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HOUSE BILL 59

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Karen E. Giannini

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE PLASTIC BAG RECYCLING ACT; REQUIRING STORES TO RECYCLE PLASTIC BAGS; PROVIDING FOR ENFORCEMENT AND PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Plastic Bag Recycling Act".

Section 2. DEFINITIONS.--As used in the Plastic Bag Recycling Act:

A. "manufacturer" means a producer of a plastic carry-out bag provided to a store in this state;

B. "plastic carry-out bag" means a plastic bag provided by a store to a customer at the point of sale for transporting purchases from the store; "plastic carry-out bag" does not mean:

1 (1) a bag used by consumers inside a store to
2 package bulk or unwrapped items or to contain or wrap food,
3 flowers or plants;

4 (2) a bag provided by a pharmacy to contain
5 prescription drugs;

6 (3) a bag sold in packages containing multiple
7 bags, such as for garbage, waste or organization; or

8 (4) a bag for food prepared on store premises,
9 such as at a bakery, delicatessen or restaurant;

10 C. "reusable bag" means:

11 (1) a bag made of cloth or other fabric that
12 has handles and is designed and manufactured to be used
13 repeatedly; and

14 (2) a durable plastic bag with handles that is
15 at least two and one-fourth mils thick and is designed and
16 manufactured to be used repeatedly;

17 D. "SPI resin identification code" means a symbol
18 first developed by the society of the plastics industry and now
19 used internationally and placed on plastics to identify the
20 polymer type of plastics for recycling purposes;

21 E. "store" means a place where merchandise is sold
22 or offered to the public for sale at retail that:

23 (1) has at least seven thousand square feet of
24 retail sales space; or

25 (2) has three or more stores or retail

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1 locations in the state.

2 Section 3. PLASTIC BAG RECYCLING AT STORES--AVAILABILITY
3 OF REUSABLE BAGS.--

4 A. A store shall establish an at-store recycling
5 program that permits a customer of the store to return clean
6 plastic carry-out bags to the store.

7 B. By January 1, 2011, all plastic carry-out bags
8 provided by a store to a customer shall:

9 (1) be one hundred percent recyclable;

10 (2) be made of high-density polyethylene film
11 marked with the SPI resin identification code 2 or low-density
12 polyethylene film marked with the SPI resin identification code
13 4; and

14 (3) have printed or displayed on the bag, in a
15 manner conspicuously visible to a consumer, the words "PLEASE
16 RETURN THIS BAG TO A PARTICIPATING STORE FOR RECYCLING" or a
17 similar message encouraging the reuse or recycling of plastic
18 carry-out bags.

19 C. A plastic carry-out bag collection bin shall be
20 placed at each store near the check-out area and shall be
21 visible, easily accessible to the consumer and clearly marked
22 to indicate that the collection bin is available for the
23 purpose of collecting and recycling plastic carry-out bags.

24 D. Each plastic carry-out bag that a store collects
25 in reusable condition shall be collected and recycled in a

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1 manner consistent with the Plastic Bag Recycling Act. A store
2 shall not dispose of collected plastic carry-out bags.

3 E. A store shall maintain records describing the
4 collection and recycling of plastic carry-out bags collected by
5 that store and shall make the records available upon request to
6 the department of environment to demonstrate compliance with
7 this section.

8 F. A store shall make reusable bags available to
9 customers within the store for use in lieu of plastic carry-out
10 bags or paper bags.

11 G. A manufacturer shall provide educational
12 materials to stores to encourage the reduction, reuse and
13 recycling of plastic carry-out bags. A store shall place these
14 materials in a conspicuous location, visible to the store's
15 customers.

16 Section 4. ENFORCEMENT--PENALTY.--

17 A. The department of environment shall enforce the
18 provisions of the Plastic Bag Recycling Act.

19 B. A store or manufacturer that violates a
20 provision of the Plastic Bag Recycling Act shall be fined in an
21 amount not to exceed one hundred dollars (\$100) for the first
22 violation; not more than two hundred dollars (\$200) for the
23 second violation; and not more than one thousand dollars
24 (\$1,000) for the third and each subsequent violation.

25 C. Fines collected pursuant to this section shall

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be remitted to the current school fund.

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