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HOUSE BILL NO. 1662

Offered January 13, 2025

Prefiled January 3, 2025

A *BILL to amend and reenact §§ 10.1-1422.01 and 58.1-1745 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1424.4, relating to sale and distribution of plastic carryout bags by grocery stores prohibited; civil penalty.*

Patrons—Jones, Clark, Cole, Feggans, Henson, Keys-Gamarra, Martinez and Reaser

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1422.01 and 58.1-1745 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1424.4 as follows:

§ 10.1-1422.01. Litter Control and Recycling Fund established; use of moneys; purpose of Fund.

A. All moneys collected from the civil penalties imposed pursuant to §§ 10.1-1424.3 and 10.1-1424.4, from the taxes imposed under §§ 58.1-1700 through 58.1-1710, and by the taxes increased by Chapter 616 of the 1977 Acts of Assembly; shall be paid into the treasury and credited to a special nonreverting fund known as the Litter Control and Recycling Fund, which is hereby established. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund shall not revert to the general fund but shall remain in the Fund. Interest earned on such moneys shall remain in the Fund and be credited to it. The Director is authorized to release money from the Fund on warrants issued by the Comptroller after receiving and considering the recommendations of the Advisory Board for the purposes enumerated in subsection B.

B. Moneys from the Fund shall be expended, according to the allocation formula established in subsection C, for the following purposes:

1. Local litter prevention and recycling grants to localities that meet the criteria established in § 10.1-1422.04;

2. Payment to (i) the Department to process the grants authorized by this article and (ii) the actual administrative costs of the Advisory Board. The Director shall assign one person in the Department to serve as a contact for persons interested in the Fund; and

3. The operation of public information campaigns to discourage the sale and use of expanded polystyrene products and to promote alternatives to expanded polystyrene.

C. All moneys deposited into the Fund shall be expended pursuant to the following allocation formula:

1. Ninety percent for grants made to localities pursuant to subdivision B 1;

2. Up to a maximum of five percent for the actual administrative expenditures authorized pursuant to subdivision B 2; and

3. Up to a maximum of five percent for the operation of public information campaigns pursuant to subdivision B 3.

§ 10.1-1424.4. Prohibiting plastic carryout bags by grocery stores; civil penalty.

A. For the purposes of this section:

"Exempt bag" means (i) any bag used solely to contain or wrap uncooked meat, poultry, or seafood; (ii) any bag used by a customer solely to package bulk items such as fruits, vegetables, grains, or candy; (iii) any bag used solely to contain food sliced or prepared to order; (iv) any bag used solely to contain a newspaper for delivery to a subscriber; (v) any bag sold in bulk to a customer at the point of sale; (vi) any trash bag; (vii) any food storage bag; (viii) any garment bag; (ix) any plastic carryout bag provided by a restaurant to carry out or deliver food; (x) any bag used solely to contain bakery items, including bread and pastries; or (xi) any bag provided by a pharmacy to carry prescription drugs.

"Grocery store" means a retail establishment that primarily sells meat, seafood, fruits, vegetables, dairy products, and dry groceries.

"Plastic carryout bag" means any plastic bag, other than an exempt bag, that is provided to a customer by a grocery store to be used by such customer to carry tangible personal property, regardless of (i) whether such grocery store sells any tangible personal property or service to the customer or (ii) whether any tangible personal property or service sold is exempt from any retail sales and use tax pursuant to the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

"Restaurant" means the same as that term is defined in § 15.2-2820.

"Reusable bag" means (i) any bag made of cloth or other machine washable fabric that has handles or (ii) any durable bag with handles that is specifically designed and manufactured for multiple reuses.

B. No grocery store shall sell or distribute any plastic carryout bag to its customers on or after January 1, 2027, unless such bag qualifies as an exempt bag.

59 C. Any grocery store operating in the Commonwealth shall, no later than January 1, 2027, develop,
60 implement, and maintain a program to encourage its customers to utilize reusable bags. Such program may
61 include (i) the establishment of a discount for any customer who brings a reusable bag for use at such
62 grocery store; (ii) the selling, offering for sale, or distribution of reusable bags at such grocery store; or (iii)
63 a public educational campaign to inform and educate customers about the benefits of reducing plastic waste
64 and the importance of using reusable bags.

65 D. Any grocery store that violates the provisions of this section shall be issued a written warning by the
66 Department for the first violation and shall be subject to a civil penalty not to exceed \$500 for a second and
67 each subsequent violation as determined by the Director. Any civil penalties assessed pursuant to this section
68 shall be paid into the state treasury and deposited by the State Treasurer into the Litter Control and
69 Recycling Fund established pursuant to § 10.1-1422.01.

70 **§ 58.1-1745. Disposable plastic bag tax.**

71 A. Any county or city may, by duly adopted ordinance, impose a tax in the amount of five cents (\$0.05)
72 for each disposable plastic bag provided, whether or not provided free of charge, to a consumer of tangible
73 personal property by retailers in grocery stores, convenience stores, or drugstores.

74 B. Any tax imposed under this section shall be collected by the retailer, along with the purchase price and
75 all other fees and taxes, at the time the consumer pays for such personal property. All revenue accruing to the
76 county or city from a tax imposed under the provisions of this article shall be appropriated for the purposes of
77 environmental cleanup, providing education programs designed to reduce environmental waste, mitigating
78 pollution and litter, or providing reusable bags to recipients of Supplemental Nutrition Assistance Program
79 (SNAP) or Women, Infants, and Children Program (WIC) benefits.

80 C. Each local ordinance imposing the tax shall provide for the tax to become effective on the first day of
81 any calendar quarter; however, in no event shall any tax imposed pursuant to this article become effective
82 before January 1, 2021. The county or city shall, at least three months prior to the date the tax is to become
83 effective, provide a certified copy of such ordinance to the Tax Commissioner.