

# DEPARTMENT OF TAXATION

## 2014 Fiscal Impact Statement

1. **Patron** Joseph D. Morrissey

3. **Committee** House Finance

4. **Title** Miscellaneous State and Local Tax;  
Disposable Bag Tax

2. **Bill Number** HB 117

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would impose a \$0.05 state tax, beginning July 1, 2015, on each disposable paper and plastic bag provided to consumers by retailers in grocery stores, convenience stores, and drug stores. Retailers would be required to collect and remit the new tax and file returns in the same manner as with the Retail Sales and Use Tax. The bill would also authorize retailers that collect the tax to retain one cent for every five cents collected, or two cents from every five cents collected if the store has a customer bag credit program. Revenues from the state tax would be deposited into the Virginia Water Quality Improvement Fund.

The bill would also authorize counties and cities, beginning July 1, 2015 to impose an additional \$0.05 tax, to be administered in the same manner as the state tax, on each disposable paper or plastic bag sold by retailers in grocery, convenience and drug stores. The revenues from the tax would be distributed to the locality imposing the tax.

Finally, the bill would require the Tax Commissioner to enforce the state and local bag taxes and to develop guidelines implementing the taxes.

The effective date of this bill is not specified.

### 6. **Budget amendment necessary:** Yes.

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**7. Fiscal Impact Estimates are:** Not available. (See Line 8.)

**7a. Expenditure Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>Fund</b></i>
2013-14	\$0	0	GF
2014-15	\$162,000	0	GF
2015-16	\$52,000	0	GF
2016-17	\$162,000	2	GF
2017-18	\$161,000	2	GF
2018-19	\$166,000	2	GF
2019-20	\$168,100	2	GF

**8. Fiscal implications:**

Administrative Costs Impact

In implementing, administering, and enforcing the state and local bag tax, the Department would incur administrative costs of \$162,000 in Fiscal Year 2015, \$52,000 in Fiscal Year 2016, \$162,000 in Fiscal Year 2017, \$161,000 in Fiscal Year 2018, and \$166,000 in Fiscal Year 2019. The Department's primary costs in Fiscal Year 2015 would be incurred expanding sales tax returns and other forms to include additional lines, changing the Department's systems to account for the additional state and local bag tax, and distributing mailers to affected taxpayers to notify them of the new taxes. As the bill would allow for a local bag tax, local schedules would be needed to ensure accurate distribution. The Department would also need to hire two full time auditors to perform audits beginning in Fiscal Year 2017.

Revenue Impact

The tax proposed in this bill would result in an increase in state and local revenue, the magnitude of which is unknown.

The proposed state tax is very similar to the taxes adopted in the District of Columbia in 2009 and in Montgomery County, Maryland in 2011, both of which are imposed at the rate of 5 cents per bag, with a portion retained by the retailer for timely filing. Based upon the revenue generated from these similar bills and taking into account the larger population in Virginia, the state tax proposed in this bill could potentially generate between \$19 million and \$26 million annually for the Virginia Water Quality Improvement Fund. As the purpose of the bill is to change consumer behavior with respect to the use of disposable bags, the timing and extent of the change in behavior may significantly affect this estimate.

As the local bag taxes proposed in this bill are permissive, it is not known which localities, if any, would choose to enact the tax. Therefore, the amount of the local tax revenue gain is unknown.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

All localities

**10. Technical amendment necessary:** No.

**11. Other comments:**

Proposal

**State Bag Tax**

This bill would impose a \$0.05 state tax on every disposable paper and plastic bag provided to a consumer in grocery stores, convenience stores, and drug stores. Durable plastic bags with handles that are at least 2.25 mils thick and are specifically designed and manufactured for multiple re-use would be exempt from this tax. Plastic bags used to carry ice cream, meat, fish, poultry, leftover restaurant food, newspapers, dry cleaning, and prescription drugs, as well as multiple plastic bags sold in packages and intended for use as garbage, pet waste, and leaf removal bags would be exempt from the tax.

Under the terms of this bill, the tax would be collected along with the purchase price and any other fees and taxes, at the time the consumer pays for personal property. The tax would not be included in the sales price of the overall purchase, and therefore would not be subject to the Retail Sales and Use Tax. Retailers would be responsible for collecting and remitting the tax to the Department of Taxation in the same manner as they collect and remit the Retail Sales and Use Tax. The Comptroller would be required to deposit the revenues from the tax into the Virginia Water Quality Improvement Fund.

The bill would also authorize qualifying retailers to retain \$0.01 from every \$0.05 state tax collected as compensation for collecting the bag tax. In order to be entitled to the compensation, the retailer would need to deduct the amount of the compensation when submitting his returns, and would need to timely pay the amount due. Retailers with customer bag credit programs, in which the retailer provides a customer with a discount for bringing a bag to package his own purchases, would be entitled to \$0.02 from every \$0.05 collected, and would need to meet the same requirements.

Under the terms of this bill, any retailer who fails to collect and remit the tax would 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 subsequent offense.

**Local Bag Tax**

The bill would also authorize counties and cities to enact ordinances imposing an additional \$0.05 tax on every disposable paper or plastic bag sold by retailers in grocery, convenience, and drug stores. The tax revenues generated from the local bag tax would be distributed monthly to the county or city imposing the tax. The Tax Commissioner would administer, collect, and enforce the local tax in the same manner as the state bag tax, granting the same exemptions for certain plastic bags, authorizing retailers to retain a portion of the tax collected for timely filing, and imposing the same \$250, \$500, and \$1,000 fines for first, second, and third offenses respectively.

Under the terms of the bill, the ordinance imposing the tax would need to specify that the tax will become effective on the first day of a calendar quarter. The locality would be required to provide the Tax Commissioner with a certified copy of the ordinance imposing the tax at least six months prior to the effective date of the tax.

The bill would also require that the Tax Commissioner develop and make publicly available guidelines implementing the state and local tax.

The effective date of this bill is not specified.

#### Other Localities

**District of Columbia:** Currently, the District of Columbia imposes a fee on disposable carry-out bags. Retailers that sell food or alcohol must charge a \$0.05 fee for each paper or plastic disposable bag provided to customers at the point of sale. Retailers may retain \$0.01 of the tax collected or \$0.02 if the retailer allows customers a credit for providing their own bags for packaging purchases.

**Montgomery County, Maryland:** Montgomery County enacted legislation in 2011 that imposes a five-cent fee on every paper or plastic carryout bag provided by retail establishments in the County, and allows retailers to retain 1 cent for the bags they sell a customer. Revenues from the tax are deposited into the County's Water Quality Protection Charge fund.

#### Similar Legislation

**Senate Bill 320** would authorize certain localities in Northern Virginia (known as Planning District 8) to impose a \$0.05 tax on disposable paper and plastic bags, the revenues from which would be distributed to the locality imposing the tax.

cc : Secretary of Finance

Date: 1/12/2014 KP  
DLAS File Name: HB117F161