

Department of Consumer Affairs and Solid Waste Management Authority approve Regulation to enforce the Act for the Promotion of Reusable Bags and Prohibition of Disposable Plastic Bags

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PRACTICE AREAS

- Retail

An McV Retail Alert

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On December 24, 2015, the Governor of Puerto Rico signed into law the Act for the Promotion of Reusable Bags and Regulation of Plastic Bags in the Commonwealth of Puerto Rico, Act 247-2015 (the “Act”), which prohibits retail stores and other commercial establishments, **as of December 30, 2016**, from providing disposable plastic bags to customers. Under the Act, customers are allowed to bring their own plastic bags to the stores to carry their articles and products.

The ban does not apply to: (1) product bags or packages, such as handle-less plastic bags/packages used to transport farm products, meat and other articles that would prevent such products from damaging or contaminating other products, and (2) Security Tamper-Evident Bags. Also, the Act expressly exempts traditional restaurants, fast food restaurants, and other food establishments that receive more than 90% of their profits from the sale of foods prepared at the establishment.

The Act authorizes the Department of Consumer Affairs (DACO) and the Solid Waste Management Authority (SWMA) to enact a regulation to enforce the provisions of the Act, including the **sign requirement** and the **administrative penalties**.

As authorized by the Act, on November 30, 2016, DACO and SWMA approved a “Joint Regulation for the Promotion of Reusable Bags and for the Use of Plastic Bags in the Commonwealth of Puerto Rico.”

Pursuant to the Regulation, from December 30, 2016 onward, the stores cannot offer their clients disposable plastic bags to carry their articles and products; must allow their clients to use their bags to carry the articles and products; could offer paper bags and charge for those bags (but the stores that currently offer paper bags cannot charge for them after December 30); and must have reusable bags to offer or sell to the clients. These bags have to meet certain criteria with regard to the bag’s design, durability, and strength.

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The Regulation requires the stores to establish a recycling program for plastic bags, to be approved by SWMA, that includes the placement of at least one bin in the stores to allow the clients to place the disposable plastic bags to be recycled.

The Regulation also requires the stores to provide training sessions to the employees to promote the use of reusable bags.

The Regulation requires the stores to place signs, for 12 months, at the cash registers and at the entrances to inform their customers about the prohibition to offer disposable plastic bags and the promotion of reusable bags. This sign can be included with any other sign required to be placed at the stores. The text to be included in such signs is the following:

Comercio Libre de Bolsas Plásticas Desechables

Desde el 30 de diciembre de 2016, a tenor con la Ley 247-2015, todo establecimiento comercial ubicado en el Estado Libre Asociado de Puerto Rico, estará impedido de entregar o despachar los artículos adquiridos en bolsas plásticas desechables. Este establecimiento comercial, a tono con la Ley 247-2015, es un Comercio Libre de Bolsas Plásticas Desechables. Por ende, les exhortamos a utilizar bolsas reusables para cargar sus artículos, y a que depositen sus bolsas plásticas usadas en los contenedores para esos fines, ubicados en la salida de los establecimientos comerciales, a tenor con la Ley 70-1992, según enmendada.

The Regulation provides that DACO and/or the municipalities that adopt ordinances similar to the Act can issue penalties in the amount of \$100 for the first violation, in the amount of \$150 for the second violation, and in the amount of \$200 for the subsequent violations. The Regulation also provides that DACO can issue penalties in the amount of \$500 for failure to have the recycling bins at the stores.

From December 30, 2016 until June 30, 2017, DACO can only issue Notices of Orientation to the stores that are not in compliance with the Act or the Regulation. From July 1, 2017, DACO can issue Notices of Violation imposing the

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penalties indicated above.

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