SYNOPSIS
Establishes fee on single-use carryout bags used in certain stores and dedicates fee revenue to “Healthy Schools and Community Lead Abatement Fund.”

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 5/25/2018)
AN ACT concerning the use of single-use carryout bags in stores and supplementing Titles 13 and 54 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. Beginning June 1, 2019, each operator shall impose a $0.05 fee on the customer for each single-use carryout bag that is provided as a carryout bag to the customer, except that the operator shall not charge the fee on any customer who:
   (1) is 65 years of age or older; or
   (2) is enrolled as a participant in the Supplemental Nutrition Assistance Program, established pursuant to the federal “Food and Nutrition Act of 2008” (7 U.S.C. s.2011 et seq.), the Special Supplemental Nutrition Program for Women, Infants and Children, established pursuant to the federal “Child Nutrition Act of 1966” (42 U.S.C. s.1771 et seq.), or the Work First New Jersey program, established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

b. Each operator shall indicate the total number of single-use carryout bags provided to a customer, and the total fee charged pursuant to subsection a. of this section, on the sales or other receipt given to the customer.

c. Each operator shall retain $0.01 of the fee collected pursuant to subsection a. of this section, and remit the remaining $0.04 to the director in a manner prescribed by the director. Each operator shall be personally liable for the fees imposed, collected, or required to be collected. Any operator shall have the same right in respect to collecting the fee from a customer as if the fee were a part of the sales price of the product sold and payable at the same time.

d. The director may use up to one percent of the revenues collected pursuant to subsection c. of this section to defray the costs of administration and collection of the fees. The director shall deposit the remainder of the revenues into the “Healthy Schools and Community Lead Abatement Fund” established pursuant to section 3 of P.L.  , c. (C. ) (pending before the Legislature as this bill).

e. The fee imposed pursuant to this section shall be governed by the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

f. The director shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the implementation of this act.

g. This section shall supersede and preempt all municipal and county rules, regulations, codes, and ordinances concerning the regulation or prohibition of carryout bags or fees charged therefor.

h. As used in this section:
   “Carryout bag” means a bag provided by a store at the point of sale for customers to carry their goods out of the store.
“Chain” means a business with 10 or more locations in the State or nationally and doing business under the same trade name or under common ownership or control, or as franchised outlets of a parent business.

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

“Operator” means a person in control of, or having responsibility for, the daily operation of a store, which may include, but need not be limited to, the owner of the store.

“Reusable carryout bag” means a bag made of cloth or other machine washable fabric that has handles, a non-woven polypropylene bag that has handles, or a durable plastic bag that has handles and is at least 2.25 mils thick, and which is specifically designed and manufactured for multiple reuse.

“Single-use carryout bag” means any carryout bag that is not a reusable carryout bag.

“Store” means a drug store, supermarket, or retail establishment that has over 2,000 square feet of retail space or is part of a chain, and that provides carryout bags to its customers as a result of the sale of a product.

2. a. Within 90 days after the effective date of this act, the Department of Environmental Protection shall establish a public information program which addresses the effects of single-use carryout bags on the environment, and encourages consumers to use reusable carryout bags for retail shopping. The public information program shall include information on the fee charged for single-use carryout bags pursuant to section 1 of P.L. , c. (pending before the Legislature as this bill).

b. For the purposes of this section:

“Carryout bag” means a bag provided by a store at the point of sale for customers to carry their goods out of the store.

“Chain” means a business with 10 or more locations in the State or nationally and doing business under the same trade name or under common ownership or control, or as franchised outlets of a parent business.

“Reusable carryout bag” means a bag made of cloth or other machine washable fabric that has handles, a non-woven polypropylene bag that has handles, or a durable plastic bag that has handles and is at least 2.25 mils thick, and which is specifically designed and manufactured for multiple reuse.

“Single-use carryout bag” means any carryout bag that is not a reusable carryout bag.

“Store” means a drug store, supermarket, or retail establishment that has over 2,000 square feet of retail space or is part of a chain, and that provides carryout bags to its customers as a result of the sale of a product.
3. a. There is established in the Department of Environmental Protection a nonlapsing fund to be known as the “Healthy Schools and Community Lead Abatement Fund.”

b. The fund shall be credited with:

(1) the fees collected by the director pursuant to section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill);

(2) all interest or other investment income earned and received on investment of the moneys in the fund; and

(3) any other monies that may be made available, or appropriated, to the department for the purposes of the fund.

c. Moneys in the fund shall be used by the Department of Environmental Protection, in consultation with the Department of Education, the Department of Community Affairs, and the Department of Health, solely for lead abatement in schools and communities, including: removal and replacement of water fountains, plumbing, and pipes that contain lead; stripping lead paint from schools and residential dwellings; and other lead abatement programs, as established by the department in consultation with the Department of Education, the Department of Community Affairs, and the Department of Health.

d. The department shall develop guidelines to prioritize the disbursement of monies from the fund and shall post these guidelines on its Internet website.

e. The department shall submit annually to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature a report detailing the lead abatement activities undertaken and the funds disbursed pursuant to this section.

4. This act shall take effect immediately.

STATEMENT

The bill would establish a fee on the use of single-use carryout bags provided by certain types of stores to customers and dedicate revenue from the fee to the “Health Schools and Community Lead Abatement Fund” established in the bill.

Specifically, beginning on June 1, 2017, the bill would require each operator of a store to impose a $0.05 fee on a customer for each single-use carryout bag that is provided to the customer. However, the bill provides that no fee would be charged if the customer is 65 years of age or older, or is enrolled as a participant in the Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), or the Work First New Jersey program. “Store” is defined in the bill as a drug store, supermarket, or retail establishment that has over 2,000 square feet of retail space or is
part of a chain, and that provides carryout bags to its customers as a result of the sale of a product. A “chain” is any business with 10 or more locations in the State or nationally and doing business under the same trade name or under common ownership or control, or as franchised outlets of a parent business. “Single-use carryout bag” is defined as any bag that is not a reusable carryout bag, and would include single-use compostable and non-compostable plastic bags and paper bags.

Under the bill, each store operator would be required to indicate the total number of single-use carryout bags provided to a customer and the total fee charged for the bags on the sales or other receipt given to the customer. Store operators would retain $0.01 of the fee collected, and pay the remaining $0.04 to the Director of the Division of Taxation, in a manner prescribed by the director. The director could use up to one percent of the revenues collected to defray the cost of administration of the bill. The director would deposit the remaining revenues into the “Healthy Schools and Community Lead Abatement Fund” established in the bill. Moneys in the fund would be used by the Department of Environmental Protection (DEP), in consultation with the Department of Education, the Department of Community Affairs, and the Department of Health, for lead abatement in schools and communities, including: removal and replacement of water fountains, plumbing, and pipes that contain lead; stripping lead paint from schools and residential dwellings; and other lead abatement programs.

The bill also would require the DEP to establish a public information program which addresses the harmful environmental effects caused by single-use carryout bags, and encourages consumers to use reusable carryout bags for retail shopping. The public information program would include information on the fee charged for single-use carryout bags pursuant to the bill.

Finally, the bill would supersede and preempt all municipal and county rules, regulations, codes, and ordinances concerning the regulation or prohibition of carryout bags or fees charged for those bags.