

LOCAL LAW INTRO. NO. -2008

A Local Law Adding Chapter 828 to the Laws of Westchester County to Establish an At-Store Recycling Program For Plastic Bags.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 828 is hereby added to the Laws of Westchester

County to read as follows:

CHAPTER 828

AT-STORE RECYCLING PROGRAM FOR PLASTIC BAGS

Sec. 828.01. Definitions.

Wherever used in this title, the following terms shall be defined as follows unless the context or subject matter otherwise requires:

1. “*Operator*” shall mean a person in control of, or having daily responsibility for, the daily operation of a store, which may include, but is not limited to, the owner or manager of the store.
2. “*Plastic carryout bag*” shall mean a plastic carryout bag provided by a store to a customer at the point of sale and which is composed of Low Density Polyethylene (“LDPE”), Linear Low Density Polyethylene (“LLDPE”), Medium Density Polyethylene (“MDPE”) or High Density Polyethylene (“HDPE”).
3. “*Store*” as used herein shall mean a retail establishment that (1) provides plastic carryout bags to its customers as a result of the sale of a consumer good; and (2) occupies an area of ten thousand (10,000) square feet or more.

Sec. 828.02. At-Store Recycling Program; Requirements

The operator of a store shall establish an at-store recycling program as follows:

1. A plastic carryout bag collection bin (“bin”) shall be placed in a visible location that is easily accessible to the consumer. The color of such bin must highly visible and the bin must clearly indicate that it is intended for the recycling of plastic carryout bags only and not for the discarding of garbage. The

Department of Environmental Facilities has the authority to establish rules and regulations regarding the specific requirements of the bin as may be necessary.

2. The plastic carryout bag collection bin shall be available to the general public for the recycling of all clean plastic bags regardless of origin of said plastic bags. No store shall prohibit or otherwise limit the acceptance of plastic bags from any person unless said plastic bag is not appropriate for recycling.

3. All plastic carryout bags collected by the store are to be collected, transported and recycled in a manner consistent with all applicable laws or any rule or regulation promulgated pursuant to this law.

4. The operator of a store shall cooperate with the Westchester County Department of Environmental Facilities. Upon written request, the operator shall furnish the Westchester County Department of Environmental Facilities with information to verify that that plastic carry-out bags are being properly recycled in accordance with all applicable laws.

Sec. 828.03. Penalties.

The Westchester County Department of Environmental Facilities shall issue a written warning of noncompliance to any operator who violates any provision of this law. In the event that said operator fails to correct the violation, said operator shall be punished by a fine not to exceed One Hundred Dollars (\$100.00) for a first offense; by a fine not to exceed Five Hundred Dollars (\$500.00) for a second offense; and by a fine not to exceed One Thousand Dollars (\$1,000.00) for a third and each subsequent offense.

Sec. 828.04. Public Awareness Campaign.

The Westchester County Department of Environmental Facilities shall undertake a public awareness campaign which will include the development of educational materials regarding the benefits of recycling of plastic carryout bags; the proper recycling methods and the various recycling locations for plastic carryout bags throughout Westchester County.

Sec. 828.05. Reverse Preemption.

This law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The Board of Legislators may determine *via* resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Sec. 828.06. Severability

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 2. This Local Law shall take effect six (6) months after the date of enactment.