

14 AUG -4 P4:01

SENATE
S. No. 2337

Introduced by Senator Miriam Defensor Santiago

AN ACT
BANNING THE USE OF SINGLE-USE, THROW-AWAY BAGS, REGARDLESS OF
COMPOSITION, IN ALL RETAIL ESTABLISHMENTS, AND PROVIDING PENALTIES
FOR VIOLATIONS THEREOF¹

EXPLANATORY NOTE

The Constitution, Article 2, Section 16 provides:

The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

Every year, shoppers use 500 billion to 1 trillion plastic bags², which translate to 150 bags a year for every person on earth. The use of plastic items is environmentally unsafe and also costly. It is considered one of the most common forms of litter, pollution, and waste.³ Plastic bags do not just create visual pollution problems, they are also the cause of major flooding in urban areas since they clog canals, drainages, and waterways. As a common form of pollution, they have harmful effects on aquatic and terrestrial animals as they cannot be digested by such animals easily.

Plastic bags are made from polyethylene, which comes from petroleum, a nonrenewable source. Presently, a distinction has been made between biodegradable plastics, recyclable plastics, and non-biodegradable plastics.⁴ Compared to the former, biodegradable and recyclable

¹ This bill was first filed during the Fifteenth Congress, Second Regular Session.

² Greenwire, Environment and Energy Publishing LLC. 22 July 2004.

³ Green Sangha Organization, "Don't think of a Plastic Bag!"

⁴ http://randd.defra.gov.uk/Document.aspx?Document=EV0422_8859_OTH.pdf

plastics are considered more environment-friendly. It has been claimed that when one ton of plastic bags are reused or recycled, the energy saved is equal to 11 barrels of oil.⁵

The United Kingdom's Department of Environment has revealed, however, that these so-called "biodegradable" bags are really just regular plastic bags that allegedly break down faster than other plastic bags. Recyclable plastics, meanwhile, need a longer time to degrade. Their degradability is inversely proportional with their recyclability. Hence, the more recyclable they are, the less degradable they will be.⁶

The use of recyclable and biodegradable plastic bags perpetuates "throw-away mentality" because they give a false impression that their continued use does not hurt the environment.⁷ However, whether plastic is biodegradable or recyclable, they do not cease to be plastic, meaning, they are still made of petroleum and continue to be hazardous to the environment.⁸ In addition, even if they do break down faster, they require ideal conditions, such as exposure to sun and air, in order for them to degrade. These conditions are not available in our landfills.⁹ Also, these biodegradable plastic bags cannot be recycled with other types of plastics.¹⁰

The best way to eradicate plastic bag waste is to ban single-use throw-away bags and provide establishments with alternatives to the use of such plastic bags. To help save the environment, it is imperative upon the State to promote the use of reusable bags as an alternative to plastic bags. Some countries have already realized the detrimental effect of plastic bags on their environment, and have enacted laws that completely ban the use of plastic bags. In 2002, Bangladesh was the first country to impose a nationwide ban of plastic bags.¹¹ China followed by imposing a nationwide ban on plastic bags in February 2008.¹² It was found that bags 25 microns thick or less are too thin to be re-used and are usually the cause of blocked drainages in China

⁵ *Id.*

⁶ Loughborough University, *Assessing the Environmental Impacts of Oxo-degradable Plastics Across their Life Cycle*. January 2010.

⁷ *Id.*

⁸ <http://www.algalita.org/pdf/plastic%20are%20forever%20english.pdf>

⁹ *Id.*

¹⁰ *Id.*

¹¹ <http://www.asiacalling.org/en/news/bangladesh/1952-bangladesh-the-first-country-in-the-world-to-ban-plastic-bags>

¹² <http://plasticbags.planetark.org/about/othercountries.cfm>

and Kenya. In China, plastic shopping bags above 25 microns are restricted and controlled across the country.¹³

Different states in the United States, such as San Francisco and Los Angeles, have already banned plastic bags.¹⁴ The same holds true in Kenya, where plastic bags have been linked with the spread of malaria. It was found that these bags, when discarded, often get filled with rainwater and become ideal new breeding grounds for malaria-carrying mosquitoes. A ban was therefore proposed on bags less than 30 microns thick and a levy on thicker ones in order to reduce the use of polythene bags and provide funds for alternative, more environmentally-friendly carriers, such as cotton or sisal bags.¹⁵

In the Philippines, several local government units have enacted ordinances banning the use of plastic bags. These include Quezon City, Antipolo City; Lucban, Quezon; Los Banos, Laguna; Batangas City; Muntinlupa City; Burgos, Pangasinan; Infanta, Quezon; Binan, Laguna; Pasig City; Nueva Ecija league of 27 municipalities; and Calamba, Laguna, among many others. One of the notoriously flood-prone areas in Metro Manila, Muntinlupa City, has benefited from a city ordinance prohibiting the use of plastic bags on dry goods, and regulating its use for wet goods. The same ordinance also banned the use of Styrofoam, which was usually used by fast food chains. Due to the ordinance, rainwater freely flowed through canals and waterways and into the Laguna de Bay, and expected flooding in several parts of Muntinlupa did not happen.¹⁶

According to the Department of Environment and Natural Resources, more than 80 percent of the waste collected from our shorelines are made from non-biodegradable materials, such as plastic and rubber, while about half of plastic items collected from our oceans were plastic bags.¹⁷ In their 2006 waste audit results, the Global Alliance for Incinerator Alternatives (GAIA) reported that plastic discards still topped, at 76 percent, the various categories of solid

¹³ <http://i-grafix.com/index.php/contributors/other/chinas-bag-law-hits-retail-and-producers-alike.html>

¹⁴ <http://www.npr.org/templates/story/story.php?storyId=89135360> and <http://ecolocalizer.com/2008/07/24/los-angeles-bans-plastic-bags-limits-styrofoam/>

¹⁵ <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=424&ArticleID=4734&l=en>

¹⁶ <http://www.thepoc.net/breaking-news/environment/12587-falcon-leaves-muntinlupa-flood-free-because-of-plastics-ban.html>

¹⁷ <http://www.gmanews.tv/story/201791/malls-to-charge-fee-for-plastic-bags-once-a-week>

waste polluting the Manila Bay.¹⁸ The same group also reported that in their clean-up of Laguna de Bay, plastic discards accounted for the highest percentage of the 1,755 liters of wastes collected.¹⁹

This bill bans single-use, throw-away plastic bags, and creates incentives for the promotion and use of reusable bags.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

¹⁸ <http://www.usnewslasvegas.com/national/plastic-trash-stays-as-top-polluter-of-manila-bay-waste-audit-reveals/>

¹⁹ <http://www.no-burn.org/plastic-waste-tops-laguna-de-bay-debris>



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SENATE
S. No. 2337

RECEIVED BY: *js*

Introduced by Senator Miriam Defensor Santiago

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 AN ACT

2 BANNING THE USE OF SINGLE-USE, THROW-AWAY BAGS, REGARDLESS OF
3 COMPOSITION, IN ALL RETAIL ESTABLISHMENTS, AND PROVIDING PENALTIES
4 FOR VIOLATIONS THEREOF

5 SECTION 1. *Short Title.* – This Act shall be known as the “Total Ban on Single-use
6 Carryout Bags Act of 2011”

7 SECTION 2. *Declaration of Policy.* – It is the policy of the State to afford full protection
8 and the advancement of the right of the people to a healthful ecology in accord with the rhythm
9 and harmony of nature. In this light, the State has adopted the Philippine Agenda 21 framework
10 which espouses sustainable development, to fulfill human needs while maintaining the quality of
11 the natural environment for current and future generations.

12 As a party to the United Nations Framework Convention on Climate Change, the State
13 adopts the ultimate objective of the Convention which is the stabilization of greenhouse gas
14 concentrations in the atmosphere at a level that would prevent dangerous anthropogenic
15 interference with the climate system which should be achieved within a time frame sufficient to
16 allow ecosystems to adapt naturally to climate change, to ensure that food production is not
17 threatened and to enable economic development to proceed in a sustainable manner.

18 SECTION 3. *Definition of Terms.* – As used in this Act, the following terms shall mean:

19 (a) "Green carryout bag" means a single-use carryout bag that is provided by a store to a
20 customer at the point of sale and meets all of the following requirements:

21 a. Is composed of at least 40 percent post-consumer recycled content material.

1 b. Is capable of composting within 180 days, as determined by the Department of
2 Environment and Natural Resources. "Green carryout bag" does not include a
3 reusable bag.

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

7 (c) "Plastic carryout bag" means a plastic carryout bag provided by a store to a customer at
8 the point of sale that is not a reusable bag as defined in subdivision (f).

9 (d) "Reusable bag" means either a bag made of cotton, sisal, native materials, non-woven
10 fabric, or any other machine-washable fabric that has handles, or material that is non-toxic and
11 specifically designed and manufactured for multiple reuse as determined by the Department of
12 Environment and Natural Resources (DENR). A reusable bag shall also refer to a "native
13 reusable bag" as defined under Section (f) of this Act. A reusable bag, whether native or not,
14 must not be composed of any toxic material, such as lead, cadmium, or any other heavy metal, as
15 determined by the DENR. The DENR shall also determine if certain plastic bags, which are thick
16 enough for multiple and long-term reuse, shall be allowed under this Act; provided, that such
17 reusable plastic bags shall not have handles less than 30 microns thick.

18 (e) "Single-use carryout bag" means a carryout bag provided by the store to a customer at the
19 point of sale that is not a reusable bag as defined in subdivision (f), and includes biodegradable
20 or compostable bags.

21 (f) "Native reusable bag" means a carryout bag made of at least 80 percent native materials,
22 such as abaca, burlap, buri, or the like.

23 (g) "Store" means a retail establishment that provides single-use carryout bags to its
24 customers as a result of the sale of a product; a "store" shall include, but shall not be limited to,
25 department stores, grocery stores, boutiques, drugstores, pharmacies, and other mercantile shops
26 that sell wet and/or dry goods.

27 (h) "Department" shall refer to the Department of Environment and Natural Resources
28 (DENR). The DENR shall be the lead implementing government agency of this Act.

29 (i) "Secretary" shall refer to the Secretary of Environment and Natural Resources.

1 SECTION 4. *Prohibitions.* –A store shall be prohibited from providing single-use, throw-
2 away carryout bags regardless of material (plastic, paper, and cornstarch, among others),
3 including green carryout bags to its customers. Instead, it may provide the customer with a
4 reusable bag for a reasonable price; provided, the customer did not bring his or her own shopping
5 bag. Such fee shall be determined by the Department in consultation with the Department of
6 Trade and Industry (DTI). No store shall be a source of supply of a single-use, throw-away bag
7 for a customer.

8 Immediate packaging of goods, such as those used to package meat, fish, vegetables,
9 fruit, bread, and the like, shall not be covered by this Act.

10 SECTION 5. *Penalties for noncompliance.* – Stores caught supplying to customers
11 single-use, throw-away carryout bags, regardless of material, shall be fined the following:

12 First offense – A fine of TWENTY THOUSAND PESOS (P20,000.00)

13 Second offense – A fine of ONE HUNDRED THOUSAND PESOS (P100,000.00) and
14 suspension of their business permit for six months.

15 Third offense – A fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00),
16 suspension of their business permit for a period of one year and the operator of the store will be
17 required to attend a two-day forum on environment protection to be conducted by the
18 Department in cooperation with an accredited pro-environment non-government organization.

19 Continuous offense after the third offense shall cause the revocation of the store's
20 business license.

21 SECTION 6. *Mandatory promotion of reusable bags.* –All stores shall be required to
22 promote to its customers the use of reusable bags. Noncompliance will merit a penalty of FIVE
23 THOUSAND PESOS (P5,000.00) for the first six months, and another FIVE THOUSAND
24 PESOS (P5,000.00) for each and every succeeding six months of noncompliance with this
25 section.

26 SECTION 7. *Incentives for promoting and providing reusable bags.* – A store that shall
27 promote and provide the use of the retailer's own or other reusable bag shall be provided with
28 tax incentives on the sale of such bags to its costumers. Likewise, consumers who use the
29 retailer's own or other reusable bag shall also be granted a tax incentive from the cost of their

1 purchase, which shall be deducted from the tax collected upon such purchase by the store. Such
2 incentives shall be determined by the Bureau of Internal Revenue.

3 SECTION 8. *Use of the amount collected.* -- A store charging a fee pursuant to this
4 section shall use the amount of the fee retained pursuant to this Act for all of the following:

5 (a) Reimbursement of the store's costs associated with the provision or supply of
6 reusable carryout bags;

7 (b) The development of in-store and out-of-store promotion and/or educational
8 materials for distribution to customers encouraging the use of reusable bags;

9 (c) The development and implementation of an educational campaign or purchase
10 incentive encouraging the use of reusable bags, including, but not limited to, public service
11 announcements;

12 (d) Reimbursement of the store's costs associated with providing reusable bags to
13 customers or as donations to community organizations, nonprofit organizations, and other similar
14 entities;

15 (e) Solid waste collection and incentives for the collection and/or recycling of plastic
16 carryout bags.

17 SECTION 9. *Plastic Bag Recovery or Recycling Fund.* -- The Plastic Bag Recovery or
18 Recycling Fund is hereby established. All fees from the penalties collected by the Department
19 pursuant to this Section shall be deposited in the fund. The funds in the Plastic Bag Recovery or
20 Recycling Fund shall be used by the Department for the following purposes:

21 a. Development and implementation of programs related to the use of reusable
22 carryout bags to encourage and support plastic bag recovery and recycling,
23 solid waste prevention, abatement and cleanup, enforcement, green chemistry,
24 water quality protection and cleanup, and environmental and public education
25 and outreach.

26 b. To establish and maintain local programs, including those in partnership with
27 nonprofit community-based organizations, for purposes of litter cleanup
28 activities, source reduction and recycling efforts, educational and litter

1 prevention programs, and other programs to mitigate the environmental
2 impacts of single-use carryout bags.

3 c. Mitigation projects relating to storm water pollution, including devices to
4 prevent single-use carryout bag litter from entering storm drain systems.

5 d. Reusable bag giveaway programs, including those targeting low-income
6 residents.

7 e. As capital for low-income residents to pursue a business in the manufacture
8 and distribution of native reusable bags.

9 f. The revenues deposited in the Plastic Bag Recovery or Recycling Fund that
10 are generated from the penalties imposed pursuant to this chapter shall not be
11 used for activities unrelated to the prevention or reduction of litter or the
12 environmental impacts of single-use carryout bags.

13 SECTION 10. *Transition period.* – A transition period of two years from the approval of
14 this law shall be allowed to phase out the distribution and use of plastic bags and during such
15 transition period Section 5 of this Act shall be suspended; provided, that Section 6 and Section 7
16 of this Act shall be executory fifteen (15) days after the issuance and publication of the
17 Implementing Rules and Regulations.

18 SECTION 11. *Annual Report to Congress.* – The Secretary of the Department shall
19 submit a report within one year from the implementation of this Act on the revenue generated
20 and proposed use of the fund to be included in the general appropriations act in the following
21 year.

22 SECTION 12. *Implementing Rules and Regulations.* – The Secretary, after consultations
23 with the Department of Trade and Industry, Bureau of Internal Revenue, Philippine Information
24 Agency, consumer welfare nongovernment organizations, and stakeholders, shall prepare and
25 promulgate the Implementing Rules and Regulations (IRR) of this Act within sixty (60) days
26 after the effectivity of this Act.

27 SECTION 13. *Separability Clause.* – If any provision, or part hereof is held invalid or
28 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
29 valid and subsisting.

1 SECTION 14. *Repealing Clause.* – Any law, presidential decree or issuance, executive
2 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
3 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

4 SECTION 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
5 publication in at least two (2) newspapers of general circulation.

Approved,