

**CITY OF BALTIMORE
COUNCIL BILL 08-0208
(First Reader)**

Introduced by: Councilmembers Henry, Cole, Kraft, Clarke
Introduced and read first time: September 22, 2008
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 Bags – 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 surcharge on plastic bags.

7 BY adding

8 Article 28 - Taxes
9 Section(s) 29-1 to 29-12, 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
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
7 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; OR

15 (VIII) ICE.

16 (2) TO QUALIFY FOR AN EXEMPTION UNDER THIS SUBSECTION, A PLASTIC BAG MAY NOT BE
17 LARGER 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) *REUSABLE BAGS.*

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

24 **§ 29-6. COLLECTION AND REMITTANCE.**

25 (A) *DEALER TO COLLECT.*

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

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

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1 (B) *REMITTANCE TO DIRECTOR.*

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

5 (C) *REMITTANCE REPORTS.*

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

8 (2) THE REPORT MUST IN THE FORM AND CONTAIN THE INFORMATION THAT THE DIRECTOR
9 REQUIRES.

10 **§ 29-7. 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 **§ 29-8. RECORDS; PERIODIC REPORTS.**

17 (A) *“REPORTING CYCLE” DEFINED.*

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

20 (B) *RECORDS REQUIRED.*

21 EVERY DEALER MUST KEEP COMPLETE AND ACCURATE RECORDS OF:

22 (1) THE NUMBER AND TYPE OF PLASTIC BAG THAT ARE IN STOCK ON THE EFFECTIVE
23 DATE OF THIS SUBTITLE, SPECIFYING:

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

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

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

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

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

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1 (3) THE NUMBER AND TYPE OF PLASTIC BAG, OTHER THAN THOSE EXEMPTED UNDER §
2 29-5 OF THIS SUBTITLE, THAT THE DEALER SUPPLIED TO CUSTOMERS DURING EACH
3 REPORTING CYCLE.

4 (B) *PERIODIC REPORTS REQUIRED.*

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

7 **§ 29-9. SURCHARGE DETERMINATION BY DIRECTOR.**

8 (A) *DIRECTOR TO OBTAIN INFORMATION.*

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

13 (B) *DIRECTOR TO ESTIMATE SURCHARGE.*

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

17 (C) *NOTICE AND PAYMENT.*

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

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

22 **§ 29-10. {RESERVED}**

23 **§ 29-11. PROHIBITED CONDUCT.**

24 A DEALER MAY NOT:

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

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

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

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

31 (5) FAIL TO FULLY COMPLY WITH ANY RULE OR REGULATION ADOPTED UNDER THIS
32 SUBTITLE.

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1 **§ 29-12. CRIMINAL PENALTIES.**

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

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

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