

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Alfonso H. Lopez

3. **Committee** House Finance

4. **Title** Local Tax/Prohibition: Single-use Plastic and Expanded Polystyrene Products

2. **Bill Number** HB 1151

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would permit any locality to prohibit by ordinance the purchase, sale, or provision, whether free or for a cost, of certain single-use products that are not recyclable or compostable and for which there is a suitable and cost-effective compostable or recyclable alternative product available. Certain products would be exempt from the prohibition.

The bill would also authorize any locality to impose a five-cent per item tax on single-use plastics and polystyrene products provided to customers by certain retailers. Certain products would be exempt from the tax.

The bill would direct revenue from the local tax to be used by the locality imposing the tax for cleanup or education programs designed to reduce waste. It would also allow every restaurant or retailer that collects the tax to retain one cent of the five-cent tax if the tax is paid in a timely manner.

If enacted during the Regular Session of the 2020 General Assembly, this bill would become effective July 1, 2020.

6. **Budget amendment necessary:** Yes

Item 273, Department of Taxation

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

8. **Fiscal implications:**

Administrative Costs

This bill would result in administrative costs to the Department of \$61,000 in Fiscal Year 2020; \$533,000 in Fiscal Year 2021; \$15,000 in Fiscal Years 2022 and 2023; and then \$14,000 annually thereafter. Such expenses would be associated with forms and systems changes, and notifying taxpayers of the new tax.

The Department would need the following budget amendment to recover its costs from the revenues collected:

Y. The Department of Taxation is hereby appropriated revenues from the single-use products tax to recover any administrative costs for collecting the tax incurred by the Department of Taxation as provided by § 58.1-3835 (C), Code of Virginia.

This bill could result in unknown administrative costs to localities that adopt the local prohibition or tax.

Revenue Impact

This bill would have no impact on state revenues.

The tax proposed in this bill could result in a local revenue gain beginning in Fiscal Year 2021. The magnitude of the revenue gain from this tax depends upon the localities that impose the tax, the number of bags used, and consumer shopping behavior.

9. Specific agency or political subdivisions affected:

Department of Taxation

Localities that choose to impose the tax or prohibition

10. Technical amendment necessary: No

11. Other comments:

Neighboring 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.

Proposal

This bill would permit any locality to prohibit by ordinance the purchase, sale, or provision, whether free or for a cost, of "single-use products" that are not recyclable or compostable and for which there is a suitable and cost-effective compostable or recyclable alternative product available.

The bill would define “single-use product” as any cotton swab stick, tobacco product filter, food container, beverage cup or bottle, piece of cutlery, plate, stirrer, straw, plastic carrier bag, or similar article that is made wholly or mostly from plastic or expanded polystyrene and is:

- Not conceived, designed, or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to the producer for refill or reused for the same purpose for which it was conceived: or
- Generally recognized by the public as an item to be discarded after one use

A locality that adopts an ordinance to prohibit these items would be permitted to exempt:

- Single-use plastic straws intended for use by elderly persons or persons with a disability for which use of a straw is necessary or provides significant assistance; or
- Single-use products that are (i) made of expanded polystyrene and are filled with food or beverages and sealed before entering the locality or (ii) used to package raw, uncooked, or butchered meat, fish, poultry, or seafood for off-premises consumption.

The bill would also authorize any locality to impose, by ordinance, upon every consumer of tangible personal property a tax in the amount of five cents (\$0.05) for each single-use product provided, whether free or for a cost, to the consumer by a restaurant or retailer in a grocery store, convenience store, or drugstore. The tax would be collected by the restaurant or retailer, along with the purchase price and all other fees and taxes, at the time the consumer pays for such personal property.

The bill would define “single-use product” to mean any food container, beverage cup or bottle, piece of cutlery, plate, stirrer, straw, “plastic carrier bag,” or similar article that is made wholly or mostly from plastic or expanded polystyrene and is (i) not conceived, designed, or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to the producer for refill or reused for the same purpose for which it was conceived or (ii) generally recognized by the public as an item to be discarded after one use.

“Plastic carrier bag” would not include the following:

- Durable plastic bags with handles that are (i) at least 2.25 mils in thickness and (ii) specifically designed and manufactured for multiple reuse;
- Plastic bags used to carry ice cream, meat, fish, poultry, leftover restaurant food, newspapers, or dry cleaning;
- Plastic bags used to carry alcoholic beverages or prescription drugs; or
- Multiple plastic bags sold in packages and intended for use as garbage, pet waste, or leaf removal bags

Although the Department does not generally administer local taxes, this bill provides that the Tax Commissioner would collect, administer, and enforce this tax in the same manner that he collects, administers, and enforces the retail sales and use tax. The revenues from the tax would be distributed by the Comptroller to the respective locality imposing the tax as soon as practicable after the end of each month for which the tax is remitted after reimbursement of direct costs incurred by the Department of Taxation in administering and collecting this tax. The Tax Commissioner would be required to develop and make publicly available guidelines implementing the provisions of this section.

The bill would direct that revenue from the local tax be used by the locality imposing the tax for cleanup or education programs designed to reduce waste. It would also provide that the general dealer discount for Retail Sales and Use Tax would not be allowed but every restaurant or retailer that collects the tax could retain one cent of the five-cent tax if the tax is paid in a timely manner.

If enacted during the Regular Session of the 2020 General Assembly, this bill would become effective July 1, 2020.

Similar Legislation

Senate Bill 26 would impose a five-cent per bag tax on plastic bags provided to customers by certain retailers in localities located wholly within the Chesapeake Bay Watershed and directs revenues to be used to support the Chesapeake Bay Watershed Implementation Plan.

Senate Bill 11 would allow any locality to impose a tax in the amount of five cents upon every consumer of tangible personal property for each disposable paper bag or disposable plastic bag provided to the consumer by retailers in grocery stores, convenience stores, or drugstores, whether or not provided free of charge.

Senate Bill 193 is identical to this bill.

House Bill 534 would authorize any locality to impose a tax of five cents per bag on disposable plastic bags provided to consumers by certain retailers. Revenues from the local tax would be collected by the Tax Commissioner and distributed monthly to the locality imposing the tax to be used by such locality for the mitigation of pollution and litter.

cc: Secretary of Finance

Date: 1/15/2020 SK
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