Bill No. Concerning: Taxation - Paper Carryout Bags and Prohibition on Plastic Carryout Bags ("Bring Your Own Bag") Revised: 2/11/2025 Draft No. 11 Introduced: October 15, 2024 Enacted: February 11, 2025 Executive: ____ February 24, 2025 January 1, 2026 Effective: Sunset Date: None

Ch. 2 , Laws of Mont. Co. 2025

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Stewart

Co-Sponsors: Councilmembers Sayles, Glass, Fani-González, Council Vice-President Jawando, and Councilmember Katz

AN ACT to:

- (1) prohibit plastic carryout bags provided by a retail establishment <u>in the County</u>, with certain exceptions;
- (2) require a tax on paper carryout bags at the point of sale with certain exceptions;
- (3) require a tax on plastic carryout bag, if provided within a municipality;
- (4) exempt recipients of food assistance programs from the carryout bag tax;
- (4) remove a certain threshold for when taxes must be remitted to the County;
- (5) modify the reporting requirements for remittance of the carryout bag tax;
- (6) clarify that certain conduct by a retailer is prohibited; and
- (7) generally amend County law related to the excise tax on carryout bags.

By amending

Montgomery County Code Chapter 52, Taxation Sections 52-77, 52-78, and 52-79

By adding

Montgomery County Code Chapter 48, Solid Waste (Trash) Article IX. Plastic Carryout Bag Reduction Sections 48-65, 48-66, 48-67, and 48-68

Chapter 52, Taxation Section 52-78A

Boldface *Heading or defined term.*

<u>Underlining</u>
[Single boldface brackets]
Added to existing law by original bill.
Deleted from existing law by original bill.

<u>Double underlining</u>

Added by amendment.

[[Double boldface brackets]] Deleted from existing law or the bill by amendment.

* * Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

1	Sec. 1.	Sections 52-77, 52-78, and 52-79 are amended and Article IX of		
2	Chapter 48	(Sections 48-65, 48-66, 48-67, and 48-68) and Section 52-78A are		
3	added as foll	ows:		
4	ARTICLE IX. Plastic Carryout Bag Reduction.			
5	<u>48-65.</u> <u>Short</u>	<u>Title.</u>		
6	This Article may be known and cited as the "Bring Your Own Bag."			
7	48-66. Defini	tions.		
8	For the purposes of this section the following words have this meaning:			
9	<u>Department</u> means the <u>Department</u> of <u>Environmental</u> <u>Protection</u> .			
10	<u>Director</u> means the <u>Director</u> of the <u>Department</u> or the <u>Director's</u> designee.			
11	Plastic carryout bag means a plastic bag provided by a retail establishment to			
12	a customer at the point of sale, pickup, or delivery, including delivery by a			
13	third party to carry the purchased items and is not a reusable carryout bag.			
14	<u>Plastic</u>	Plastic carryout bag does not include:		
15	<u>(1)</u>	a plastic bag provided by a pharmacist that contains a prescription drug;		
16	<u>(2)</u>	any newspaper bag or bag intended for garbage, pet waste, or yard		
17		waste;		
18	<u>(3)</u>	a bag provided at the point of sale at a seasonal event, such as [[a]]:		
19	:	(A) an occasional farmers market[[,]];		
20		(B) <u>a full-time retail operation located on a farm;</u>		
21		(C) <u>a street fair[[,]]; or</u>		
22	•	(D) <u>a yard sale;</u>		
23	<u>(4)</u>	a bag used to package bulk items, including fruit, vegetables, nuts,		
24		grains, candy, ice, or small hardware items;		
25		a bag that contains hanging garments or dry-cleaned clothes, including		
26		suits, iackets, or dresses:		

27	<u>(6)</u> <u>a</u>	bag or plastic bag sleeve used to contain or wrap a perishable item,	
28	<u>in</u>	cluding meat or fish, or unwrapped prepared foods or bakery goods;	
29	[[<u>or</u>]]	
30	<u>(7)</u> <u>a</u>	bag used to take live fish, insects, mollusks, crustaceans, or	
31	<u>ar</u>	nphibians away from the retail establishment[[.]]; or	
32	<u>(8)</u> <u>a</u>	bag used to package items for the purpose of charitable distribution.	
33	Point of sale means the physical [[or virtual]] place where a customer executes		
34	payment for goods or services or receives goods or services.		
35	Restaurant has the same meaning stated in Section 52-77.		
36	Retail establishment has the meaning stated in Section 52-77.		
37	Reusable carryout bag means a reusable carryout bag with stitched handles		
38	specifically designed and manufactured for multiple reuses and is made of:		
39	<u>(1</u>) <u>cloth or other washable fabric; or</u>	
40	<u>(2</u>	a durable material suitable for multiple re-use that is not made of	
41		<u>plastic</u> <u>film.</u>	
42	[[<u>Retail</u>	establishment has the meaning stated in Section 52-77.]]	
43	<u>48-67.</u> <u>Plastic</u>	<u>carryout bag – prohibited.</u>	
44	A retail	establishment must not provide a plastic carryout bag to a customer, or	
45	a third party, for the purpose of carrying away or delivering goods or other		
46	materials from the point of sale.		
47	48-68. Penalty	and enforcement.	
48	<u>(a)</u> <u>C</u>	ivil citation. A retail establishment in violation of this Section is	
49	SL	ubject to a Class [[A]] B civil citation, if:	
50	<u>(1</u>	<u>an enforcement officer witnesses one or more plastic carryout</u>	
51		bags provided to a customer at a single point of sale.	
52	<u>(2</u>	The distribution of one or more bags in connection with a single	
53		transaction constitutes a single violation.	

54	<u>(b)</u>	Notice of violation. A penalty under subsection (a) may not be imposed		
55		unless a retail establishment:		
56		(1) is first issued a written notice of violation; and		
57		(2) fails to correct the violation within 7 days after receipt of the		
58		written notice.		
59	<u>(c)</u>	Enforcement. The Department must enforce the provisions under this		
60		Section and may coordinate with other departments to address		
61		violations, as needed.		
62	<u>(d)</u>	The [[Office of the County Attorney]] County may [[file an action in		
63		Circuit Court]] seek injunctive or other appropriate relief from any court		
64		with jurisdiction against a retail establishment for any repeated		
65		violations of this [[Section]] Article.		
66	<u>48-69.</u> Regi	ulations.		
67	The County Executive may adopt and establish regulations to implement and			
68	enforce this [[Section]] Article.			
69				
70		ARTICLE IX. Carryout Bag Tax.		
71	52-77. Defin	nitions.		
72	In this Article, the following terms have the following meanings:			
73	Department means the Department of Finance.			
74	Director means the Director of the Department of Finance.			
75	Food assistance program means any federal, state, or local program that			
76	provi	des monetary benefit to low-income individuals and families used at a		
77	store	to purchase food. Food assistance program include Supplemental		
78	<u>Nutri</u>	tion Assistance Program (SNAP) or Women, Infants, and Children		
79	<u>Progr</u>	ram (WIC).		

80	<u>Paper carryout bag means a paper bag provided by a retail establishment to a</u>			
81	customer at the point of sale, pickup, or delivery. Paper carryout bag does not			
82	include:			
83	<u>(1)</u>	a paper bag provided by a pharmacist that contains a prescription drug;		
84	<u>(2)</u>	a bag used to take live fish, insects, mollusks, or crustaceans away from		
85		<u>a retail</u> <u>establishment;</u>		
86	<u>(3)</u>	a paper bag that a restaurant gives a customer to take prepared or		
87		<u>leftover food or drink from a restaurant;</u>		
88	<u>(4)</u>	a paper bag containing prepared food provided at the drive-through		
89		window of a restaurant;		
90	<u>(5)</u>	a paper bag provided at a mobile food truck that contains prepared food;		
91		[[<u>or</u>]]		
92	<u>(6)</u>	a paper bag provided for food delivery that is collected by a third party		
93		delivery service to carry the purchased item[[.]];		
94	<u>(7)</u>	any paper bag intended for garbage, pet waste, or yard waste;		
95	<u>(8)</u>	a bag used to package bulk items, including fruit, vegetables, nuts,		
96		grains, candy, ice, or small hardware items;		
97	<u>(9)</u>	a bag that contains hanging garments or dry-cleaned clothes, including		
98		suits, jackets, or dresses;		
99	<u>(10)</u>	a bag or paper bag sleeve used to contain or wrap a perishable item,		
100		including meat or fish, or unwrapped prepared foods or bakery goods;		
101	<u>(11)</u>	a bag used to package items for the purpose of charitable food		
102		distribution; or		
103	<u>(12)</u>	a bag provided at the point of sale at seasonal event, such as:		
104		(A) an occasional farmer's market;		
105		(B) a full-time retail operation located on a farm;		
106		(C) a street fair; or		

107		(D) <u>a yard sale.</u>	
108	<u>Poin</u>	t of sale has the same meaning as stated under Chapter 48-66.	
109	[Carryout bag means a paper or plastic bag, non-reusable, provided by a retail		
110	establishment to a customer at the point of sale, pickup, or delivery, to carry		
111	purcl	hased items. Carryout bag does not include:	
112	(1)	a bag provided by a pharmacist that contains a prescription drug;	
113	(2)	any newspaper bag or bag intended for initial use as a dry cleaning,	
114		garbage, pet waste, or yard waste bag;	
115	(3)	a bag provided at the point of sale at a seasonal event, such as a farmers	
116		market, street fair, or yard sale, or by an occasional retailer;	
117	(4)	a paper bag that a restaurant gives a customer to take prepared or	
118		leftover food or drink from the restaurant; or	
119	(5)	a bag used to package a bulk item or to contain or wrap a perishable	
120		item.	
121	Осса	asional retailer means a retail establishment that engages in the retail sale	
122	of goods no more than 6 days in any calendar year.]		
123	Restaurant means any lunchroom, café, or other establishment located in a		
124	permanent building for the accommodation of the public, equipped with a		
125	kitchen containing facilities and utensils for preparing and serving meals to the		
126	public, and outfitted with or without a public dining area. A restaurant does		
127	not	include any area of a supermarket, department store, or other retail	
128	estab	olishment beyond the kitchen and public dining area.	
129	Reta	il establishment means any person engaged in the retail sale of	
130	good	ls. Retail establishment includes any supermarket, convenience store,	
131	shop	, service station, mobile food truck, or restaurant, and any other sales	
132	outlet where a customer can buy goods.		

52-78. Tax imposed <u>— Countywide and municipalities</u>.

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134 (a) A tax in the amount of [5 cents] 10 cents is levied and imposed on each customer for each paper carryout bag that a retail establishment provides or sells to the customer.

- (b) Applicability to municipalities. Unless a municipality adopts County law or enacts an ordinance that prohibits single-use plastic carryout bag as required under Section 48-67, it must levy and impose a 10-cent tax on each customer for each plastic carryout bag provided by a retail establishment. A retail establishment in a municipality is required to collect, exempt, remit, report, and adhere to all the requirements under this Chapter for a single-use plastic carryout bag as it would for a paper carryout bag.
- Except as provided in Section 52-78A, [Each] each retail establishment that provides a paper carryout bag, and if a plastic single-use carryout bag is provided within [[in]] a municipality, to a customer must collect the amount of the tax imposed under [[subsection]] subsections (a) and (b) when the customer makes any payment for goods in person, [[through the Internet,]] by telephone, by facsimile, or by any other means. The retail establishment must hold the taxes required to be collected under this Section in trust for the County until remitted as required under Section 52-79.
 - [[(c)]] (d) Each retail establishment may retain [1 cent] 5 cents from each [5-cent] 10-cent tax that the retail establishment collects to cover the administrative expense of collecting and remitting the tax to the County.
 - [[(d)]] (e) A retail establishment must indicate on the customer's transaction receipt:
 - (1) the number of <u>paper</u> carryout bags that the retail establishment provided to the customer; and

161	<u>(2)</u>	the total amount of tax levied under this Section unless a food
162		assistance benefit is used for payment then the receipt must
163		indicate the carryout bag tax is exempt.

the retail establishment or at each point of sale that reads: [[advises customers to bring reusable carryout bags or to skip the bag and that all] "All carryout bags provided by the retailer are subject to a charge.

A customer who brings their own reusable carryout bag or who does not use a carryout bag will not be subject to a charge." The notice must be posted in English and Spanish. The Department of Environment Protection must post an example of a notice in English and Spanish on the County website.

<u>52-78A. Recipients of food assistance program – exemption.</u>

A retail establishment must not charge or collect a tax for a paper carryout bag provided to a customer for items purchased using a food assistance program.

52-79. Remittance.

- (a) [Except as provided in subsection (b), on or before the 25th of each month, each] <u>Each</u> retail establishment must remit the full amount of the tax collected for all <u>paper</u> carryout bags provided to a customer during the previous [month] <u>quarter</u>, less the amount retained under Section 52-78(c).
- (b) <u>Quarterly remittance</u> <u>required</u>. A retail establishment is [only] required to remit the taxes <u>under subsection</u> (a) to the Director <u>every quarter in accordance with the remittance schedule posted by the Department on its website</u> [when the cumulative taxes collected under Section 52-78(a) since the previous remittance, if any, exceeds \$100].

187	(c)	<u> Repoi</u>	rting. Each remittance must be accompanied by a report of all
188		transa	actions that involve paper bags subject to the tax. The report must
189		be on	a form supplied by the Director and must contain:
190		<u>(1)</u>	the number of <u>paper</u> bags supplied or provided to customers[,]:
191			(A) for which a tax was collected; and
192			(B) for which a tax was not collected;
193		<u>(2)</u>	the amount of tax required by this Section to be collected;
194		<u>(3)</u>	for an owner of more than one retail establishment must identify
195			the remittance for each location by name and address; and
196		<u>(4)</u>	any other information the Director requires to [assure] ensure that
197			the proper tax has been remitted to the County.
198	(d)	(1)	If the retail establishment does not file a required report by the
199			deadline established under subsection (a), the Director may
200			estimate the amount of tax due. The Director may base the
201			estimate on a reasonable projection of paper carryout bags, or
202			where applicable plastic carryout bags, supplied or provided and
203			may consider taxes reported by other retail establishments.
204		(2)	The Director may send a notice of the estimated tax due,
205			including interest and penalty, to the retail establishment's last
206			known address. The retail establishment must pay the estimated
207			tax, including any interest and penalty assessed by the Director,
208			within 10 days after the notice is sent.
209			* * *
210	Sec. 52-81.	Prohib	oited conduct.
211	A retail es	tablish	ment must not:
212	(a)	negle	ct or refuse to collect or remit the tax levied under this Article;
213	(b)	file an	n incomplete, false, or fraudulent report to the Director;

- (c) neglect or refuse to keep complete and accurate records; [or]

 (d) refuse to allow the Director to inspect and audit the retail
- 216 establishment's records[.]; or
- 217 (e) misrepresent, advertise, hold out, collect, or state to the public or to a

 218 customer [[, directly or indirectly,]] an amount that exceeds the

 219 allowable tax established under Section 52-78(a).

Sec. 2. Effective date.

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The prohibition on the use of plastic bag of Section 48-67, added under Section 1 of this Act, must take effect on [[July 1, 2025]] <u>January 1, 2026</u>. The amendments made in Section 1 must apply to any paper carryout bag tax, and where <u>applicable any plastic carryout bag tax</u>, that would be due or is paid after this Act becomes effective on [[July 1, 2025]] <u>January 1, 2026</u>.

Approved:	
Late Stewars	February 11, 2025
Kate Stewart, President, County Council	Date
Approved:	
Mare ERJ	February 24, 2025
Marc Elrich, County Executive	Date
This is a correct copy of Council action.	February 24, 2025
Sara R. Tenenbaum, Clerk of the Council	Date