

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

House Bill 1210 (Delegate Carr, *et al.*)
 Environmental Matters

Chesapeake Bay Restoration Consumer Retail Choice Act of 2009

This bill requires stores to charge and collect a fee of 5 cents per carryout bag provided to a customer. Stores may retain 1 cent of every 5 cent fee collected. Stores with a customer bag credit program may retain 2 cents of every 5 cent fee collected if a customer bag credit program is implemented. The fee is not subject to sales and use tax. Stores must remit specified fee revenue to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund. The Department of Labor, Licensing, and Regulation (DLLR) is required to adopt regulations to implement the bill.

Fiscal Summary

State Effect: General fund expenditures increase by \$216,400 in FY 2010 for additional DLLR staff. Future year expenditures reflect annualization and inflation. Chesapeake and Atlantic Coastal Bays 2010 Trust Fund special fund revenues increase significantly in FY 2010 and subsequent years.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	-	-	-	-	-
GF Expenditure	\$216,400	\$270,000	\$282,400	\$295,600	\$309,400
Net Effect	(\$216,400)	(\$270,000)	(\$282,400)	(\$295,600)	(\$309,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A “carryout bag” is a paper or plastic bag provided by a store to a customer at the point of sale. A “carryout bag” is not (1) a durable plastic bag with handles that is at least 2.25 mils thick and is designed and manufactured for multiple reuse; or (2) a plastic bag used to carry ice cream, meat, fish, or poultry.

A “store” is a retail establishment that provides carryout bags to its customers as a result of the sale of a product.

A “customer bag credit program” is a program implemented in a store that requires a store to pay a customer a credit of at least 5 cents for each bag provided by the customer for packaging their purchases; requires the total amount of the credit paid to a customer to be displayed on the customer transaction receipt; and is prominently advertised at each checkout register at the store.

Current Law: State law does not address carryout bags provided by retail establishments.

Background: Americans use an estimated 50 to 80 billion plastic bags annually and the use of carryout bags has been the center of much media attention. Due to concerns about the environmental impacts of plastic and paper bags, there is growing interest in banning their use. Proponents of such bans argue that the production of paper bags consumes a significant number of trees and that plastic bags clog waterways, harm wildlife, and consume valuable landfill space.

Several jurisdictions around the world have already taken action on this issue. Bangladesh, France, Uganda, and several other countries have approved nationwide bans on the use of plastic bags. Germany, Ireland, Denmark, Sweden, and Switzerland, among others, have a tax or levy on plastic bags in an effort to discourage their use. Still others, such as Holland and Canada, have focused on recycling efforts. Others are also considering the implementation of bans or taxes in order to reduce plastic bag consumption.

During its 2009 legislative session, the Virginia General Assembly considered, but did not adopt, bills banning single-use bags and charging fees for use of disposable plastic and paper bags. In the District of Columbia, a bill was recently introduced that establishes a 5 cent charge for each bag a shopper uses and allocates the revenue generated to Anacostia River restoration.

In March 2007, San Francisco became the first city in the United States to ban nonbiodegradable bags from large grocery stores and pharmacies. Similar legislation is

being debated in several other U.S. cities. In fact, the City of Annapolis considered, but did not enact, legislation to ban retailers from distributing plastic shopping bags in the city. Instead, retailers would have been required to offer bags made of recycled paper and to sell reusable bags.

Due to concerns associated with both plastic and paper bags, reusable bags (such as canvas bags) are gaining popularity, despite their additional cost.

State Fiscal Effect: DLLR general fund expenditures increase by at least \$216,379 in fiscal 2010, which reflects the bill's October 1, 2009 start date. This estimate reflects the cost of hiring one administrator, two field auditors, and one clerk to develop and implement the program. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- DLLR adopts regulations, develops an administration and enforcement scheme, and conducts outreach to retailers to encourage compliance; and
- DLLR conducts random audits in the field to ensure compliance.

Positions	4
Salaries and Fringe Benefits	\$181,928
One-time Start-up Costs	17,340
Operating Expenses	<u>17,111</u>
Total Fiscal 2010 DLLR Expenditures	\$216,379

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

State Revenues: The bill may result in a significant increase in revenues; however, the magnitude of the increase is unknown.

According to the U.S. Census Bureau's 2002 Economic Census, there are approximately 19,400 retail establishments in the State. *For illustrative purposes only*, assuming each retail establishment uses 5,000 plastic bags annually, and 1 cent of every fee is retained by the retail establishment, \$3.9 million is generated annually for the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund and \$970,000 is retained annually by the retail establishments.

Revenues generated by the bill depend on a number of variables, including the number of retail establishments impacted, number of bags used, and consumer shopping decisions. These variables may be shifting considerably. The number of retail establishments in the

State may be much lower than estimated above due to the recent decline in Maryland's economy. Also, more consumers are using multi-use bags to carry goods and the Internet to meet their shopping needs.

To the extent the fee provides an incentive for shoppers to use reusable bags or stop using disposable bags, revenues decrease. Also, to the extent stores create customer bag credit programs and individuals bring their own bags, revenues decrease.

Small Business Effect: Since the bill impacts all retail establishments, a significant number of small businesses may be affected. The bill results in additional operating responsibilities for small retailers, as they are required to account for the number and type of bags their customers purchase and submit fee revenue to the State. However, small businesses may benefit from having the authority to retain a portion of the carryout bag fee. Small businesses with a customer bag credit program are required to implement the program in accordance with the requirements set forth in the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): U.S. Census Bureau; *The New York Times*; *The Washington Post*; Department of Natural Resources; Department of Labor, Licensing and Regulation; Comptroller of Maryland; Department of Legislative Services

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mlm/ljm

Analysis by: Amanda Mock

Direct Inquiries to:
(410) 946-5510
(301) 970-5510