

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 895 (Prince George's County Delegation)
Environmental Matters

Prince George's County - Authority to Impose Fees for Use of Disposable Bags
PG 402-12

This bill authorizes Prince George’s County to impose, by law, a fee on a store for the use of disposable bags as part of a retail sale of products. A “store” is a retail establishment that provides disposable bags to its customers as a result of the sale of a product.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: Potential increase in Prince George’s County expenditures to establish and implement bag fee laws. Potential increase in Prince George’s County revenues, to the extent the county elects to impose bag fees. *For illustrative purposes*, if a 5-cent bag fee is instituted, Prince George’s County estimates that in FY 2013 county revenues increase by \$589,000 and expenditures increase by \$117,800. This estimate is based on 2010 U.S. Census data and assumes each household uses one disposable bag per week.

Small Business Effect: Potential meaningful, in Prince George’s County.

Analysis

Bill Summary: A “disposable bag” is a paper or plastic bag provided by a store to a customer at the point of sale. A “disposable bag” does not include (1) a durable plastic bag with handles that is at least 2.25 mils thick and is designed and manufactured for multiple reuse; (2) a bag provided by a pharmacist to contain prescription drugs; (3) plastic bags sold in packages containing multiple plastic bags intended for use as

garbage, pet waste, or yard waste bags; (4) a bag that a restaurant provides to a customer to take food or drink away from the restaurant; and (5) a bag used to:

- package bulk items, including fruit, vegetables, nuts, grains, candy, or small hardware items;
- contain or wrap frozen foods, meat, or fish, whether prepackaged or not;
- contain or wrap flowers, potted plants, or other damp items;
- contain unwrapped prepared foods or bakery goods; and
- contain a newspaper or dry cleaning.

Current Law: State law does not address carryout bags provided by retail establishments. Currently, Prince George's County does not have the authority to levy a bag fee. However, local jurisdictions with general taxing powers (*e.g.* Baltimore City, Baltimore County, and Montgomery County) have the authority to levy a bag fee.

Background: The use of disposable carryout bags has been the center of much media attention. According to American Plastic Manufacturing, the average American uses approximately 500 plastic bags annually. Proponents of disposable bag restrictions emphasize that plastic bags clog waterways, harm wildlife, consume valuable landfill space, and lead to greater fossil fuel consumption. Proponents of paper bag restrictions argue paper bag manufacturing results in a significant loss of trees and generates substantial air and water pollution. Due to concerns associated with both plastic and paper bags, reusable bags are gaining popularity, despite their additional cost.

Dozens of jurisdictions have adopted fees, bans, or other programs to discourage the use of disposable bags or to promote bag recycling. In March 2007, San Francisco became the first city in the United States to ban nonbiodegradable bags from large grocery stores and pharmacies. North Carolina enacted a ban on plastic bags in the Outer Banks region, and Delaware requires stores to establish at-store recycling programs. The National Conference of State Legislatures reported that 61 bills relating to plastic bags were introduced in 20 states in 2011.

On January 1, 2010, a new law took effect in the District of Columbia banning the use of disposable, nonrecyclable plastic carryout bags and requiring specified stores to charge a fee of 5 cents for each disposable bag a shopper is given. During the first 10 months of program implementation, approximately \$2.0 million in revenue had been raised and distributed for city efforts to protect the Anacostia River and other impaired waterways. In addition, the program is estimated to have reduced the number of bags consumed in the city by at least 50%.

Local Disposable Bag Requirements in Maryland

In response to a 2010 city ordinance (No. 08-0205), Baltimore City is implementing a plastic bag reduction program focused on encouraging consumers to use reusable bags and to recycle disposable plastic bags. Among other requirements, stores with food service licenses (1) may not distribute plastic bags to customers unless the customer specifically requests one; (2) must provide at least one collection bin for recycling single-use plastic bags and make reusable bags available for purchase by customers; and (3) must maintain and submit records and reports concerning bag use.

Montgomery County passed legislation (No. 8-11) on May 3, 2011, that places a 5-cent charge on each paper or plastic carryout bag provided by retail establishments at the point of sale, pickup, or delivery. The law took effect January 1, 2012. Revenues from this charge will be deposited into the county's Water Quality Protection Charge Fund, which is used for structural maintenance of stormwater management facilities and water quality improvements. Montgomery County revenues are estimated to increase by \$561,641 during the second half of fiscal 2012, \$1.1 million in fiscal 2013, \$833,648 in fiscal 2014, \$694,706 in fiscal 2015, and \$564,060 in fiscal 2016.

Solid Waste Management – Recycling and Source Reduction Study Group

Chapter 719 of 2010 required the Maryland Department of the Environment (MDE) to conduct a study to evaluate solid waste management processes that reduce the solid waste stream through recycling and source reduction. MDE created a study group and consulted with local government officials, waste haulers, recyclers, environmental groups, academia, State elected officials, and other affected parties including material resource facilities to study these issues. In December 2011, the study group submitted its final report and recommendations which included, among other things, a discussion of bag recycling legislation and programs. The report makes several conclusions about bag recycling, including that:

- while plastic bags are small contributors to waste, they are larger contributors to litter and they create problems for conventional recycling programs;
- mandatory bag take-back programs are largely ineffective at producing substantial increases in the recycling of bags; and
- bag taxes appear to be successfully reducing the number of bags distributed in the District of Columbia and providing some revenue for litter clean-up and distribution of reusable bags to low-income individuals.

Small Business Effect: Small store owners in Prince George's County that provide disposable bags to customers are impacted to the extent they must pay a fee to continue to provide such bags.

Additional Information

Prior Introductions: SB 721 of 2011 passed the Senate and was referred to the House Environmental Matters Committee, but no further action was taken. Its cross file, HB 661, received a hearing the House Environmental Matters Committee but was subsequently withdrawn.

Cross File: None.

Information Source(s): Baltimore City, Montgomery and Prince George's counties, District of Columbia, American Plastic Manufacturing, National Conference of State Legislatures, Maryland Department of the Environment, Department of Legislative Services

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