

Act for the Promotion of Reusable Bags and Prohibition of Plastic Bags

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PRACTICE AREAS

- Environmental Regulation
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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”).

As its name suggests, Act 247-2015 aims to promote the use of reusable bags and prohibits retail stores and other commercial establishments, **as of December 24, 2016**, from providing plastic bags to customers. Under the Act, customers are allowed to bring their own plastic bags to the establishments to carry and transport 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.

Pursuant to the Act, commercial establishments are allowed to provide paper bags and recover their costs from customers, at their discretion. On the other hand, its Article 3 requires the payment of a non-discretionary fixed charge, which is not determined in the Act, per each paper bag provided to customers.

The Act also requires reusable bags sold to customers to meet certain criteria with regard to the bag’s design, durability, and strength.

The Act requires commercial establishments to place signs at cash registers and at the entrance to inform their customers about the approval and implementation of the Act. Its Article 5 provides the text to be included in such signs.

Persons or entities that violate the Act may be subject to administrative penalties to be imposed by the Puerto Rico Consumer Affairs Department (DACO) or the municipality that adopts ordinances similar to the Act. DACO and the Puerto Rico Solid Waste Management Authority (“SWMA”) are required to adopt rules and regulations within sixty (60) days after the promulgation of the Act.

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Although not mentioned in the Act, it supersedes Executive Order OE-2015-40 which directs SWMA to adopt regulations to prohibit, as of July 1, 2016, the distribution of plastic bags by retailers through a solid waste reduction program.

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