of section 260.282, the provisions of  
39 sections 260.282 to 260.284 shall take effect on and after January 28,  
40 2010. For stores that meet the criteria under paragraph (b) of  
41 subdivision (12) of subsection 2 of section 260.282, the provisions of  
42 sections 260.282 to 260.284 shall take effect on and after August 28,  
43 2010.

260.284. 1. If any provision of sections 260.282 to 260.284 or the  
2 application thereof to anyone or to any circumstances is held invalid,  
3 the remainder of those sections and the application of such provisions  
4 to others or other circumstances shall not be affected thereby.

5 2. Nothing in sections 260.282 to 260.284 shall be interpreted or  
6 applied so as to create any requirement, power, or duty in conflict with  
7 any federal or state law.

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Bill

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