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SENATE BILL NO. 11

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 10, 2020)

(Patrons Prior to Substitute—Senators Ebbin, Petersen [SB 26], and Locke [SB 198])

A *BILL to amend the Code of Virginia by adding in Chapter 38 of Title 58.1 an article numbered 7.2, consisting of sections numbered 58.1-3835 through 58.1-3838, relating to a state disposable plastic bag tax.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 38 of Title 58.1 an article numbered 7.2, consisting of sections numbered 58.1-3835 through 58.1-3838, as follows:

Article 7.2.

Plastic Bag Tax.

§ 58.1-3835. State disposable plastic bag tax.

A. There is hereby imposed a state tax in the amount of five cents (\$0.05) for each disposable plastic bag provided, whether or not provided free of charge, to a consumer of tangible personal property by retailers in grocery stores, convenience stores, or drugstores. Any tax imposed under this section 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, and such tax shall be remitted to the Department.

B. After applying the discount provided in § 58.1-3837, tax revenue collected pursuant to this section shall accrue to the general fund.

§ 58.1-3836. Exemptions.

Any tax imposed pursuant to the provisions of this article shall not apply to the following:

1. Durable plastic bags with handles that are specifically designed and manufactured for multiple reuse;

2. Plastic bags used to carry ice cream, meat, fish, poultry, produce, unwrapped bulk food items, perishable food items, leftover restaurant food, newspapers, or dry cleaning;

3. 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.

§ 58.1-3837. Retailer discount.

A. Beginning July 1, 2021, and ending July 1, 2023, every retailer that collects the tax imposed by this article shall be allowed to retain two cents (\$0.02) from the tax collected on each disposable plastic bag, provided that each such retailer shall dedicate at least 50 percent of such retained amount to promoting the use of reusable bags by its customers, according to procedures and guidelines established by the Department.

B. Beginning July 1, 2023, every retailer that collects the tax imposed by this article shall be allowed to retain one cent (\$0.01) from the tax collected on each disposable plastic bag, and there shall be no restriction on the use of such retained amount.

C. Any retailer that retains a discount pursuant to this section shall account for it in the form of a deduction when submitting the tax return and paying the amount due in a timely manner.

§ 58.1-3838. Administration.

The Tax Commissioner shall collect, administer, and enforce all taxes imposed pursuant to the provisions of this article in the same manner that he collects, administers, and enforces the retail sales and use tax under Chapter 6 (§ 58.1-600 et seq.), mutatis mutandis. However, the dealer discount provided under § 58.1-622 shall not be allowed. The Tax Commissioner shall develop and make publicly available guidelines implementing the provisions of this article. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That the provisions of this act shall become effective on July 1, 2021.