

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Betsy B. Carr

3. **Committee** House Finance

4. **Title** Local Disposable Plastic Bag Tax

2. **Bill Number** HB 534

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow any locality to impose a tax in the amount of five cents (\$0.05) upon every consumer of tangible personal property for each disposable plastic bag provided to the consumer by retailers in grocery stores, convenience stores, or drug stores, whether or not provided free of charge. The bill would authorize retailers that timely collect the tax to retain one cent for every five cents collected. The plastic bag tax would not apply to:

- Durable plastic bags with handles that are specifically designed and manufactured for multiple reuse;
- 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;
- Plastic bags used to carry alcoholic beverages or prescription drugs; and
- Multiple plastic bags sold in packages and intended for use as garbage, pet waste, or leaf removal bags.

The tax would be administered by the Department of Taxation ("the Department"). Under the terms of the bill, the Department would be required to develop guidelines for implementing this tax.

If enacted during the 2020 Regular Session of the 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:** Preliminary. (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 Disposable Plastic Bag 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.

Revenue Impact

This bill would have no impact on state revenues.

The tax proposed in this bill would result in a local revenue gain beginning in Fiscal Year 2021. The magnitude of the revenue gain from this tax would depend on the number of localities that impose the tax, as well as the number of bags used and consumer shopping behavior. Based upon revenue generated from similar taxes in the District of Columbia and Montgomery, Maryland, the tax proposed in this bill could potentially generate aggregate local revenues between \$16.6 million and \$19.9 million annually.

9. Specific agency or political subdivisions affected:

Department of Taxation
Localities that choose to impose the tax

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.

Proposal

This bill would allow localities to impose a tax in the amount of five cents (\$0.05) upon every consumer of tangible personal property for each disposable plastic bag provided to the consumer by retailers in grocery stores, convenience stores, or drugstores, whether or not provided free of charge. The bill would authorize retailers that timely collect the tax to retain one cent for every five cents collected. The plastic bag tax would not apply to:

- Durable plastic bags with handles that are specifically designed and manufactured for multiple reuse;
- 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;
- Paper and plastic bags used to carry alcoholic beverages or prescription drugs; and
- Multiple plastic bags sold in packages and intended for use as garbage, pet waste, or leaf removal bags.

The tax would be administered by the Department. The Tax Commissioner would be required to collect, administer, distribute, and enforce the tax in the same manner as the Retail Sales and Use tax. In addition, the Tax Commissioner would be required to develop and make publicly available guidelines implementing the provisions of this bill. Such guidelines would be exempt from the provisions of the Administrative Process Act.

Each locality imposing the bag tax would be required to do so by ordinance. The ordinance would be required to (i) be provided to the Tax Commissioner at least six months prior to the date upon which the tax is to be effective, by certified copy; (ii) provide for the tax to be effective on the first calendar day of any calendar quarter; and (iii) provide that the locality will use the funds for pollution and litter mitigation.

The bill would also require that, after the Department has been reimbursed its direct costs of administering and collecting this tax, the remaining funds are to be distributed by the Comptroller to the respective county or city imposing the tax as soon as practical after the end of each month for which the tax is remitted.

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

Similar Legislation

Senate Bill 11 would authorize any locality to impose, by ordinance, a \$0.05 tax on certain disposable paper bags and disposable plastic bags provided to consumers by certain retailers.

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 193 and **House Bill 1151** would authorize a locality to prohibit by ordinance the purchase, sale, or provision 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, and 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.

cc: Secretary of Finance

Date: 1/16/2020 SK
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