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HOUSE BILL NO. 117

Offered January 8, 2014

Prefiled December 17, 2013

A *BILL to amend the Code of Virginia by adding in Chapter 17 of Title 58.1 an article numbered 10.1, consisting of sections numbered 58.1-1743 through 58.1-1747, and by adding in Chapter 38 of Title 58.1 an article numbered 7.01, consisting of a section numbered 58.1-3832.1, relating to a paper bag and plastic bag tax.*

Patron—Morrissey

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 10.1, consisting of sections numbered 58.1-1743 through 58.1-1747, and by adding in Chapter 38 of Title 58.1 an article numbered 7.01, consisting of a section numbered 58.1-3832.1, as follows:

*Article 10.1.**Disposable Paper Bag and Plastic Bag Tax.***§ 58.1-1743. Paper and plastic bag tax.**

There is hereby levied beginning July 1, 2015, upon every consumer of tangible personal property a tax in the amount of five cents (\$0.05) for each disposable paper bag or disposable plastic bag provided, whether or not provided free of charge, to the consumer by retailers in grocery stores, convenience stores, or drug stores. The tax shall be collected by the retailer, along with the purchase price and all other fees and taxes, at the time the consumer pays for such personal property.

§ 58.1-1744. Exemptions.

The tax 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, and dry cleaning;*
- 3. Paper and plastic bags used to carry alcoholic beverages or prescription drugs; and*
- 4. Multiple plastic bags sold in packages and intended for use as garbage, pet waste, or leaf removal bags.*

§ 58.1-1745. Remittance of tax revenues to the Department; revenues deposited into the Virginia Water Quality Improvement Fund.

A. As used in this section, "customer bag credit program" means a program established by the retailer to provide a customer with a discount for bringing a bag to package his own purchases.

B. The tax revenues collected shall be remitted by the retailer 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 tax imposed by this article shall be allowed to retain one cent (\$0.01) from every five cents (\$0.05) collected, or two cents (\$0.02) from every five cents (\$0.05) collected if the retailer has a customer bag credit program, provided such retailer discounts are accounted for in the form of a deduction when submitting the tax return and paying the amount due in a timely manner.

C. The revenues from the tax imposed under this article shall be deposited by the Comptroller into the Virginia Water Quality Improvement Fund established under § 10.1-2128.

§ 58.1-1746. Penalty for failure to collect and remit the tax.

Any retailer subject to the provisions of this article who fails to collect and remit the tax 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 or subsequent offense.

§ 58.1-1747. Tax Commissioner to develop guidelines; enforcement of the tax.

The Tax Commissioner shall develop and make publicly available guidelines implementing the provisions of this article and Article 7.01 (§ 58.1-3832.1) of Chapter 38. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

The Department shall enforce the provisions of this article and Article 7.01 (§ 58.1-3832.1) of Chapter 38.

*Article 7.01.**Disposable Paper Bag and Plastic Bag Tax.*

INTRODUCED

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59 **§ 58.1-3832.1. Paper and plastic bag tax.**

60 A. Beginning July 1, 2015, any county or city may, by duly adopted ordinance, impose upon every
61 consumer of tangible personal property a tax in the amount of five cents (\$0.05) for each disposable
62 paper bag or disposable plastic bag provided, whether or not provided free of charge, to the consumer
63 by retailers in grocery stores, convenience stores, or drug stores. The Tax Commissioner shall collect,
64 administer, and enforce the tax in the same manner that he collects, administers, and enforces the state
65 disposable paper bag and disposable plastic bag tax under Article 10 (§ 58.1-1743 et seq.) of Chapter
66 17. However, the revenues from the tax authorized under this section shall be distributed by the
67 Comptroller to the respective county or city imposing the tax as soon as practicable after the end of
68 each month for which the tax is imposed. All other provisions of Article 10 of Chapter 17 shall apply to
69 the tax authorized under this section, *mutatis mutandis*.

70 B. Each county or city ordinance imposing the tax shall provide for the tax to become effective on
71 the first day of any calendar quarter. The county or city shall, at least six months prior to the date the
72 tax is to become effective, provide a certified copy of such ordinance to the Tax Commissioner.