

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2091

To amend the Internal Revenue Code of 1986 to impose a retail tax on single-use carryout bags, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 2009

Mr. MORAN of Virginia introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to impose a retail tax on single-use carryout bags, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Plastic Bag Reduction  
5 Act of 2009”.

1 **SEC. 2. IMPOSITION OF TAX ON SINGLE-USE CARRYOUT**  
2 **BAGS.**

3 (a) GENERAL RULE.—Chapter 31 of the Internal  
4 Revenue Code of 1986 (relating to environmental taxes)  
5 is amended by inserting after subchapter C the following  
6 new subchapter:

7 **“Subchapter D—Single-Use Carryout Bags**

“Sec. 4056. Imposition of tax.

8 **“SEC. 4056. IMPOSITION OF TAX.**

9 “(a) GENERAL RULE.—There is hereby imposed on  
10 any retail sale a tax on any single-use carryout bag.

11 “(b) AMOUNT OF TAX.—The amount of tax imposed  
12 by subsection (a) on any single-use carryout bag shall be—

13 “(1) \$0.05 on and after January 1, 2010, and  
14 before January 1, 2015, and

15 “(2) \$0.25 on and after January 1, 2015.

16 “(c) LIABILITY FOR TAX.—The retailer shall be liable  
17 for the tax imposed by subsection (a).

18 “(d) DEFINITIONS.—For purposes of this section—

19 “(1) SINGLE-USE BAG.—

20 “(A) IN GENERAL.—The term ‘single-use  
21 carryout bag’ means a carryout bag, including  
22 a grocery sack, dry-cleaning bag, take-out food  
23 bag, retail bag, membership or wholesaler bag,  
24 and service station bag, manufactured or im-

1 ported for use by a retail seller at a point of  
2 sale with a customer.

3 “(B) EXCEPTIONS.—Such term does not  
4 include—

5 “(i) any reusable bag,

6 “(ii) any bag manufactured for use by  
7 a customer inside a store to package bulk  
8 items such as fruit, vegetables, nuts,  
9 grains, candy, or small hardware items,  
10 such as nails and bolts,

11 “(iii) any bag manufactured for use  
12 by a pharmacist to contain prescription  
13 drugs, and

14 “(iv) any bag manufactured to be sold  
15 at retail in packages containing multiple  
16 bags intended for use as garbage, pet  
17 waste, or yard waste bags.

18 “(2) REUSABLE BAG.—The term ‘reusable bag’  
19 means a bag that has handles and is—

20 “(A)(i) made of cloth or other machine  
21 washable fabric, or

22 “(ii) made of a durable plastic that is at  
23 least 2.25 mils thick, and

24 “(B) is specifically designed and manufac-  
25 tured for multiple reuse.

1 “(e) SPECIAL RULES.—

2 “(1) PASS THROUGH OF TAX.—The tax im-  
3 posed by subsection (a) shall be passed through to  
4 the customer and shall be separately stated on the  
5 receipt of sale provided to the customer.

6 “(2) RECORDS.—Each retailer shall keep  
7 records for purposes of this section and section  
8 6433. Such records shall include the total number of  
9 single-use carryout bags purchased and the amounts  
10 passed through to the customer for such bags pursu-  
11 ant to paragraph (1).

12 “(3) 1ST RETAIL SALE; USE TREATED AS  
13 SALE.—For purposes of this section, rules similar to  
14 the rules of subsections (a) and (b) of section 4002  
15 shall apply.”.

16 (b) CARRYOUT BAG RECYCLING PROGRAM.—Sub-  
17 chapter B of chapter 65 of such Code is amended by add-  
18 ing at the end the following new section:

19 **“SEC. 6433. QUALIFIED SINGLE-USE CARRYOUT BAG RECY-  
20 CLING PROGRAM.**

21 “(a) ALLOWANCE OF CREDIT.—If—

22 “(1) tax has been imposed under section 4056  
23 on any single-use carryout bag, and

24 “(2) a retailer provides such bag to a customer  
25 in a point of sale transaction, and

1           “(3) such retailer has in effect at the time of  
2           such transaction a qualified carryout bag recycling  
3           program,

4 the Secretary shall pay (without interest) to such retailer  
5 an amount equal to the applicable amount for each such  
6 bag used by the retailer in connection with a point of sale  
7 transaction.

8           “(b) APPLICABLE AMOUNT.—For purposes of sub-  
9 section (a), the applicable amount is—

10           “(1) \$0.01 with respect to transaction on and  
11           after January 1, 2010, and before January 1, 2015,  
12           and

13           “(2) \$0.05 with respect to transaction on and  
14           after January 1, 2015.

15           “(c) QUALIFIED SINGLE-USE CARRYOUT BAG RECY-  
16 CLING PROGRAM.—For purposes of this section, the term  
17 ‘qualified carryout bag recycling program’ means a pro-  
18 gram under which the retailer—

19           “(1) to the extent the retailer provides single-  
20           use carryout bags (as defined in section 4056) to  
21           customers—

22           “(A) passes through the tax imposed by  
23           section 4056 and tracks the total number of  
24           bags purchased and amount of tax passed  
25           through pursuant to section 4056(d), and

1           “(B) has printed or displayed on each such  
2           bag, in a manner visible to a customer, the  
3           words ‘PLEASE RETURN TO A PARTICI-  
4           PATING STORE FOR RECYCLING’,

5           “(2) places at each place of business at which  
6           retail operations are conducted one or more carryout  
7           bag collection bins which are visible, easily accessible  
8           to the customer, and clearly marked as being for the  
9           purpose of collecting and recycling single-use carry-  
10          out bags,

11          “(3) recycles the single-use carryout bags col-  
12          lected pursuant to paragraph (2),

13          “(4) maintains for not less than 3 years records  
14          (which shall be available to the Secretary) describing  
15          the collection, transport, and recycling of single-use  
16          carryout bags collected, and

17          “(5) makes available to customers within the  
18          retail establishment reusable bags (as defined in sec-  
19          tion 4056(c)(2)) which may be purchased and used  
20          in lieu of using a single-use carryout bag.”.

21          (c) ESTABLISHMENT OF TRUST FUND.—Subchapter  
22          A of chapter 98 of such Code (relating to trust fund code)  
23          is amended by adding at the end the following:

1 **“SEC. 9511. SINGLE-USE CARRYOUT BAG TRUST FUND.**

2       “(a) CREATION OF TRUST FUND.—There is estab-  
3 lished in the Treasury of the United States a trust fund  
4 to be known as the ‘Single-Use Carryout Bag Trust Fund’  
5 (referred to in this section as the ‘Trust Fund’), consisting  
6 of such amounts as may be appropriated or credited to  
7 the Trust Fund as provided in this section or section  
8 9602(b).

9       “(b) TRANSFERS TO TRUST FUND.—There is hereby  
10 appropriated to the Trust Fund an amount equivalent to  
11 the amounts received in the Treasury pursuant to section  
12 4056.

13       “(c) EXPENDITURES FROM TRUST FUND.—Amounts  
14 in the Trust Fund shall be available, as provided by appro-  
15 priation Acts, for—

16               “(1) grants to States and localities that estab-  
17 lish taxes on plastic and paper bags which are simi-  
18 lar to the taxes imposed under section 4056, and

19               “(2) making payments under section 6433.

20       “(d) TRANSFER TO LAND AND WATER CONSERVA-  
21 TION FUND.—

22               “(1) IN GENERAL.—The Secretary shall pay  
23 from time to time from the Trust Fund into the  
24 land and water conservation fund provided for in  
25 title I of the Land and Water Conservation Fund  
26 Act of 1965 amounts (as determined by the Sec-

1       retary) equivalent to the aggregate of the trans-  
2       actions on which tax is imposed under section 4056  
3       aggregate amounts determined on the basis of—

4               “(A) \$0.01 with respect to each such  
5       transaction on and after January 1, 2010, and  
6       before January 1, 2015, and

7               “(B) \$0.05 with respect to each such  
8       transaction on and after January 1, 2015.

9       “(2) SPECIAL RULE REGARDING AMOUNTS  
10      TRANSFERRED.—Amounts transferred to the land  
11      and water conservation fund under paragraph (1)  
12      shall not be taken into account for purposes of de-  
13      termining amounts to be appropriated or credited to  
14      the fund under section 2(c) of the Land and Water  
15      Conservation Fund Act of 1965 (16 U.S.C. 460l-  
16      5(c)).”.

17      (d) STUDY.—Not later than December 31, 2012, the  
18      Comptroller General of the United States shall conduct  
19      a study on the effectiveness of the provisions of this Act  
20      at reducing the use of single-use carryout bags and en-  
21      couraging recycling of such bags. The report shall—

22              (1) address measures that the Comptroller Gen-  
23      eral determines may increase the effectiveness of  
24      such provisions, including the amount of tax im-  
25      posed on each single-use carryout bag, and

1           (2) evaluate whether imposing taxes on other  
2           products, such as food wrappers and containers,  
3           could reduce the use of such products.

4 The Comptroller General shall submit a report of such  
5 study to the Committee on Ways and Means of the House  
6 of Representatives and the Committee on Finance of the  
7 Senate.

8           (e) CLERICAL AMENDMENTS.—

9           (1) The table of subchapters for chapter 31 of  
10          such Code is amended by inserting after the item re-  
11          lating to adding at the end thereof the following new  
12          item:

“Subchapter D. Single-Use Carryout Bags.”.

13          (2) The table of sections for subchapter B of  
14          chapter 65 of such Code is amended by adding at  
15          the end the following new item:

“Sec. 6433. Qualified single-use carryout bag recycling program.”.

16          (3) The table of sections for subchapter A of  
17          chapter 98 of such Code is amended by adding at  
18          the end the following new item:

“Sec. 9511. Single-Use Carryout Bag Trust Fund.”.

19          (f) EFFECTIVE DATE.—The amendments made by  
20 this section shall take effect on January 1, 2010.

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