

COUNCIL BILL 08-209

UNOFFICIAL REPRINT TO SHOW CONTEXT
OF COMMITTEE'S TENTATIVE AMENDMENTS

A BILL ENTITLED

AN ORDINANCE concerning

Plastic and Paper Bags – Surcharge

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

By adding

Article 28 - Taxes
Section(s) 30-1 to 30-12, to be under the new subtitle,
“Subtitle 30. Surcharge on Plastic and Paper Bags”
Baltimore City Code
(Edition 2000)

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

Baltimore City Code

Article 28. Taxes

SUBTITLE 30. SURCHARGE ON PLASTIC AND PAPER BAGS

§ 30-1. DEFINITIONS.

(A) *IN GENERAL.*

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

(B) *DEALER.*

~~(1)~~“DEALER” MEANS ANY PERSON ENGAGED IN THE RETAIL SALE OF GOODS.

~~(2) "DEALER" INCLUDES ANY:~~

~~(i) SUPERMARKET;~~

~~(ii) CONVENIENCE STORE;~~

~~(iii) SHOP;~~

~~(iv) SERVICE STATION; OR~~

~~(v) OTHER SALES OUTLET.~~

(C) *DIRECTOR*.

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

(D) *PERSON*.

"PERSON" MEANS:

(1) AN INDIVIDUAL;

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

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

§ 29-2. RULES AND REGULATIONS.

(A) *IN GENERAL*.

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

(B) *FILING*.

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

§ 29-3. {RESERVED}

§ 29-4. SURCHARGE IMPOSED.

(A) *IN GENERAL*.

~~A EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SUBTITLE, A SURCHARGE IS IMPOSED ON EVERY PLASTIC AND PAPER BAG SUPPLIED BY A DEALER TO A CUSTOMER, AT THE POINT OF SALE, FOR USE IN CARRYING GOODS PURCHASED BY THE CUSTOMER.~~

(B) *AMOUNT OF SURCHARGE.*

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

§ 29-5. EXEMPTIONS.

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

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

~~(i) FRESH FISH AND FRESH FISH PRODUCTS;~~

~~(ii) FRESH MEAT AND FRESH MEAT PRODUCTS;~~

~~(iii) FRESH POULTRY AND FRESH POULTRY PRODUCTS;~~

~~(iv) FRUITS, NUTS, OR VEGETABLES;~~

~~(v) CONFECTIONERY;~~

~~(vi) DAIRY PRODUCTS;~~

~~(vii) COOKED FOOD, WHETHER HOT OR COLD; OR~~

~~(viii) ICE.~~

~~(2) TO QUALIFY FOR AN EXEMPTION UNDER THIS SUBSECTION, A PAPER BAG MAY NOT BE LARGER THAN:~~

~~(i) 225 MM WIDE (EXCLUSIVE OF GUSSETS);~~

~~(ii) 345 MM DEEP (INCLUSIVE OF GUSSETS); OR~~

~~(iii) 450 MM LONG (INCLUSIVE OF HANDLES).~~

~~(B) *REUSABLE BAGS.*~~

THE SURCHARGE IMPOSED BY THIS SUBTITLE DOES NOT APPLY TO:

(1) A BAG THAT IS USED AS THE PRIMARY CONTAINER OF FOOD OR PRESCRIPTION MEDICINES; OR

(2) A BAG THAT IS DESIGNED FOR REUSE AND IS SOLD TO THE CUSTOMER FOR NOT LESS THAN 99¢.

§ 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 OR PAPER 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.*

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

(C) *REMITTANCE REPORTS.*

- (1) EACH REMITTANCE MUST BE ACCOMPANIED BY A REPORT FOR THE MONTH QUARTER OF ALL TRANSACTIONS THAT INVOLVE BAGS SUBJECT TO THE SURCHARGE.
- (2) THE REPORT MUST IN THE FORM AND CONTAIN THE INFORMATION THAT THE DIRECTOR REQUIRES.

§ 29-7. INTEREST AND CIVIL PENALTIES.

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

- (1) A PENALTY OF 5% OF THE AMOUNT OF THE SURCHARGE DUE; AND
- (2) [(1)] INTEREST AT THE RATE OF ~~4%~~ 0.5% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE SURCHARGE IS OVERDUE; AND
- ~~(2) A PENALTY OF 10% OF THE AMOUNT OF THE SURCHARGE DUE.~~

§ 29-8. RECORDS; PERIODIC REPORTS.

(A) *“REPORTING CYCLE” DEFINED.*

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

(B) *RECORDS REQUIRED.*

EVERY DEALER MUST KEEP COMPLETE AND ACCURATE RECORDS OF:

- (1) THE NUMBER AND TYPE OF PLASTIC AND PAPER BAG BAGS THAT ARE IN STOCK ON THE EFFECTIVE DATE OF THIS SUBTITLE, ~~SPECIFYING:~~
 - ~~(i) HOW MANY WERE EXEMPTED UNDER § 29-5 OF THIS SUBTITLE; AND~~
 - ~~(ii) HOW MANY WERE NOT EXEMPTED UNDER § 29-5 OF THIS SUBTITLE;~~

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

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

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

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

(B) *PERIODIC REPORTS REQUIRED.*

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

§ 29-9. 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.

(B) *DIRECTOR TO ESTIMATE SURCHARGE.*

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

(C) *NOTICE AND PAYMENT.*

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

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

§ 29-10. {RESERVED}

§ 29-11. PROHIBITED CONDUCT.

A DEALER MAY NOT:

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

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

(3) FAIL TO KEEP COMPLETE AND ACCURATE RECORDS;

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

(5) FAIL TO FULLY COMPLY WITH ANY RULE OR REGULATION WHICH MAY BE ADOPTED UNDER THIS SUBTITLE.

§ 29-12. CRIMINAL PENALTIES.

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

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

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect 6 months after the date it is enacted.