

November 4, 2015

Retail and Government Affairs Update

Plastic Bags: A Species in Extinction

What do Chicago, Ill.; San Francisco, Ca.; and Rincón, P.R. have in common? Yes, all of them have a beauty of their own but more so, they each have banned grocery plastic bags. States have now gotten into the act and California approved such a ban but later adopted a proposal to stay the effects of the ban. Puerto Rico also got into the act and almost approved HR1100 (the "Bill") which cleared the Senate and when in Conference Committee, it was the House solons that did not have enough votes to clear the measure that the Governor was ready to sign. A different twist was given to the matter.

Governor Garcia Padilla was publicly committed, as his administration, to eliminate the plastic grocery bags that have created problems with our marine life, the beaches and the municipal solid waste facilities. Using the powers of his office while urging legislators to finish the job they started, he adopted Administrative Order OE2015-0 (the "Order") which orders the Solid Waste Authority ("ADS", by its Spanish acronym) to prohibit the dispensing of plastic bags at commercial establishments of the Commonwealth of Puerto Rico. In doing so, he relied heavily in the findings and publications of the Earth Policy Institute and the policies of the E.P.A. The ban of the plastic grocery bags is to commence on July 1, 2016.

The implementation of the Order falls upon ADS that must start an orientation program for merchants as well as the general public emphasizing what is not to be used as what is permitted and encouraged to use when carrying groceries or other products.

Of course, large retailers with presence in cities where like bans have been enacted know what they are to do, but the small and medium size retailers ("PYMES", by its Spanish acronym) have to grapple with the problem from a new perspective: no funds are provided by the Order. Let's look into this.

Politically speaking---and the elections for all elective officials will take place in November 2016--this Bill contains another tax: 15 cents per paper bag which is perceived by politicians as another tax. Because of the present economic situation in Puerto Rico politicians are running under the "no more taxes" umbrella; thus the explanation for shelving the bill is rather obvious: no more taxes. This creates a problem: how to finance the ban, the educational campaign, etc. ADS will have to fund the program.

Retailers will have to come up with the alternatives to deal with the offering of reusable bags and the pricing for such if they are not willing to take upon themselves the costs of the bags that are to be made available or empty cartons or boxes like some retailers do as of now to allow customers to carry home purchases. The problem the PYMES point to is that this generates more uncertainty in an already difficult economic situation and ads costs. Bottom line:



For more information on this Legal Update, please contact:

Héctor Reichard

reichard@reichardescalera.com
787.777.8801

Juan Carlos Méndez

jcmendez@reichardescalera.com
787.777.8834

Celia I. Acevedo

acevedo@reichardescalera.com
787.777.8811

Agustín González

gonzaleza@reichardescalera.com
787.777.8837

be it by virtue of the Order or the passage of the Bill, plastic grocery bags are on the way out in Puerto Rico.

This communication is for information purposes only and does not constitute legal advice. This communication may be based on authorities that are subject to change and is not a substitute for professional advice or services. You should consult a qualified professional advisor before taking any action based on the information herein. This communication does not create an attorney-client relationship between Reichard & Escalera and the recipient.

[Unsubscribe.](#)