

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** J. Chapman Petersen

3. **Committee** Senate Finance

4. **Title** Disposable Plastic Bag Tax in the
Chesapeake Bay Watershed

2. **Bill Number** SB 26

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would impose a \$0.05 tax on plastic bags provided to customers by retailers in grocery stores, convenience stores, or drug stores in localities located wholly within the Chesapeake Bay Watershed and would mandate that revenues from the tax be used to support the Chesapeake Bay Watershed Implementation Plan. 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, 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 implementing this tax.

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:** Preliminary. (See Line 8.)

8. Fiscal implications:

Administrative Costs

This bill would result in administrative costs to the Department of \$543,000 in Fiscal Year 2020; \$67,000 in Fiscal Year 2021; \$8,000 annually in Fiscal Years 2022 and 2023; and \$6,000 annually in Fiscal Years 2024 through 2026. 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 in the Chesapeake Bay Watershed 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 result in a Non-General Fund revenue gain beginning in Fiscal Year 2021. The magnitude of the revenue gain would depend upon the number of bags used and consumer shopping behavior. Based upon revenue generated from similar taxes in the District of Columbia and Montgomery County, Maryland, the tax proposed in this bill could potentially generate between \$14.9 million and \$17.8 million annually. Revenues from the tax authorized under this section would be required to be deposited into the Virginia Water Quality Improvement Fund and set aside in a subaccount to fund initiatives to meet the Chesapeake Bay Watershed Implementation Plan.

9. Specific agency or political subdivisions affected:

Department of Taxation
Localities wholly within the Chesapeake Bay Watershed

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 impose a \$0.05 tax on plastic bags provided to customers by retailers in grocery stores, convenience stores, or drug stores in localities located wholly within the Chesapeake Bay Watershed and would mandate that revenues from the tax be used to support the Chesapeake Bay Watershed Implementation Plan. 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, 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 retailer would not be entitled to any additional dealer discount available under current law.

The tax would be administered by the Department of Taxation. The Tax Commissioner would be required to collect, administer, 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.

Revenues from the tax authorized under this section would be required to be deposited into the Virginia Water Quality Improvement Fund and set aside in a subaccount to fund initiatives to meet the Chesapeake Bay Watershed Implementation Plan.

If enacted during the Regular Session of the 2020 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 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.

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, and would require revenues from the local tax 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: 1/16/2020 SK
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