

**CITY OF BALTIMORE
COUNCIL BILL 13-0241
(First Reader)**

Introduced by: Councilmembers Scott, Curran, Kraft

Introduced and read first time: June 10, 2013

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Environmental Control Board, Department of Housing and Community Development, Department of Finance, Commission on Sustainability

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Plastic- and Paper-Bag Surcharge**

3 FOR the purpose of imposing a surcharge on certain bags provided by dealers to customers;
4 defining certain terms; providing for the collection and remittance of the surcharge; requiring
5 certain reports; prohibiting certain conduct; imposing certain civil and criminal penalties;
6 providing for a special effective date; and generally relating to a surcharge on plastic and
7 paper bags.

8 BY adding

9 Article 28 - Taxes
10 Section(s) 29-1 to 29-12, to be under the new subtitle,
11 "Subtitle 29. Surcharge on Plastic and Paper Bags"
12 Baltimore City Code
13 (Edition 2000)

14 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
15 Laws of Baltimore City read as follows:

16 **Baltimore City Code**

17 **Article 28. Taxes**

18 **SUBTITLE 29. SURCHARGE ON PLASTIC AND PAPER BAGS**

19 **§ 29-1. DEFINITIONS.**

20 (A) *IN GENERAL.*

21 IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 (B) *DEALER.*

23 (1) "DEALER" MEANS ANY PERSON ENGAGED IN THE RETAIL SALE OF GOODS.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (2) "DEALER" INCLUDES ANY:

2 (I) SUPERMARKET;

3 (II) CONVENIENCE STORE;

4 (III) SHOP;

5 (IV) SERVICE STATION; OR

6 (V) OTHER SALES OUTLET.

7 (C) *DIRECTOR*.

8 "DIRECTOR" MEANS THE DIRECTOR OF FINANCE OR A DESIGNEE OF THE DIRECTOR OF
9 FINANCE.

10 (D) *PERSON*.

11 "PERSON" MEANS:

12 (1) AN INDIVIDUAL;

13 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY KIND;
14 OR

15 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
16 REPRESENTATIVE OF ANY KIND.

17 **§ 29-2. RULES AND REGULATIONS.**

18 (A) *IN GENERAL*.

19 THE DIRECTOR OF FINANCE MAY ADOPT RULES AND REGULATIONS TO CARRY OUT AND
20 ENFORCE THIS SUBTITLE.

21 (B) *FILING*.

22 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED
23 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

24 **§ 29-3. {RESERVED}**

25 **§ 29-4. SURCHARGE IMPOSED.**

26 (A) *IN GENERAL*.

27 A SURCHARGE IS IMPOSED ON EVERY PLASTIC OR PAPER BAG SUPPLIED BY A DEALER TO A
28 CUSTOMER, AT THE POINT OF SALE, FOR USE IN CARRYING GOODS PURCHASED BY THE
29 CUSTOMER.

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1 (B) *AMOUNT OF SURCHARGE.*

2 THE AMOUNT OF THE SURCHARGE IS 25¢ FOR EACH BAG.

3 **§ 29-5. EXEMPTIONS.**

4 (A) *BAGS FOR FRESH PRODUCE, ETC.*

5 (1) SUBJECT TO THE SIZE LIMITATIONS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION,
6 THE SURCHARGE IMPOSED BY THIS SUBTITLE DOES NOT APPLY TO A BAG SOLELY USED TO
7 CONTAIN:

8 (I) FRESH FISH AND FRESH FISH PRODUCTS;

9 (II) FRESH MEAT AND FRESH MEAT PRODUCTS;

10 (III) FRESH POULTRY AND FRESH POULTRY PRODUCTS;

11 (IV) FRUITS, NUTS, OR VEGETABLES;

12 (V) CONFECTIONERY;

13 (VI) DAIRY PRODUCTS;

14 (VII) COOKED FOOD, WHETHER HOT OR COLD; OR

15 (VIII) ICE.

16 (2) TO QUALIFY FOR AN EXEMPTION UNDER THIS SUBSECTION, THE BAG MAY NOT BE LARGER
17 THAN:

18 (I) 225 MM WIDE(EXCLUSIVE OF GUSSETS);

19 (II) 345 MM DEEP(INCLUSIVE OF GUSSETS); OR

20 (III) 450 MM LONG (INCLUSIVE OF HANDLES).

21 (B) *WIC, FSP, AND SNAP PARTICIPANTS.*

22 THE SURCHARGE IMPOSED BY THIS SUBTITLE DOES NOT APPLY TO PERSONS PURCHASING
23 GOODS UNDER:

24 (I) THE WOMEN, INFANTS, AND CHILDREN (WIC) PROGRAM ;

25 (II) THE FOOD SUPPLEMENT PROGRAM (FSP); OR

26 (III) THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP).

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1 (B) *REUSABLE BAGS.*

2 THE SURCHARGE IMPOSED BY THIS SUBTITLE DOES NOT APPLY TO A BAG THAT IS DESIGNED
3 FOR REUSE AND SOLD TO THE CUSTOMER FOR NOT LESS THAN 99¢.

4 **§ 29-6. COLLECTION AND REMITTANCE.**

5 (A) *DEALER TO COLLECT.*

6 (1) THE DEALER MUST COLLECT THE SURCHARGE IMPOSED BY THIS SUBTITLE FROM THE
7 CUSTOMER TO WHOM THE PLASTIC OR PAPER BAG IS SUPPLIED.

8 (2) THE AMOUNT OF THE SURCHARGE MUST BE ITEMIZED ON ANY RECEIPT, INVOICE, OR LIKE
9 DOCUMENT ISSUED TO THE CUSTOMER.

10 (B) *REMITTANCE TO DIRECTOR.*

11 THE SURCHARGE IMPOSED BY THIS SUBTITLE MUST BE REMITTED TO THE DIRECTOR ON OR
12 BEFORE THE 25TH DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE TRANSACTION
13 OCCURRED.

14 (C) *REMITTANCE REPORTS.*

15 (1) EACH REMITTANCE MUST BE ACCOMPANIED BY A REPORT FOR THE MONTH OF ALL
16 TRANSACTIONS THAT INVOLVE BAGS SUBJECT TO THE SURCHARGE.

17 (2) THE REPORT MUST IN THE FORM AND CONTAIN THE INFORMATION THAT THE DIRECTOR
18 REQUIRES.

19 **§ 29-7. INTEREST AND CIVIL PENALTIES.**

20 IF A DEALER FAILS TO REMIT THE SURCHARGE IMPOSED BY THIS SUBTITLE WHEN DUE, THE DEALER
21 MUST PAY THE DIRECTOR, IN ADDITION TO THE SURCHARGE DUE:

22 (1) INTEREST AT THE RATE OF 1% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE
23 SURCHARGE IS OVERDUE; AND

24 (2) A PENALTY OF 10% OF THE AMOUNT OF THE SURCHARGE DUE.

25 **§ 29-8. RECORDS; PERIODIC REPORTS.**

26 (A) *“REPORTING CYCLE” DEFINED.*

27 IN THIS SECTION, “REPORTING CYCLE” MEANS A QUARTERLY OR LONGER REPORTING PERIOD
28 THAT THE DIRECTOR SPECIFIES BY RULE OR REGULATION.

29 (B) *RECORDS REQUIRED.*

30 EVERY DEALER MUST KEEP COMPLETE AND ACCURATE RECORDS OF:

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1 (1) THE NUMBER AND TYPE OF PLASTIC AND PAPER BAGS THAT ARE IN STOCK ON THE
2 EFFECTIVE DATE OF THIS SUBTITLE, SPECIFYING:

3 (I) HOW MANY WERE EXEMPTED UNDER § 29-5 OF THIS SUBTITLE; AND

4 (II) HOW MANY WERE NOT EXEMPTED UNDER § 29-5 OF THIS SUBTITLE;

5 (2) THE NUMBER AND TYPE OF PLASTIC AND PAPER BAGS PURCHASED OR OTHERWISE
6 ACQUIRED BY THE DEALER DURING EACH SUBSEQUENT REPORTING CYCLE,
7 SPECIFYING:

8 (I) HOW MANY WERE EXEMPTED UNDER § 29-5 OF THIS SUBTITLE; AND

9 (II) HOW MANY WERE NOT EXEMPTED UNDER § 29-5 OF THIS SUBTITLE; AND

10 (3) THE NUMBER AND TYPE OF PLASTIC AND PAPER BAGS, OTHER THAN THOSE EXEMPTED
11 UNDER § 29-5 OF THIS SUBTITLE, THAT THE DEALER SUPPLIED TO CUSTOMERS DURING
12 EACH REPORTING CYCLE.

13 (B) *PERIODIC REPORTS REQUIRED.*

14 THE DEALER MUST SUBMIT THIS INFORMATION TO THE DIRECTOR IN THE FORM AND FOR THE
15 REPORTING CYCLE THAT THE DIRECTOR REQUIRES.

16 **§ 29-9. SURCHARGE DETERMINATION BY DIRECTOR.**

17 (A) *DIRECTOR TO OBTAIN INFORMATION.*

18 IF ANY PERSON FAILS TO REMIT THE SURCHARGE AND MAKE THE REPORTS WHEN DUE OR
19 FAILS TO KEEP SUITABLE RECORDS AS REQUIRED UNDER THIS SUBTITLE, THE DIRECTOR OF
20 FINANCE MAY ATTEMPT TO OBTAIN OTHER AVAILABLE INFORMATION ON WHICH TO BASE AN
21 ESTIMATE OF THE SURCHARGE DUE.

22 (B) *DIRECTOR TO ESTIMATE SURCHARGE.*

23 AS SOON AS THE DIRECTOR OBTAINS THIS INFORMATION, THE DIRECTOR MAY PROCEED TO
24 DETERMINE THE SURCHARGE DUE AND ASSESS THAT SURCHARGE, PLUS INTEREST AND
25 PENALTIES, AGAINST THE PERSON LIABLE FOR THE SURCHARGE.

26 (C) *NOTICE AND PAYMENT.*

27 (1) THE DIRECTOR MAY THEN NOTIFY THE PERSON BY MAIL, SENT TO THAT PERSON'S LAST
28 KNOWN ADDRESS, OF THE TOTAL AMOUNT OF THE SURCHARGE, INTEREST, AND
29 PENALTIES.

30 (2) THE TOTAL AMOUNT IS PAYABLE WITHIN 10 DAYS FROM THE DATE OF THIS NOTICE.

31 **§ 29-10. {RESERVED}**

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1 **§ 29-11. PROHIBITED CONDUCT.**

2 A DEALER MAY NOT:

- 3 (1) FAIL, NEGLECT, OR REFUSE TO COLLECT OR REMIT THE SURCHARGE IMPOSED BY THIS
4 SUBTITLE;
- 5 (2) MAKE ANY INCOMPLETE, FALSE, OR FRAUDULENT RETURN;
- 6 (3) FAIL TO KEEP COMPLETE AND ACCURATE RECORDS;
- 7 (4) REFUSE TO PERMIT THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED AGENT, EMPLOYEE,
8 OR REPRESENTATIVE TO INSPECT AND AUDIT THE OPERATOR'S RECORDS; OR
- 9 (5) FAIL TO FULLY COMPLY WITH ANY PROVISION OF THIS SUBTITLE OR OF ANY RULE OR
10 REGULATION ADOPTED UNDER THIS SUBTITLE.

11 **§ 29-12. CRIMINAL PENALTIES.**

12 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF A RULE OR REGULATION
13 ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT
14 TO A FINE OF NOT MORE THAN \$1,000 OR TO IMPRISONMENT FOR NOT MORE THAN 6 MONTHS OR
15 TO BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

16 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
17 are not law and may not be considered to have been enacted as a part of this or any prior
18 Ordinance.

19 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
20 after it is enacted.