

**CITY OF BALTIMORE
COUNCIL BILL 14-0372
(First Reader)**

Introduced by: Councilmembers Kraft, Henry, Scott, Clarke, Reisinger, Mosby

Introduced and read first time: April 28, 2014

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Environmental Control Board, Department of Finance, Police Department, Office of Sustainability, Baltimore Development Corporation

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Plastic 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 bags.

7 BY adding

8 Article 28 - Taxes

9 Section(s) 29-1 to 29-13, to be under the new subtitle,

10 "Subtitle 29. Surcharge on Plastic Bags"

11 Baltimore City Code

12 (Edition 2000)

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

15 **Baltimore City Code**

16 **Article 28. Taxes**

17 **SUBTITLE 29. SURCHARGE ON PLASTIC BAGS**

18 **§ 29-1. DEFINITIONS.**

19 (A) *IN GENERAL.*

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

21 (B) *DEALER.*

22 (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
14 KIND; 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 BAG SUPPLIED BY A DEALER TO A CUSTOMER
28 FOR USE IN CARRYING GOODS PURCHASED BY THE CUSTOMER.

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1 (B) *AMOUNT OF SURCHARGE.*

2 THE AMOUNT OF THE SURCHARGE IS 5¢ FOR EACH PLASTIC BAG.

3 **§ 29-5. EXEMPTIONS.**

4 (A) *BAGS FOR CERTAIN PRODUCTS.*

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 PLASTIC BAG
7 SOLELY USED TO 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;

15 (VIII) ICE;

16 (IX) FOOD AND GOODS OBTAINED AT A FARMERS' MARKET; OR

17 (X) PRESCRIPTION DRUGS OBTAINED FROM A PHARMACY.

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

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

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

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

23 (B) *REUSABLE BAGS.*

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

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§ 29-6. COLLECTION AND REMITTANCE.

(A) DEALER TO COLLECT.

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

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

(B) REMITTANCE TO DIRECTOR.

(1) EXCEPT AS SPECIFICALLY AUTHORIZED IN PARAGRAPH (2) OF THIS SUBSECTION, THE SURCHARGE IMPOSED BY THIS SUBTITLE MUST BE REMITTED TO THE DIRECTOR ON OR BEFORE THE 25TH DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE TRANSACTION OCCURRED.

(2) THE DEALER MAY RETAIN 1.5¢ FROM EACH 5¢ SURCHARGE COLLECTED UNDER THIS SUBTITLE TO COVER THE ADMINISTRATIVE EXPENSE OF COLLECTING AND REMITTING THE SURCHARGE TO THE DIRECTOR.

(C) REMITTANCE REPORTS.

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

(2) THE REPORT MUST:

(I) BE IN THE FORM THAT THE DIRECTOR REQUIRES; AND

(II) INCLUDE:

(A) THE NUMBER OF PLASTIC BAGS SUPPLIED OR PROVIDED TO CUSTOMERS;

(B) THE AGGREGATE AMOUNT OF THE SURCHARGE REQUIRED BY THIS SUBTITLE TO BE COLLECTED; AND

(C) ANY OTHER INFORMATION THAT THE DIRECTOR REQUIRES TO ASSURE THAT THE PROPER SURCHARGE HAS BEEN REMITTED.

§ 29-7. SURCHARGE DETERMINATION BY DIRECTOR.

(A) DIRECTOR TO OBTAIN INFORMATION.

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

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1 (B) *DIRECTOR TO ESTIMATE SURCHARGE.*

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

5 (C) *NOTICE AND PAYMENT.*

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

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

10 **§ 29-8. INTEREST AND CIVIL PENALTIES.**

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

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

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

16 **§§ 29-9 TO 29-10. {RESERVED}**

17 **§ 29-11. PROHIBITED CONDUCT.**

18 A DEALER MAY NOT:

19 (1) FAIL, NEGLECT, OR REFUSE TO COLLECT OR REMIT THE SURCHARGE IMPOSED BY THIS
20 SUBTITLE;

21 (2) MAKE ANY INCOMPLETE, FALSE, OR FRAUDULENT RETURN;

22 (3) FAIL TO KEEP COMPLETE AND ACCURATE RECORDS;

23 (4) REFUSE TO PERMIT THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED AGENT,
24 EMPLOYEE, OR REPRESENTATIVE TO INSPECT AND AUDIT THE OPERATOR'S RECORDS;
25 OR

26 (5) FAIL TO FULLY COMPLY WITH ANY PROVISION OF THIS SUBTITLE OR OF ANY RULE OR
27 REGULATION ADOPTED UNDER THIS SUBTITLE.

28 **§ 29-12. CRIMINAL PENALTIES.**

29 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF A RULE OR REGULATION
30 ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS
31 SUBJECT TO A FINE OF NOT MORE THAN \$500 OR TO IMPRISONMENT FOR NOT MORE THAN 60
32 DAYS OR TO BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

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

4 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on January 1,
5 2015.