

**DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement**

REVISED

1. Patron Adam P. Ebbin

2. Bill Number HB 1115

3. Committee House Finance

House of Origin:

 Introduced

 X **Substitute**

 Engrossed

4. Title Miscellaneous Taxes; Paper and Plastic Bag
Fee

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would impose a \$0.05 fee on every disposable paper and plastic bag provided to a consumer of tangible personal property in grocery stores, convenience stores, and drug stores by retailers. The fee would be separately stated on the consumer's receipt and would not be subject to the Retail Sales and Use Tax. In addition, the fee would be collected along with the purchase price and any other fees and taxes, at the time the consumer pays for the personal property.

Certain reusable carryout bags with handles that are specifically designed for multiple use would be exempt from the fee. In addition, plastic bags used to carry packaged bulk items, frozen foods, meat, fish, poultry, flowers, potted plants, other damp items, unwrapped prepared foods or bakery items, newspapers, laundry, dry cleaning, and certain prepared food would be exempt from the fee. Bags provided by pharmacists to carry prescription drugs and certain packages of multiple plastic bags would also be exempt from the fee.

This bill provides that TAX's costs for implementing and administering the fee would be subtracted from the revenues generated by it. The remaining revenue would be first allocated to the Department of Environmental Quality ("DEQ") for a public information and outreach campaign and then any remaining revenue would be deposited into the Water Quality Improvement Fund.

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7. Budget amendment necessary: Yes.
ITEM(S): 262, Department of Taxation

This bill would allow TAX to recover its direct costs of administering the plastic and paper bag fee. TAX recommends that the language set forth below be inserted into Item 262 to appropriate such revenues to TAX:

J. The Department of Taxation is hereby appropriated revenues from the plastic and paper bag fee imposed pursuant to § 58.1-1734, *Code of Virginia*, to recover the direct costs of administration incurred by the Department in implementing and collecting such fee.

Budget amendments would also be needed to allocate the remaining revenue generated by this bill to DEQ and the Water Quality Improvement Fund.

8. Fiscal implications:

Administrative Costs

This bill provides that TAX's administrative costs would be subtracted from the revenues generated by the fee.

TAX would incur estimated administrative expenses of \$76,411 in Fiscal Year 2010, \$184,985 in Fiscal Year 2011, \$27,401 in Fiscal Year 2012, \$27,999 in Fiscal Year 2013, \$28,598 in Fiscal Year 2014, \$29,200 in Fiscal Year 2015, and \$29,804 in Fiscal Year 2016. This would include costs for making forms and systems changes in Fiscal Year 2010 to capture and process this new tax as well as costs for the notification of affected dealers. Ongoing costs would be for tax return processing.

Revenue Impact

This bill would result in an unknown revenue gain. The amount is highly dependent on consumer reaction to the tax. To the extent that the fee provides an incentive for shoppers to use reusable bags or stop using disposable bags, the revenue would decline. Washington, D.C. projected a \$3.6 million gain in revenue from its \$0.05 disposable bag fee in the first year. Assuming a similar per capita bag usage in Virginia, this bill would produce \$47.9 million in revenue in the first year.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Environmental Quality

10. Technical amendment necessary: No.

11. Other comments:

Other Jurisdictions

Washington, D.C. imposed a disposable bag fee of \$0.05 effective January 1, 2010. The City of Seattle approved a disposable bag fee of \$0.20 in 2009, but the fee referendum failed to pass. New York City has had proposals for the last two years to impose a disposable bag fee, but both failed to pass. Ireland adopted a \$0.33 disposable bag fee in 2002. Within weeks of Ireland's fee taking effect, plastic bag consumption decreased by 94 percent.

Proposal

This bill would impose a \$0.05 fee on every disposable paper and plastic bag provided to a consumer of tangible personal property in grocery stores, convenience stores, and drug stores by a retailer.

The following would be exempt from the fee:

- 1) Reusable carryout bags, with handles, that are specifically designed and manufactured for multiple reuse and are made of cloth, fiber, other machine washable fabric, or durable plastic that is at least 2.25 mils thick;
- 2) Plastic bags used to carry packaged bulk items such as fruit, vegetables, nuts, grains, candy, or small hardware items; frozen foods, meat, fish, or poultry whether prepackaged or not; flowers, potted plants, or other damp items; unwrapped prepared foods or bakery items; newspapers; laundry; dry cleaning; and food prepared by street vendors, restaurants, and other vendors for take-out;
- 3) Bags provided by pharmacists to carry prescription drugs; and
- 4) Multiple plastic bags sold in packages and intended for use as food storage, garbage, pet waste, and leaf removal bags.

Under the terms of this bill, the fee would be collected along with the purchase price and any other fees and taxes, at the time the consumer pays for the personal property. The fee would not be subject to the Retail Sales and Use Tax. In addition, retailers would be required to indicate the number of disposable bags provided and the total fee amount charged on the transaction receipt. Retailers would be responsible for collecting and remitting the fee to TAX at the same time and in the same manner as they collect and remit the Retail Sales and Use Tax. This bill would prohibit a retailer from advertising that he would assume or absorb the fee or otherwise refund the fee to the consumer.

The retailer would be allowed to retain \$0.01 from every \$0.05 collected or \$0.02 from every \$0.05 collected if the store had a customer bag credit program, provided such fees are accounted for in the form of a deduction when submitting the return and paying the amount due in a timely manner. This bill provides that the amount of the fee retained by the retailer would not be considered income for tax purposes.

This bill provides that TAX's administrative costs would be subtracted from the revenues generated by the fee. The remaining revenue would be first allocated to DEQ for a public information and outreach campaign and then any remaining revenue would be deposited into the Water Quality Improvement Fund.

This bill provides that DEQ would implement a public information campaign that would educate the public on the importance of reducing the number of disposable bags entering the waste stream and the impact of disposable bags on the overall environmental health of the Commonwealth. In addition, this bill provides that the DEQ would implement a public outreach campaign that includes developing a public-private partnership to provide reusable bags and working with service providers that assist seniors and low-income residents to distribute information and reusable bags.

Any retailer who fails to collect and remit the fee as required would be subject to a fine of \$250 for the first offense, \$500 for the second offense, and \$1000 for each subsequent offense.

Retailers that provide disposable bags to consumers would be required to post highly visible signs encouraging consumers to recycle such bags.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/8/2010 JKM
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