

Disposable Bags, Single-Use Plastic and Expanded Polystyrene Products Legislation in the 2020 General Assembly

Overview of Legislation

A number of bills have been introduced at the 2020 General Assembly relating to disposable bags, single-use plastic and expanded polystyrene products.

- **SB 11** (Ebbin) would authorize a locality to impose a five-cent tax per bag on disposable paper or plastic bags, with certain exemptions. The bill allows retailers that collect the tax to retain one cent of the five-cent tax.
- **SB 26** (Petersen) would impose a five-cent per bag tax on plastic bags, with certain exemptions, 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. The bill would also allow retailers that collect the tax to retain one cent of every five cents collected.
- **SB 193** (Favola) would authorize a locality to ban or impose a five-cent tax on single-use plastic and expanded polystyrene products, with certain exemptions. A locality could only ban single-use plastic and polystyrene products that have a suitable, cost-effective compostable or recyclable alternative. The bill would also allow restaurants or retailers that collect the tax to retain one cent of the five-cent tax if the tax is paid in a timely manner.
- **SB 198** (Locke) would authorize a locality to ban the distribution, sale, or offer for sale of disposable plastic shopping bags, with certain exemptions.
- **HB 534** (Carr) would authorize any locality to impose a tax of five cents per bag on disposable plastic bags provided to consumers by certain retailers, with certain bags being exempt from the tax. Revenues would be collected by the Tax Commissioner and distributed monthly to the locality imposing the tax to be used for the mitigation of pollution and litter. The bill would also allow every retailer that collects the tax to retain one cent of the five-cent tax.
- **HB 1151** (Lopez) would authorize a 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, with certain exceptions. 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, with certain products being exempt from the tax. Revenue from the tax would be used by the locality for cleanup or education programs designed to reduce waste. The bill would allow restaurants or retailers that collect the tax to retain one cent of the five-cent tax if the tax is paid in a timely manner.
- **HB 1673** (Ware) would allow localities to impose a five-cent per bag tax on plastic bags provided to customers by retailers in grocery stores, convenience stores, or drugstores, with certain bags being exempt from the tax. The bill would also require a retailer to provide recycling receptacles at its place of business for such disposable plastic bags. The

bill would allow retailers that collect the tax to retain one cent of every five cents collected. All revenues from the tax would be deposited in equal sums into the Virginia Water Quality Improvement Fund and the Virginia Natural Resources Commitment Fund.

Research on Effective Strategies to Discourage Use of Disposable Bags

The bills propose different mechanisms to discourage the use of disposable bags – authorization of a ban, authorization of a tax, and authorization of a ban or tax. Surrounding jurisdictions, such as Washington, D.C. and Montgomery County, have instituted a tax on disposable bags, while eight states, including California and New York, have instituted a ban.

Both bans and taxes have proven effective in discouraging disposable shopping bags in jurisdictions throughout the U.S. Bans, however, tend to have unintended consequences that are not as prevalent in jurisdictions with taxes. Economist Rebecca Taylor (University of Sydney) studied the impact on unregulated disposable bags in jurisdictions in California, after bans had been introduced on plastic shopping bags. Taylor found that bans tend to increase demand for unregulated disposable bags, such as trash bags. In the California jurisdictions that Taylor studied, sales of 4-gallon trash bags rose by 120 percent in the 12 months after a plastic shopping bag ban was introduced. Taylor estimates that about 30 percent of the plastic that was eliminated from the ban returned in the form of thicker garbage bags. Use of disposable paper bags rose as well, contributing about 80 million pounds of extra paper trash per year.

In addition to the rise in sales of unregulated plastic bags, loopholes often exist in disposable bag bans that can be taken advantage of by retailers, manufacturers and consumers. When Chicago implemented a ban on plastic bags 2.25 mils or thinner in 2015, certain retailers began offering thicker disposable plastic bags at checkout counters. Chicago ultimately replaced its bag ban with a 7-cent tax in 2017.

Economists such as Taylor and Tatiana Homonoff (New York University) favor policies that impose taxes for disposable bags, both paper and plastic. Such policies have proven effective in jurisdictions such as Washington, D.C. According to a survey conducted by the District Department of Energy and Environment, 79 percent of businesses and 80 percent of residents were using fewer disposable bags three years after implementation. Survey results indicated that residential use was down on average from ten disposable bags per week to four. D.C.'s bag tax has proven effective on the environmental front as well. The Alice Ferguson Foundation, which supports watershed cleanup events within D.C., reported a 72 percent drop in plastic bag litter in D.C. watersheds after four years of implementation. Additionally, the tax revenue funds a number of watershed education programs, stream restorations, trash collection projects, and purchases of reusable bags for low-income residents.