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HOUSE BILL NO. 1115

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend the Code of Virginia by adding in Chapter 17 of Title 58.1 an article numbered 9, consisting of sections numbered 58.1-1734, 58.1-1735, and 58.1-1736, relating to the Virginia Waterways Clean Up and Consumer Choice Act; paper and plastic bag fee.

Patrons—Ebbin, Bulova, Englin, Herring, Kory and Spruill

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 17 of Title 58.1 an article numbered 9, consisting of sections numbered 58.1-1734, 58.1-1735, and 58.1-1736, as follows:

Article 9.

Virginia Waterways Clean Up and Consumer Choice Act

§ 58.1-1734. Paper and plastic bag fee.

There is hereby levied, upon every consumer of tangible personal property, a fee in the amount of $0.05 for each disposable paper bag and each disposable plastic bag provided to the consumer by retailers in grocery stores, convenience stores, and drugstores. The fee shall be collected by the retailer, along with the purchase price and any other fees and taxes, at the time the consumer pays for such personal property. Retailers that provide disposable bags for consumers shall post highly visible signs encouraging consumers to recycle such bags.

§ 58.1-1735. Exemptions.

The fee imposed by this article shall not apply to the following:

1. Durable plastic bags, with handles, that are at least 2.25 mils thick and are specifically designed and manufactured for multiple reuse;

2. Plastic bags used to carry ice cream, meat, fish, poultry, leftover restaurant food, newspapers, dry cleaning, and prescription drugs; and

3. Multiple plastic bags sold in packages and intended for use as garbage, pet waste, and leaf removal bags.

§ 58.1-1736. Remittance of fees to the Department; Virginia Water Quality Improvement Fund.

A. The fees collected shall be remitted to the Department of Taxation at the same time and in the same manner as the sales and use tax revenues are remitted in accordance with the provisions of § 58.1-615. However, every retailer that collects the fee imposed by this article shall be allowed to retain $0.01 from every $0.05 collected, or $0.02 from every $0.05 collected if the store has a customer bag credit program, provided such fees are accounted for in the form of a deduction when submitting his return and paying the amount due in a timely manner.

B. The revenue resulting from the remittance of the fee authorized herein shall be deposited into the Virginia Water Quality Improvement Fund as established by Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1.

§ 58.1-1737. Penalty for failure to collect and remit the fee.

Any retailer subject to the provisions of this article who fails to collect the and remit the fee as required herein shall be subject to a fine of $250 for the first offense, $500 for the second offense, and $1,000 for the third offense and each one thereafter. The Department shall enforce the provisions of this article.