



Committee: T&E
Committee Review: At a future date
Staff: Ludeen McCartney-Green, Legislative Attorney
Purpose: To receive testimony – no vote expected

AGENDA ITEM #3
January 14, 2025
Public Hearing

SUBJECTS

Bill 24-24, Taxation – Paper Carryout Bags and Prohibition on Plastic Carryout Bags
("Bring Your Own Bag")

Lead Sponsor: Council President Stewart

Co-Sponsors: Councilmembers Sayles, Glass, Fani-González, and Jawando

EXPECTED ATTENDEES

Members of the Public

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; to receive public testimony

DESCRIPTION/ISSUE

Bill 24-24 would :

- (1) prohibit plastic carryout bags provided by a retail establishment with certain exceptions;
- (2) require a tax on paper carryout bags at the point of sale with certain exceptions;
- (3) 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.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

Staff Report

Pages 1-5

Bill 24-24

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FAQ provided by Office of Councilmember Stewart

© 10

Fiscal Impact Statement

© 14

Racial Equity and Social Justice Impact Statement

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Climate Assessment

© 24

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MEMORANDUM

January 9, 2025

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: **Public Hearing:** Bill 24-24, Taxation – Paper Carryout Bags and Prohibition on Plastic Carryout Bags (“Bring Your Own Bag”)

Bill 24-24, Taxation – Paper Carryout Bags and Prohibition on Plastic Carryout Bags, also known as, Bring Your Own Bag, sponsored by Lead Sponsor Council President Stewart and co-sponsored by Councilmembers Sayles, Glass, Fani-Gonzalez, and Jawando was introduced on October 15, 2024. A public hearing will be held on January 14. A Transportation and Environment (T&E) worksession will be held on February 3.

Bill 24-24 would :

- (1) prohibit plastic carryout bags provided by a retail establishment with certain exceptions;
- (2) require a tax on paper carryout bags at the point of sale with certain exceptions;
- (3) 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.

PURPOSE

The purpose of this bill is to advance protections for environmental and human health by prohibiting carryout plastic bags in the County. According to the FAQ, see page ©10, plastic bags take more than 1,000 years to decompose. As the plastic breaks down, microplastics are leached into our soil and water, which impacts human health and animals that encounter plastics become at risk. The bill seeks to promote a culture that encourages individuals to bring their own bag, as a result, it would reduce litter; plastic waste in the County waterways; and support a cleaner, healthier future.

BACKGROUND

Pursuant to state law, local jurisdictions with general taxing powers (e.g., Baltimore City, Baltimore County, Prince George’s, and Montgomery County) have the authority to levy a bag fee. On January 1, 2012, the County law went into effect, requiring a 5-cent tax on paper and

plastic carryout bags provided to customers at a retail establishment.¹ A retail establishment is defined as any person engaged in the retail sale of goods, which included a supermarket, convenience store, shop, service station, restaurant, and any other sales outlet where a customer can buy goods. A retailer may retain 1-cent of the bag tax to cover administrative costs.

The revenues collected from the bag tax are deposited into the County's Water Quality Protection Charge fund, which is used for County environmental programs, anti-litter programs, stormwater management, and other watershed restoration initiatives.

The Office of Inspector General (OIG) conducted an investigation to determine the effectiveness of the legislation and whether the County was receiving carryout bag tax payments from all retail establishments required to remit payment. The report identified several findings regarding the and recommendations. See the report for more details: OIG Publication #23-15:<https://www.montgomerycountymd.gov/OIG/Resources/Files/PDF/IGActivity/FY2023/OIG23-15.pdf>

Laws in Other Jurisdictions

There are several jurisdictions that have adopted legislation to charge an excise tax for carryout bags. More specifically the following increased the bag tax to \$0.10 per bag – Prince George's, Anne Arundel, and states such as California, Vermont, Connecticut, Colorado, and Delaware.

Federal rules prevent Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children Program (WIC) benefits from paying any non-food fees or taxes (other than the sales tax on food), so unless exempted from the tax, SNAP/WIC recipients would have to pay the bag tax out of their own pockets. There are several states that exempt recipients of food assistance benefits from the carryout bag tax - Fairfax County, VA; Chicago, IL; CA; CO; NY; OR; and WA. See additional jurisdictions on page © 11.

BILL SPECIFICS

First, Bill 24-24 would repeal the 5-cent tax on plastic bags and implement a **ban on plastic carryout bags** provided by a retail establishment at a point of sale, pickup, or delivery, with certain exceptions. The **exceptions where a plastic bag would be permitted**, include:

- for a prescription drug;
- a newspaper bag or bag intended for garbage, pet waste, or yard waste;
- at the point of sale of a seasonal event, such as a farmers' market, street fair, or yard sale;
- to package bulk items, including fruit, vegetables, nuts, grains, candy, ice, or small hardware items;
- for garments or dry-cleaned clothes, including suits, jackets, or dresses;
- to wrap a perishable item, including meat or fish, or unwrapped prepared foods or bakery goods; or

¹ The County Council adopted Bill 8-11, Taxation - Excise Tax Disposable Carryout Bags on May 3, 2011. Section 52-

- a bag used to take live fish, insects, mollusks, crustaceans, or amphibians away from the retail establishment.

Any plastic bag provided to a customer by a retailer that is not reusable is considered a plastic bag and is prohibited. The bill defines “reusable bag” as a bag with stitched handles specifically designed and manufactured for multiple reuses and is made of: (1) cloth or other washable fabric; or (2) a durable material suitable for multiple re-use that is not made of plastic film.

Second, a retail establishment must charge and collect a **10-cent bag tax for each paper carryout bag** provided to a customer, with certain exceptions. The **bag tax does not apply** to the following uses of paper carryout bag:

- if it contains a prescription drug;
- to wrap live fish, insects, mollusks, or crustaceans;
- for any leftover food from a restaurant;
- prepared food provided at a drive-through window of a restaurant;
- prepared food provided at a mobile food truck; or
- for food delivery that is collected by a third party delivery service to carry the purchased item.

Third, the law requires that business that are subject to assessing the tax must:

- exempt the tax for a paper carryout bag provided to a customer who used SNAP or WIC benefits;
- post a notice that advises customers to bring reusable carryout bags or to skip the bag, but if a paper carryout bag is provided by the retailer the bag is subject to the 10-cent tax;
- indicate on the customer’s receipt the number of paper bags provided and the total charge;
- allowed to retain 5-cents of the 10-cent tax to cover any administrative and implementation costs;
- remit the taxes collected to the County every quarter;
- comply with reporting requirements, especially for retailers with several locations in the County; and
- not misrepresent, advertise, hold out, collect, or state to the public or to a customer, directly or indirectly, an amount that exceeds 10-cents.

A violation by a retail establishment is considered a Class A violation: the first violation is \$500, and the second violation is \$750. The first offense will be a written warning. The County Attorney may enforce this Section through legal action.

While the carryout bag tax applies countywide, the ban on plastic carryout bags would only apply if a municipality has adopted Chapter 48 (Solid Waste) of the Montgomery County Code.² There are a few municipalities that have opted in – Town of Chevy Chase, Kensington,

² See Appendix F (County Laws Applicable to Municipalities) of the Montgomery County Code.

Laytonville, to name a few. The City of Rockville and Gaithersburg have not opted in and Takoma Park has its own ordinance with a ban on plastic carryout bags.

As introduced, the effective date of the prohibition on plastic carryout bag would be July 1, 2025.

SUMMARY OF IMPACT STATEMENTS

Fiscal Impact Statement (FIS)

According to Office of Management and Budget (OMB), Bill 24-24 is estimated to increase operating expenses by \$250,000 in FY26 and FY27 and by \$150,000 in FY28, and to reduce revenues by \$132,000 per year. No additional FTEs or personnel costs are expected if the legislation is enacted. (© 14).

Further, OMB identified that it is unable to estimate the costs for three factors: 1) how customer behavior will change if the bag tax were to increase from \$0.05 per-bag to \$0.10 per bag; 2) whether the 25% increase in the Water Quality Protection Charge would increase overall revenue or lessen because consumers decide to change their behavior and opt out of purchasing a single-use plastic bag; and 3) the number of SNAP/WIC recipients that would benefit from the exemption. OMB mentioned that it lacks the data to identify how many bags tax were made to food assistance recipients and the impact of this exemption.

Council staff notes that the FIS did not take into consideration potential fines or violations by retailers for non-compliance.

Economic Impact

At the time this staff report was published, the economic impact statement was not available. Please see OLO's website for additional updates:
<https://montgomerycountymd.gov/OLO/impact-statements.html>

Racial Equity and Social Justice

“The Office of Legislative Oversight (OLO) anticipates Bill 24-24 would have a small negative impact on racial equity and social justice (RESJ) in the County. Reducing plastic pollution through a ban on plastic carryout bags would proportionately benefit all community members in the County by race and ethnicity. However, despite exemptions for community members who participate in the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), households with lower incomes – who are more likely to be Black or Latinx – would be disproportionately burdened by the cost of purchasing alternative bags, including from an increased tax on paper carryout bags. See RESJ full report on page © 17.

OLO offers one recommended amendment for Council consideration - the County should provide free reusable bags to BIPOC communities to reduce the economic burden for individuals with lower income. Department of Environmental Protection (DEP) does provide a limited number of reusable bags; however, parameters regarding the distribution are not clear, for example, how

many bags are distributed annually, who receives the bags, is there any eligibility criteria, any public outreach announcements, etc.

Climate Assessment

OLO anticipates Bill 24-24 will have a positive impact on the County’s contribution to addressing climate change as it would likely incentivize consumers in the County to use reusable bags and reduce dependence on plastic bags, whose production contributes significantly to global greenhouse gas emissions. OLO notes the magnitude of this positive impact is dependent on the enforcement of the proposed ban and tax. See, Climate Assessment at page © 24.

<u>This packet contains:</u>	<u>Circle #</u>
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Bill No. 24-24
Concerning: Taxation – Paper Carryout
Bags and Prohibition on
Plastic Carryout Bags
("Bring Your Own Bag")
Revised: 10/10/2024 Draft No. 9
Introduced: October 15, 2024
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Stewart
Co-Sponsors: Councilmembers Sayles, Glass, Fani-González, and Jawando

AN ACT to:

- (1) prohibit plastic carryout bags provided by a retail establishment with certain exceptions;
- (2) require a tax on paper carryout bags at the point of sale with certain exceptions;
- (3) 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

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

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 follows:

4 ARTICLE IX. Plastic Carryout Bag Reduction.

5 **48-65. Short Title.**

6 This Article may be known and cited as the “Bring Your Own Bag.”

7 **48-66. Definitions.**

8 For the purposes of this section the following words have this meaning:

9 Department means the Department of Environmental Protection.

10 Director means the Director of the Department or the Director’s 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 bag. Plastic
14 carryout bag does not include:

- 15 (1) a plastic bag provided by a pharmacist that contains a prescription drug;
16 (2) any newspaper bag or bag intended for garbage, pet waste, or yard
17 waste;
18 (3) a bag provided at the point of sale at a seasonal event, such as a farmers
19 market, street fair, or yard sale;
20 (4) a bag used to package bulk items, including fruit, vegetables, nuts,
21 grains, candy, ice, or small hardware items;
22 (5) a bag that contains garments or dry-cleaned clothes, including suits,
23 jackets, or dresses;
24 (6) a bag used to contain or wrap a perishable item, including meat or fish,
25 or unwrapped prepared foods or bakery goods; or
26 (7) a bag used to take live fish, insects, mollusks, crustaceans, or
27 amphibians away from the retail establishment.

28 Point of sale means the physical or virtual place where a customer executes
29 payment for goods or services or receives goods or services.

30 Restaurant has the same meaning stated in Section 52-77.

31 Reusable carryout bag means a reusable carryout bag with stitched handles
32 specifically designed and manufactured for multiple reuses and is made of:

33 (1) cloth or other washable fabric; or

34 (2) a durable material suitable for multiple re-use that is not made of
35 plastic film.

36 Retail establishment has the meaning stated in Section 52-77.

37 **48-67. Plastic carryout bag – prohibited.**

38 A retail establishment must not provide a plastic carryout bag to a customer, or
39 a third party, for the purpose of carrying away or delivering goods or other
40 materials from the point of sale.

41 **48-68. Penalty and enforcement.**

42 (a) Civil citation. A retail establishment in violation of this Section is
43 subject to a Class A civil citation, if:

44 (1) an enforcement officer witnesses one or more plastic carryout
45 bags provided to a customer at a single point of sale. The
46 distribution of one or more bags in connection with a single
47 transaction constitutes a single violation.

48 (b) Notice of violation. A penalty under subsection (a) may not be imposed
49 unless a retail establishment:

50 (1) is first issued a written notice of violation; and

51 (2) fails to correct the violation within 7 days after receipt of the
52 written notice.

53 (c) Enforcement. The Department must enforce the provisions under this
54 Section and may coordinate with other departments to address
55 violations, as needed.

56 (d) The Office of the County Attorney may file an action in Circuit Court
57 against a retail establishment for any repeated violations of this Section.

58 **48-69. Regulations.**

59 The County Executive may adopt and establish regulations to implement and
60 enforce this Section.

61 **ARTICLE IX. Carryout Bag Tax.**

62 **52-77. Definitions.**

63 In this Article, the following terms have the following meanings:

64 *Director* means the Director of the Department of Finance.

65 *Food assistance program* means any federal, state, or local program that
66 provides monetary benefit to low-income individuals and families used at a
67 store to purchase food. *Food assistance program* include Supplemental
68 Nutrition Assistance Program (SNAP) or Women, Infants, and Children
69 Program (WIC).

70 *Paper carryout bag* means a paper bag provided by a retail establishment to a
71 customer at the point of sale, pickup, or delivery. *Paper carryout bag* does not
72 include:

- 73 (1) a paper bag provided by a pharmacist that contains a prescription drug;
74 (2) a bag used to take live fish, insects, mollusks, or crustaceans away from
75 a retail establishment;
76 (3) a paper bag that a restaurant gives a customer to take prepared or
77 leftover food or drink from a restaurant;
78 (4) a paper bag containing prepared food provided at the drive-through
79 window of a restaurant;

- 80 (5) a paper bag provided at a mobile food truck that contains prepared food;
81 or
82 (6) a paper bag provided for food delivery that is collected by a third party
83 delivery service to carry the purchased item.

84 [*Carryout bag* means a paper or plastic bag, non-reusable, provided by a retail
85 establishment to a customer at the point of sale, pickup, or delivery, to carry
86 purchased items. *Carryout bag* does not include:

- 87 (1) a bag provided by a pharmacist that contains a prescription drug;
88 (2) any newspaper bag or bag intended for initial use as a dry cleaning,
89 garbage, pet waste, or yard waste bag;
90 (3) a bag provided at the point of sale at a seasonal event, such as a farmers
91 market, street fair, or yard sale, or by an occasional retailer;
92 (4) a paper bag that a restaurant gives a customer to take prepared or
93 leftover food or drink from the restaurant; or
94 (5) a bag used to package a bulk item or to contain or wrap a perishable
95 item.

96 *Occasional retailer* means a retail establishment that engages in the retail sale
97 of goods no more than 6 days in any calendar year.]

98 *Restaurant* means any lunchroom, café, or other establishment located in a
99 permanent building for the accommodation of the public, equipped with a
100 kitchen containing facilities and utensils for preparing and serving meals to the
101 public, and outfitted with or without a public dining area. A *restaurant* does
102 not include any area of a supermarket, department store, or other retail
103 establishment beyond the kitchen and public dining area.

104 *Retail establishment* means any person engaged in the retail sale of
105 goods. *Retail establishment* includes any supermarket, convenience store,

106 shop, service station, mobile food truck, or restaurant, and any other sales
107 outlet where a customer can buy goods.

108 **52-78. Tax imposed.**

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

112 (b) Except as provided in Section 52-78A, [~~Each~~] each retail establishment
113 that provides a paper carryout bag to a customer must collect the
114 amount of the tax imposed under subsection (a) when the customer
115 makes any payment for goods in person, through the Internet, by
116 telephone, by facsimile, or by any other means. The retail establishment
117 must hold the taxes required to be collected under this Section in trust
118 for the County until remitted as required under Section 52-79.

119 (c) Each retail establishment may retain [~~1 cent~~] 5 cents from each [~~5-cent~~]
120 10-cent tax that the retail establishment collects to cover the
121 administrative expense of collecting and remitting the tax to the County.

122 (d) A retail establishment must indicate on the customer's transaction
123 receipt:

124 (1) the number of paper carryout bags that the retail establishment
125 provided to the customer; and

126 (2) the total amount of tax levied under this Section unless a food
127 assistance benefit is used for payment then the receipt must
128 indicate the carryout bag tax is exempt.

129 (e) A retail establishment must post a notice at the public entrance to the
130 retail establishment or at each point of sale that advises customers to
131 bring reusable carryout bags or to skip the bag and that all carryout bags
132 provided by the retailer are subject to a charge. The notice must be

133 posted in English and Spanish. The Department of Environment
134 Protection must post an example of a notice in English and Spanish on
135 the County website.

136 **52-78A. Recipients of food assistance program – exemption.**

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

139 **52-79. Remittance.**

140 (a) [Except as provided in subsection (b), on or before the 25th of each
141 month, each] Each retail establishment must remit the full amount of the
142 tax collected for all paper carryout bags provided to a customer during
143 the previous [month] quarter, less the amount retained under Section 52-
144 78(c).

145 (b) Quarterly remittance – required. A retail establishment is [only]
146 required to remit the taxes under subsection (a) to the Director every
147 quarter in accordance with the remittance schedule posted by the
148 Department on its website [when the cumulative taxes collected under
149 Section 52-78(a) since the previous remittance, if any, exceeds \$100].

150 (c) Reporting. Each remittance must be accompanied by a report of all
151 transactions that involve paper bags subject to the tax. The report must
152 be on a form supplied by the Director and must contain:

153 (1) the number of paper bags supplied or provided to customers[,]

154 (a) for which a tax was collected; and

155 (b) for which a tax was not collected;

156 (2) the amount of tax required by this Section to be collected;

157 (3) for an owner of more than one retail establishment must identify
158 the remittance for each location by name and address; and

159 (4) any other information the Director requires to [assure] ensure that
160 the proper tax has been remitted to the County.

161 (d) (1) If the retail establishment does not file a required report by the
162 deadline established under subsection (a), the Director may
163 estimate the amount of tax due. The Director may base the
164 estimate on a reasonable projection of paper carryout bags
165 supplied or provided and may consider taxes reported by other
166 retail establishments.

167 (2) The Director may send a notice of the estimated tax due,
168 including interest and penalty, to the retail establishment's last
169 known address. The retail establishment must pay the estimated
170 tax, including any interest and penalty assessed by the Director,
171 within 10 days after the notice is sent.

172 * * *

173 **Sec. 52-81. Prohibited conduct.**

174 A retail establishment must not:

- 175 (a) neglect or refuse to collect or remit the tax levied under this Article;
- 176 (b) file an incomplete, false, or fraudulent report to the Director;
- 177 (c) neglect or refuse to keep complete and accurate records; [or]
- 178 (d) refuse to allow the Director to inspect and audit the retail
179 establishment's records[.]; or
- 180 (e) misrepresent, advertise, hold out, collect, or state to the public or to a
181 customer, directly or indirectly, an amount that exceeds the allowable
182 tax established under Section 52-78(a).

183 **Sec. 2. Effective date.**

184 The prohibition on the use of plastic bag of Section 48-67, added under
185 Section 1 of this Act, must take effect on July 1, 2025. The amendments made in

186 Section 1 must apply to any paper carryout bag tax that would be due or is paid after
187 this Act becomes effective on July 1, 2025.



Council Vice President
KATE STEWART
DISTRICT 4

Frequently Asked Questions: Bring Your Own Bag (BYOB) Bill

What are the goals of this bill?

Single-use plastic, such as plastic bags, is harmful to the environment and our health. Plastic bags take more than 1,000 years to decompose. As the plastic breaks down, microplastics are leached into our soil and water which negatively impacts our health, and health of other living creatures. Encouraging people to bring their own bags when they shop will reduce litter and plastic waste, and build a cleaner, healthier future.

The Bring Your Own Bag (BYOB) Bill builds on Montgomery County's long-standing leadership advancing protections for both the environment and people's health. The bill bans carryout single-use plastic bags, retains a small fee on paper bags, and makes it easier for retailers to remit more of what they collect. With these changes, there should be a reduction in single-use bags, a reduction in obstacles to compliance for retailers, funding for water quality protection projects, and a cleaner county.

Why do we need to revise the county's bag fee?

In an effort to have cleaner waterways and successful businesses, many of our neighboring jurisdictions have revised their fees and banned single-use plastic bags. Inspector General report [OIG-23-15](#) studied the county's administration of the County's current carryout bag fee and made recommendations to improve it.

The Inspector General report found that while the intended purpose of the bag fee was "...to transfer some of the burden of litter cleanup costs from taxpayers to consumers, with the hope that it would also change consumer behavior and result in the use of fewer disposable bags," that purpose has not been fulfilled by collection of the current fee on all single-use carryout bags. This means many more single-use bags are in circulation in the county and its public spaces, parkland, and waterways. We can do better in Montgomery County.

What are the major changes to the current Bag Fee?

- Bans single use plastic carryout bags (see definition for exclusions).
- Provides a definition of reusable bags.
- Increases the bag fee for paper bags from five cents to ten cents (for paper carryout bags only).
- Changes the distribution of the fee. Retailers would get five cents vs. the current one cent and the County Water Quality Protection Fund would get five cents instead of the current four cents.

- Exempts SNAP and WIC transactions from bag fee.
- While plastic bags would be prohibited, leftovers, carry-out and food delivery by restaurants and third party entities would not be required to collect or remit the fee on paper bags.

What is the cost to taxpayers if the current fee isn't revised?

Report OIG-23-15 estimated that the county is losing between \$210,000 a year and \$8.2 million a year as of June 2023 due to retailers who should have been remitting carryout bag tax who were not.

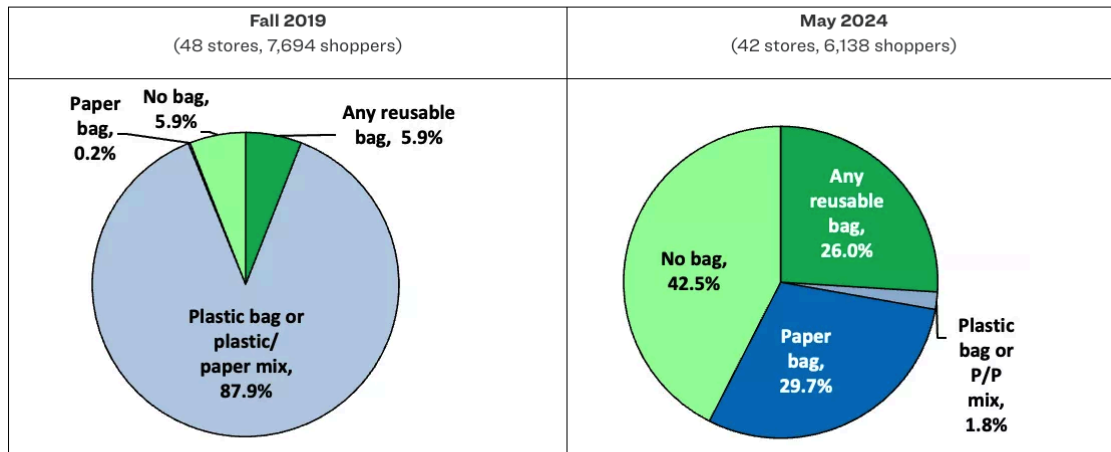
What are our regional neighbors doing about bags in their jurisdictions?

Policy	Jurisdiction (Year in effect)	Fee
Tax on plastic and paper carryout bags	Montgomery County (2012)	5 cent tax
Tax on plastic carryout bags	Howard County (2020)	5 cent tax
Ban on plastic carryout bags	Chestertown (2012) Takoma Park (2016) Westminster (July 2021) Frederick (January 1, 2024)	None
"Hybrid" Bring Your Own Bag Bill: • Ban on plastic carryout bags PLUS • Charge (retained by the store) or tax (retained by government) on other bags	Baltimore City (October 2021)	5 cent tax
	Baltimore County (Nov. 1, 2023)	Minimum 5 cent charge
	Easton (April 2, 2023) Salisbury (July 1, 2023) College Park (Sept. 1, 2023) Greenbelt (January 1, 2024) Anne Arundel County (January 1, 2024) Prince George's County (January 1, 2024) Laurel (January 1, 2024) Centreville (January 1, 2024) Annapolis (January 2025)	Minimum 10 cent charge

Notably, as other jurisdictions revisit similar bag ban laws, they have increased fees on paper bags. These changes encourage the ultimate goal: Incentivizing people to plan ahead and bring

their own reusable bags. [Data from the Maryland Sierra Club](#) illustrates the change in consumer behavior in Prince George’s following a recent countywide policy change (specifically banning single use plastic bags and placing a ten cent charge on paper bags, which is a similar policy to this bill):

Figure 1: Distribution of Prince George’s grocery shoppers at seven major chains according to their carryout bag use, before and after the Better Bag Bill (%)



Source: Prince George’s Sierra Club Shopper Surveys, 2019 and 2024. Results are for all stores in the following grocery chains: Food Lion, Giant, Harris Teeter, Safeway, Shoppers, Wegmans, Weis Markets.

How do you define a reusable bag?

We are using the same definition as Prince George’s, Anne Arundel, Baltimore County, Centreville, College Park, Frederick, Greenbelt, Annapolis, and Laurel based on their experience following the implementation of a similar legislation. Their definition:

“A reusable carryout bag is defined as a bag with stitched handles specifically designed and manufactured for multiple reuses and is made of

- cloth or other washable fabric, or
- a durable material suitable for multiple re-use that is not made of plastic.”

This definition does not allow for thicker film single-use bags that still end up in our waterways in large quantities for higher quality reusable bags. And, by using a definition already widely adopted across the region we minimize confusion for consumers and make compliance for retailers as easy as possible.

There are some goods that cannot be carried well in a paper or reusable bag—can I still get a single-use plastic bag for those specific cases?

This legislation exempts the following specific, narrow uses from the definition of a plastic carryout bag:

- a plastic bag provided by a pharmacist that contains a prescription drug;
- any newspaper bag or bag intended for garbage, pet waste, or yard waste;
- a bag provided at the point of sale at a seasonal event, such as a farmers market, street fair, or yard sale;

- a bag used to package bulk items, including fruit, vegetables, nuts, grains, candy, ice, or small hardware items;
- a bag that contains garments or dry-cleaned clothes, including suits, jackets, or dresses;
- a bag used to contain or wrap a perishable item, including meat or fish, or unwrapped prepared foods or bakery goods; or
- a bag used to take live fish, insects, mollusks, crustaceans, or amphibians away from a retail establishment.

How are you mitigating the effects of this change on families struggling with the costs of household needs?

We heard from residents that under current law, SNAP and WIC benefits do not cover the cost of the bag fee. This can result in situations when recipients of benefits have to carry groceries without a bag in an unwieldy manner because they could not purchase a bag.

This legislation maintains the privacy of SNAP and WIC transactions, the dignity of beneficiaries, and protects the value of the food they purchase from being dropped or damaged. For SNAP and WIC transactions, the retailer would cover the cost of bags instead of the customer.

I'm a small business owner—how will we make this change without increasing our own costs?

This revision to the bag fee for the county advances our county and assists business owners:

- Increases the portion of the fee given to retailers from one cent to five cents to cover costs of compliance and the greater cost of paper bags than single-use plastic bags
- Increases the portion of the fee directed to the county's Water Quality Protection Fund (WQPF) to implement vitally needed water quality enhancement throughout the county
- Eases the burden on retailers to remit fees collected by changing from a monthly to a quarterly schedule as recommended by the Inspector General report.

Fiscal Impact Statement

Office of Management and Budget

Bill 24-24

Bill 24-24, Taxation - Paper Carryout Bags and Prohibition on Plastic Carryout Bags ("Bring Your Own Bag")

Bill Summary

Bill 24-24 amends the County's bag tax in the following ways:

- Plastic bags may no longer be provided by stores or restaurants, although some exemptions from current law are continued, including bags for prescriptions, newspapers, and bags at events like farmers markets
- Increase the tax for a paper bag from the current \$0.05 per-bag to \$0.10 per bag
- Increase the amount of the fee retained by the business from \$0.01 per-bag to \$0.05 per-bag to cover the administrative costs of charging customers and remitting the tax to the County
- Exempt from the bag tax paper bags used by restaurants for leftovers or carry out orders
- Exempt from the bag tax participants of food assistance programs
- Modify retailers' reporting and remittance requirements

The bill would take effect July 1, 2025.

Fiscal Impact Summary

Bill 24-24 is estimated to increase operating expenses by \$250,000 in FY26 and FY27 and by \$150,000 in FY28, and to reduce revenues by \$132,000 per year. No additional FTEs or personnel costs are expected if the legislation is approved.

Fiscal Year	2026	2027	2028	2029	2030	2031	Total
Personnel Costs	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Operating Expenses	\$250,000	\$250,000	\$150,000	\$0	\$0	\$0	\$650,000
Total Expenditures	\$250,000	\$250,000	\$150,000	\$0	\$0	\$0	\$650,000
Revenues	(\$132,000)	(\$132,000)	(\$132,000)	(\$132,000)	(\$132,000)	(\$132,000)	(\$792,000)
Total Impact	(\$382,000)	(\$382,000)	(\$282,000)	(\$132,000)	(\$132,000)	(\$132,000)	(\$1,442,000)
FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Fiscal Impact Analysis

It is difficult to estimate the impact of customer behavior from a \$0.05 increase in the bag tax. Some number of customers will decide the tax is too much and bring their own bags, reducing revenue. On the other hand, the County's share of the tax increases by a penny, or 25 percent. This Fiscal Impact Statement assumes they will generally cancel each other out and estimates that Bill 24-24 will increase expenditures by \$250,000 in FY25 and FY26 and of \$150,000 in FY26, and that revenue from restaurants will decrease \$131,700 per year.

Revenue

Bag tax revenues totaled \$2,904,096 in FY23, the most recent actual available. It is estimated at \$2,700,000 in FY25-FY27, and \$2,500,000 thereafter.

Bill 24-24 is estimated to reduce revenues by up to \$132,000 per-year starting in FY26. The legislation exempts from the tax paper bags that contain prepared, leftover,



or carryout food. As such, this FIS assumes no revenue from the restaurant sector.

Two additional factors are difficult to estimate:

- How customer behavior will change if the bag tax were to increase from \$0.05 per-bag to \$0.10 per bag. The economic principle of elasticity indicates that some number of customers will start bringing their own bags rather than pay the higher tax and as a result, there will be fewer bag tax charges under Bill 24-24.
- At the same time, the County's share of the tax increases from \$0.04 to \$0.05, or 25 percent. A 25 percent increase in WQPF would be \$580,819 based on the FY23 total of \$2,904,096, but if more customers bring their own bags, the impact of this increase will lessen.

Without actual experience under the bill, it is unclear how the two factors will balance out, if enough customers choose to bring their own bag that the increase in the County's share of the tax is zeroed or negated altogether. Thus, it is unknown if the higher bag tax will result in 25 percent fewer bag tax charges and offset the 25 percent increase in the share of revenue that goes to the County.

Finally, the legislation exempts participants of food assistance programs from the bag tax. The County does not have data on how many bag tax charges were made to food assistance recipients and the impact of this provision is unknown.

Expenditures

Bill 24-24 is expected to increase expenditures by \$250,000 in FY26 and FY27 and by \$150,000 in FY28. Although not required by the legislation, the Department of Environmental Protection (DEP) will perform outreach and awareness activities to affected retailers and for the public, things like bus ads, flyers, posters, and visits to businesses. The effort is expected to last from FY26 to FY28, and the \$250,000 estimate is based on previous bag tax outreach efforts and other recent campaigns like the one regarding the County's ban on the sale and use of gas-powered leaf blowers.

Impact on Water Quality Protection Charge Rates

With the caveats described above notwithstanding, the combined impact of higher expenditures and lower revenue under Bill 24-24 is estimated as \$382,000 in FY26. This equates to \$1.05 on the Water Quality Protection Charge (WQPC). Absent savings found elsewhere in the budget or higher than expected revenues from the WQPC, rates would need to increase by \$1.05 per-Equivalent Residential Unit (ERU) to make up for the higher expenditure and the loss of revenue.

Bondholder Commitments

Revenues from the bag tax are deposited into the Water Quality Protection Fund (WQPF) and used for:

- operating budget expenses,
- current revenue in the capital budget, and
- to pay debt service on WQPC-backed revenue bonds.

In issuing revenue bonds, the County commits to bondholders that:

1. WQPF revenues will be set such that net revenues are not less than 115 percent of debt service requirements, including for projections of future years when new



debt may be issued. Additionally, the County has set an internal policy goal that net revenues not be less than 125 percent of debt service.

2. That end-of-year fund balance will be at least 5 percent of revenues.

Since the bag tax is a revenue pledged for bond repayment, any change in the tax will likely have to be reported to bondholders.

Staff Impact	Although there will be an increase in workload for the outreach campaign and to develop related materials, it is expected that the work can be absorbed by the existing staff complement.
Actuarial Analysis	The bill is not expected to impact retiree pension or group insurance costs.
Information Technology Impact	The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.
Other Information	
<i>Later actions that may impact revenue or expenditures if future spending is projected</i>	The bill does not authorize future spending.
<i>Ranges of revenue or expenditures that are uncertain or difficult to project</i>	<p>There are several uncertainties regarding the cost estimate for Bill 24-24:</p> <ul style="list-style-type: none"> • How many customers will choose to bring their own bag rather than pay the higher tax • The reduction in revenue that will result from exempting from the bag tax participants of food assistance programs • How much the above may be offset by increasing the County's share of the bag tax by 25 percent, from \$0.04 per-bag to \$0.05 per bag
<i>Sources of information</i>	The Department of Environmental Protection and the Department of Finance
<i>Contributors</i>	<p>Richard H. Harris, Office of Management and Budget Vicky Wan, Department of Environmental Protection Jacqueline Carter, Department of Finance Nancy Feldman, Department of Finance Trevor Ashbarry, Office of the County Attorney</p>



Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 24-24: TAXATION – PAPER CARRYOUT BAGS AND PROHIBITION ON PLASTIC CARRYOUT BAGS (“BRING YOUR OWN BAG”)

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 24-24 would have a small negative impact on racial equity and social justice (RESJ) in the County. Reducing plastic pollution through a ban on plastic carryout bags would proportionately benefit all community members in the County by race and ethnicity. However, despite exemptions for community members who participate in the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), households with lower incomes – who are more likely to be Black or Latinx – would be disproportionately burdened by the cost of purchasing alternative bags, including from an increased tax on paper carryout bags. OLO offers one recommended amendment for Council consideration.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social inequities that have caused racial and social disparities.²

PURPOSE OF BILL 24-24

Taxes and bans on plastic bags have been implemented in multiple jurisdictions across the country.³ They are intended to disincentivize customers from using single-use plastic bags and reduce the amount of plastic litter.⁴ Depending on the jurisdiction, revenue from bag taxes goes towards environmental protection.⁵

In 2012, a County law requiring a 5-cent tax on paper and plastic carryout bags provided by retail establishments went into effect. This included supermarkets, convenience stores, shops, gas stations, and restaurants. Under the law, retailers may retain 1 cent of the bag tax to cover administrative costs. Revenues from the tax are deposited into the County’s Water Quality Protection Charge, which goes towards activities such as restoring and monitoring streams and cleaning and maintaining storm drains.⁶

If enacted, Bill 24-24 would repeal the 5-cent tax on plastic carryout bags and ban plastic carryout bags provided by retail establishments. Some goods would be exempted from this ban, such as prescriptions, dry-cleaned garments, bulk foods, and perishable food items. Bill 24-24 would also:⁷

- Require a 10-cent tax on paper carryout bags (certain exemptions apply);
- Exempt recipients of food assistance programs from the paper carryout bag tax;
- Set guidelines for businesses subject to the tax, including allowing businesses to retain 5 cents of the tax for administrative costs and requiring businesses to remit the collected taxes to the County every quarter; and

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- Increase the amount the County Water Quality Protection Fund receives from each bag fee from 4 cents to 5 cents.

The County Council introduced Bill 24-24, Taxation – Paper Carryout Bags and Prohibition on Plastic Carryout Bags, on October 15, 2024.

PLASTIC POLLUTION AND RACIAL EQUITY

The National Resources Defense Council (NRDC) defines environmental justice as “everyone – regardless of race, color, national origin, or income – [having] the same environmental protections and benefits, as well as meaningful involvement in policies that shape their communities.”⁸ The Environmental Justice Movement was organized by Black, Indigenous, and other people of color (BIPOC) activists during the 1980s to combat environmental racism⁹ – the disproportionate exposure of BIPOC and people with low incomes throughout the U.S. to harmful environmental conditions.¹⁰ These disparate conditions often resulted from decision-making at all levels of government that historically ignored the needs and priorities of BIPOC community members.¹¹ “[E]qual protection, community involvement and healthy living environments” are enduring themes of the Environmental Justice Movement today.¹²

Plastic pollution is a mounting global issue, especially for environmental justice. Nearly eighty percent of plastics that have ever been produced – or 4.9 billion metric tons of plastic – are accumulating in landfills and the natural environment.¹³ Further, between 19 to 23 million tons of plastic waste leak into waterways every year, polluting lakes, rivers, and seas throughout the world.¹⁴ According to the United Nations Environment Programme (UNEP), there are three main consequences from using plastics and plastic packaging:¹⁵

1. Ecosystem degradation due to leakage, especially in the marine environment;
2. Fossil fuel emissions from plastic production and incineration of disposed materials; and
3. Health and environmental impacts (including biodiversity loss) from toxic substances;

In *NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution*,¹⁶ the UNEP describes how vulnerable communities throughout the world are disproportionately impacted by all stages of the plastics life cycle,¹⁷ from oil extraction and plastic production to the use and disposal of plastic products. For instance, hazardous waste facilities in the U.S. – including oil refineries that are necessary to produce plastic and landfills where plastics accumulate – are predominantly located near lower-income BIPOC communities,¹⁸ exposing them to toxic pollution and increasing their risk of adverse health effects.¹⁹ Figure A in the Appendix includes an infographic from the UNEP report that summarizes the impacts to vulnerable communities at each stage of the plastics life cycle.

In the U.S., state and local governments have worked to address the issue of plastic pollution by focusing on disposable plastic bags. As of 2021, over 500 local jurisdictions and 12 states have enacted legislation taxing or banning the use of plastic carryout bags from retailers.²⁰ Plastic bag restrictions can be effective policies for reducing plastic pollution.²¹ However, these policies can be regressive by disproportionately burdening lower-income households that already spend a large portion of their income on basic needs such as food.^{22,23} Based on a review of policies throughout the country, student researchers from the Environmental Law and Policy Clinic at Duke University provide four recommendations for developing disposable bag policies that promote equity and environmental justice:²⁴

1. Emphasize that customers using SNAP and WIC, or other assistance programs are exempt from the bag fee;
2. Support non-profit and business efforts to provide free reusable bags to community members;

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3. Consider implementing complementary water reduction programs and policies to maximize the environmental and social benefits of this policy; and
4. Practice culturally appropriate messaging and communication.

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 24-24 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who would primarily benefit or be burdened by this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

If enacted, Bill 24-24 would ban most plastic carryout bags provided by retailers in the County. This ban would likely help to reduce one source of plastic pollution in communities.²⁵ Reducing plastic pollution from plastic bags would proportionately benefit all community members in the County by race and ethnicity.

Conversely, a ban on plastic carryout bags would burden community members who have to purchase alternative bags to carry groceries, clothing, and other goods purchased from retailers. If enacted, Bill 24-24 would increase the tax on paper carryout bags from 5 cents to 10 cents. So community members who choose to purchase paper bags as an alternative would pay 5 cents more. As previously described, increasing the cost of carryout bags disproportionately burdens community members with lower incomes. In Montgomery County, the self-sufficiency standard for a family with 2 adults and 1 school-aged child – the amount of income a family of this composition must earn to meet basic needs – is \$90,729.^{26,27} Data on median incomes in the County by race and ethnicity (Table A, Appendix) suggest that Black and Latinx households are more likely to have incomes below this threshold.

Bill 24-24 would exempt community members who receive SNAP and WIC from the tax on paper carryout bags in grocery stores. This would help offset the economic burden of the increased tax on community members with low incomes. However, many low-income households that do not receive public benefits would still be burdened by the tax increase. Feeding America estimates that 50 percent of people who experience food insecurity may not qualify for SNAP.²⁸ Further, a 2017 study by Maryland Hunger Solutions found that 64 percent of community members in the County who were eligible for SNAP – or 109,282 community members – were not participating in the program.²⁹

OLO anticipates Bill 24-24 would have a small negative impact on racial equity and social justice in the County. Reducing plastic pollution through a ban on carryout bags would proportionately benefit all community members in the County by race and ethnicity. However, households with lower incomes – who are more likely to be Black or Latinx – would be disproportionately burdened by the cost of purchasing alternative bags, including from an increased tax on paper carryout bags. This burden would be offset in part by exempting community members who participate in SNAP and WIC from the paper carryout bag tax. Still, many community members with low incomes who do not participate in these programs would be burdened by this cost.

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RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.³⁰ OLO anticipates Bill 24-24 would have a small negative impact on racial equity and social justice in the County. As such, OLO offers one recommended amendment:

Require distribution of free reusable bags. To offset the economic burden of Bill 24-24 on BIPOC community members with lower incomes, the Council could amend the Bill to require the distribution of free reusable bags. Several local jurisdictions with carryout bag taxes have used the proceeds to help provide reusable bags to community members.³¹ For instance, bag fee revenue from the District of Columbia’s carryout bag tax is used “to support watershed protection initiatives, including education programs, stream restoration efforts, trash capture projects, and community outreach including the distribution of reusable bags.”³²

To ensure the reusable bags reach BIPOC community members who are most impacted, the Council could require the Department of Environmental Protection to engage with BIPOC community stakeholders to determine the best distribution channels for the free reusable bags. Engagement with BIPOC stakeholders could also yield additional recommendations for developing the County’s carryout bag initiative to advance RESJ and environmental justice.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

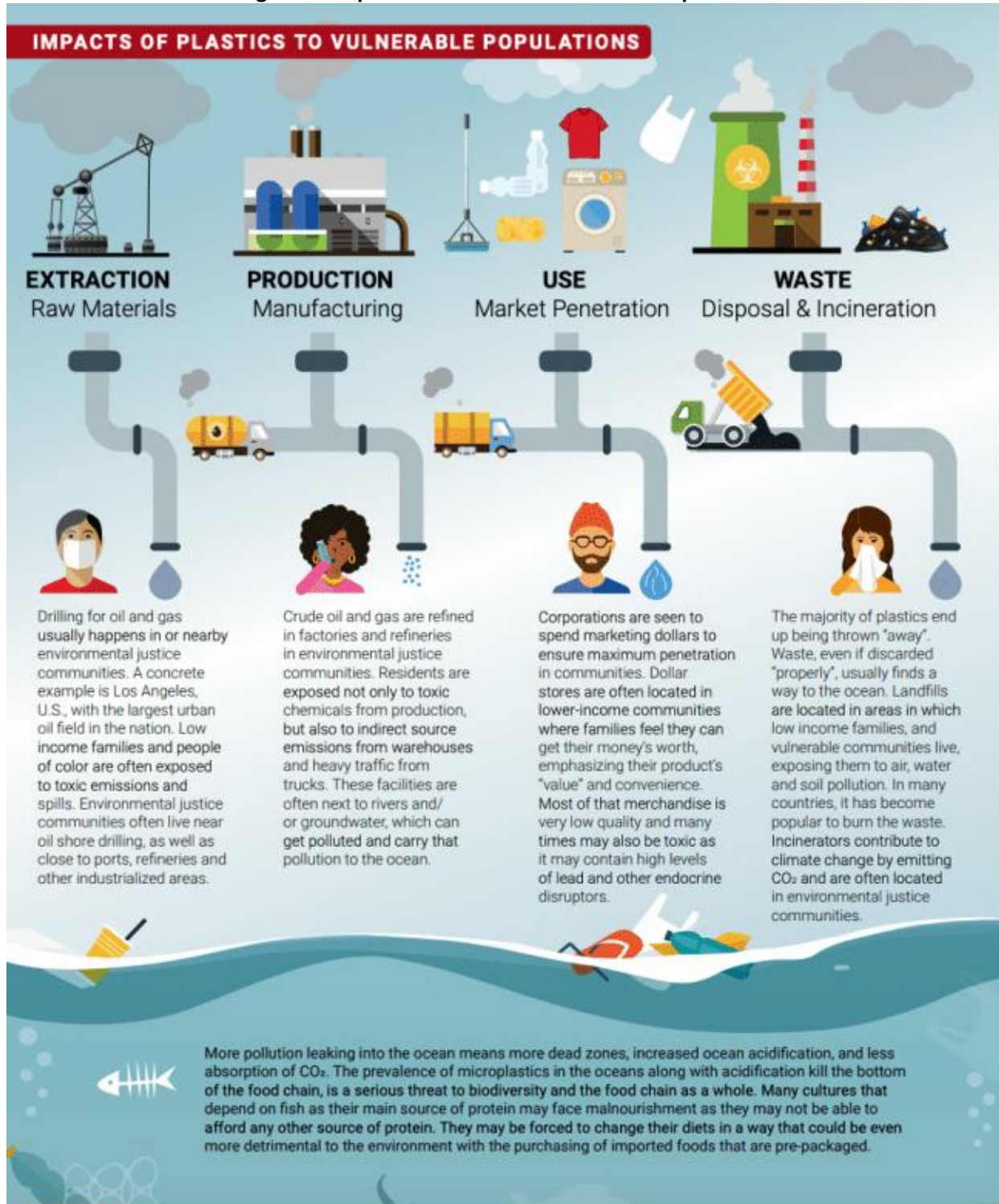
OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

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APPENDIX

Figure A. Impacts of Plastics to Vulnerable Populations



Source: "[NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution](#)," United Nations Environment Programme, pg. 24.

RESJ Impact Statement

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Table A. Median Household Income by Race and Ethnicity, Montgomery County

Race or ethnicity	Median Household Income
Asian	\$138,040
Black	\$89,022
Native American	\$98,313
Pacific Islander	\$139,396
White	\$151,572
Latinx	\$90,657
County	\$125,583

Source: [Table S1903](#), 2022 American Community Survey 5-Year Estimates, Census Bureau.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid.

³ A. Muposhi, M. Mpinganjira, and M. Wait, "[Considerations, benefits and unintended consequences of banning plastic shopping bags for environmental sustainability: A systematic literature review](#)", Waste, Management & Research, 2022.

⁴ T. G. Abate and K. Elofsson, "[Environmental taxation of plastic bags and substitutes: Balancing marine pollution and climate change](#)," Journal of Environmental Management, May 2024.

⁵ "[Disposable Plastic Bag Tax in Fairfax County](#)," Fairfax County Office of Environmental and Energy Coordination; "[Disposable Plastic Bag Tax](#)," Loudoun County, VA; "[Bring Your Bag](#)," Montgomery County, MD Department of Environmental Protection.

⁶ "[Water Quality Protection Charge](#)" and "[Bring Your Bag](#)," Montgomery County, MD Department of Environmental Protection.

⁷ [Introduction Staff Report for Bill 24-24](#), Montgomery County Council, Introduced October 15, 2024.

⁸ R. Skelton, V. Miller, and C. Lindwall, "[The Environmental Justice Movement](#)," NRDC, August 22, 2023.

⁹ "[History](#)," Congressional Black Caucus Foundation.

¹⁰ M. Ihejirika, "[What is Environmental Racism](#)," NRDC, May 24, 2023.

¹¹ Skelton, Miller, and Lindwall

¹² "[Environmental Justice Matters: What is Environmental Justice?](#)" Detroiters Working for Environmental Justice.

¹³ "[NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution](#)," United Nations Environment Programme, April 2021, pg. 15.

¹⁴ "[Plastic Pollution](#)," United Nations Environment Programme.

¹⁵ "NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution," pgs. 12-13.

¹⁶ "NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution"

¹⁷ The UNEP defines vulnerable populations as persons, groups and peoples in vulnerable situations outside of the traditional or mainstream spheres of power due to a different ethnic or national origin, political/religious affiliation, socioeconomic status, or gender. Refer to "NEGLECTED: Environmental Justice Impacts of Marine Litter and Plastic Pollution," pg. 14.

¹⁸ R.D. Bullard, et. al., "[Toxic Wastes and Race at Twenty: 1987-2007](#)," United Church of Christ, 2007.

¹⁹ A. Taylor, "[Millions of Americans Live Near Toxic Waste Sites. How Does This Affect Their Health?](#)," Urban Institute, February 16, 2022.

²⁰ Bennett, "[Plastic bag bans in the US reduced plastic bag use by billions, study finds](#)," World Economic Forum, January 25, 2024.

²¹ Climate Assessment for Bill 24-24, Office of Legislative Oversight, November 4, 2024.

²² A. Hessenius, "[Implementing Equity Solutions and Promoting Environmental Justice Through Durham’s Proposed Plastic Bag Fee](#)," Environmental Law and Policy Clinic, Duke University, December 10, 2020, pgs. 4-5.

²³ [Food Prices and Spending](#), Economic Research Service, U.S. Department of Agriculture, last updated June 27, 2024.

²⁴ Hessenius, pgs. 12-13

²⁵ Climate Assessment for Bill 24-24

²⁶ [The Maryland 2023 Self-Sufficiency Standard Calculator](#), Maryland Community Action Partnership. Inputs: County-Montgomery County; Adults-2; Infants-0; Preschoolers-0; Schoolagers-1; Teenagers-0.

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²⁷ University of Washington, "[The Self-Sufficiency Standard for Montgomery County, Maryland 2023](#)," Montgomery County Community Action Agency, 2023.

²⁸ [Food Insecurity Report Briefs](#), Feeding America, May 14, 2024.

²⁹ "[Missed Opportunities: An Analysis of SNAP Participation in Maryland by County](#)," Maryland Hunger Solutions, 2017.

³⁰ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

³¹ Hessenius, pgs. 8-12

³² "[Purpose and Impact of the Bag Law](#)," DC Department of Energy & Environment.

Climate Assessment

Office of Legislative Oversight

Bill 24-24: Taxation – Paper Carryout Bags and Prohibition on Plastic Carryout Bags

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 24-24 will have a positive impact on the County's contribution to addressing climate change as it would likely incentivize consumers in the County to use reusable bags and reduce dependence on plastic bags, whose production contributes significantly to global greenhouse gas emissions. OLO notes the magnitude of this positive impact is dependent on the enforcement of the proposed ban and tax.

BACKGROUND AND PURPOSE OF BILL 24-24

Taxes and bans on plastic bags have been implemented in multiple jurisdictions across the country.¹ They are intended to disincentivize customers from using single-use plastic bags and reduce the amount of plastic litter.² Depending on the jurisdiction, revenue from the bag tax goes towards environmental protection.³

In 2012, a County law requiring a 5-cent tax on paper and plastic carryout bags provided by retail establishments went into effect. This included supermarkets, convenience stores, shops, gas stations, and restaurants. Under the law, retailers may retain 1-cent of the bag tax to cover administrative costs. Revenue from the tax are deposited into the County's Water Quality Protection Charge, which goes towards activities such as restoring and monitoring streams and cleaning and maintaining storm drains.⁴

Bill 24-24 would repeal the 5-cent tax on plastic carryout bags and would ban plastic carryout bags provided by retail establishments. Some goods are exempted from this ban, such as prescriptions, dry-cleaned garments, bulk foods, and perishable food items. Bill 24-24 would also:

- Require a 10-cent tax on paper carryout bags (certain exemptions apply);
- Exempt recipients of food assistance programs from the carryout bag tax;
- Set guidelines for businesses subject to the tax, including allowing businesses to retain 5-cents of the tax for administrative costs and requiring businesses to remit the taxes collected to the County every quarter.; and
- Increase the amount the County Water Quality Protection Fund receives from each bag fee from 4 cents to 5 cents.⁵

Bill 24-24, Taxation – Paper Carryout Bags and Prohibition on Plastic Carryout Bags was introduced by the County Council on October 15, 2024.⁶

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

Methodology. For this assessment, the following were reviewed: the existing County bag tax and its impacts; literature about plastic bag taxes and bans and their efficacy; data and findings from reviewing other plastic bag taxes and bans around the world; and research on the recycling and reuse of single-use bags.

Assumptions. The main assumption of this assessment is that the proposed bill would dissuade customers of County businesses from using single-use paper bags and increase the use of reusable bags, as literature shows taxes on bags, when enforced, change consumer behavior.

Uncertainties. It is uncertain how many County residents would change their behavior around plastic bag use due to the ban and increased tax. It is also uncertain if there will be unintended consequences of the plastic bag ban that could result in single-use plastic usage staying the same or increasing, such as residents purchasing more plastic trash bags for small trash cans. Further, the enforcement of the proposed ban and tax is uncertain as the County has had enforcement issues with the current bag tax.

BANS AND TAXES ON SINGLE USE BAGS

Plastic bag bans and taxes on single-use bags are intended to incentivize consumers to switch to reusable bags, which will decrease the amount of single-use plastic and paper bags in circulation and lead to less plastic litter.⁷ While paper bags are more recyclable, wood pulp is required to manufacture these bags, which an increased need for single-use paper products could lead to deforestation. Ultimately, these policies should be designed with the major intention of driving more consumers to switch to reusable bags for their shopping and take-out purchases for the best outcome for the environment.⁸

In the United States, more than 100 billion plastic bags are distributed every year.⁹ Plastics are produced from petroleum, a fossil fuel product, and the manufacturing of plastic products, such as single-use plastic bags, emits greenhouse gases and is a major driver of climate change.¹⁰ Further, plastic bags are not biodegradable and contribute to microplastic pollution when they break down.¹¹ While single-use plastic bags are often reused as trash bin liners which lowers their carbon footprint, they will ultimately end up in the environment or landfill as they are difficult to recycle and not always accepted in municipal recycling streams.¹²

Efficacy of Plastic Bag Bans and Taxes. The efficacy of plastic bag bans and taxes are mixed, but it usually depends on how narrowly-defined regulations are and enforcement of regulations. A study on plastic bag policies enacted in Chicago found that plastic bag bans that do not regulate substitutes, such as paper bags, are significantly less effective at reducing the use of disposable bags compared to a tax on disposable bags. Bans may increase the overall environmental costs by changing the composition of types of single-use bags

used.¹³ However, it is likely that banning plastic bags while taxing a substitute will lead to less single-use bag use.

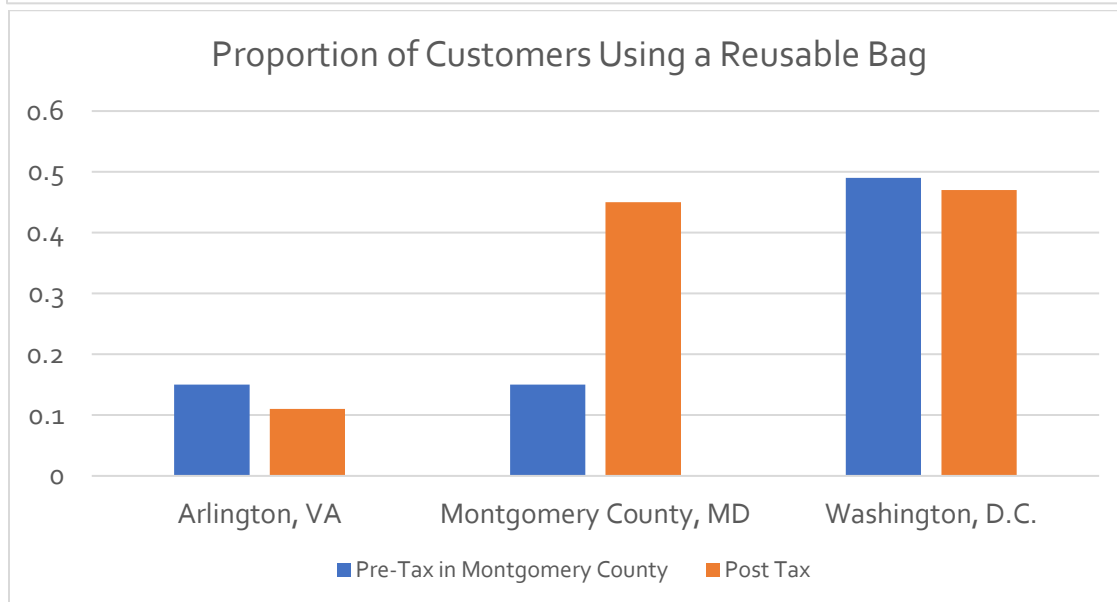
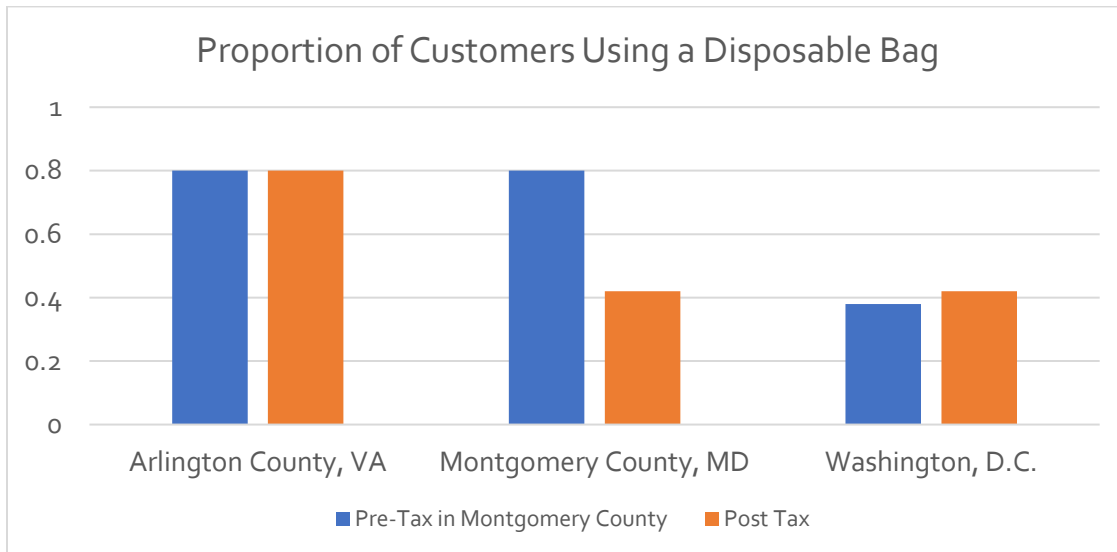
Another study that conducted a systematic review of plastic bag bans around the world found the success rates of bans are associated with stakeholder support, enforcement, and monitoring. Bans and taxes that have seen more success generally have strong enforcement. Some of the plastic bag bans studied around the world include:

- In China, the rollout of the ban resulted in a 49% reduction in plastic bag consumption after four months. However enforcement was weak, especially in rural areas, where many businesses continued to use plastic bags after the ban was enacted.
- Sao Paulo, Brazil recorded a 70% reduction after one year in plastic litter after a ban was enacted.
- A ban passed in 2011 in Italy resulted in a 50% reduction in the use of plastic bags.¹⁴

Findings from other Jurisdictions. Plastic bag bans and taxes have been passed in many countries. In the United States, multiple state and local governments have passed legislation on either plastic bag bans or taxes. A recent study from the Environment American Research and Policy Center at Penn State looked at bans instated in five states and cities and their impacts. It was found these bans affected more than 12 million people and it is estimated it has cut single-use plastic bag consumption by about six billion bags per year.¹⁵ ¹

Another study that looked at the effects of the 2012 tax on plastic bags in Montgomery County, MD showed a reduction of single-use bag usage. In Montgomery County, the study found that prior to the tax, 82% of customers used at least one single-use plastic bag per shopping trip. After the 5 cent tax was enacted, 42% of customers used at least one single-use plastic bag. The study further went on to state that if the reduction held constant, it would lead to a reduction of over 18 million disposable bags per year. The charts on the next page summarize the findings from the study. Two surrounding jurisdictions were used as control samples, Washington D.C., which implemented a tax similar to Montgomery County's two years ago and Arlington, VA, which proposed a similar tax but wasn't passed at the time of this study.

¹ The six billion bag per year figure is based on an estimate that on average, bans on single-use plastic bags can eliminate almost 300 bags per person, per year. This assumption is from research presented in: Penn Environment Research and Policy Center, "[Plastic Bag Bans Work](#)", January 17, 2024.



The data from the study shows that bag use in Arlington, VA and Washington, D.C. were stable both pre- and post-tax, while Montgomery County’s bag use changed significantly. It can be inferred that the tax caused a significant change in consumer behavior.¹⁶ As the new bill proposes a 50% increase in tax for single-use bags, it is likely it could increase the proportion of customers in Montgomery County that use a reusable bag. This change in behavior would likely decrease the use and circulation of single-use plastic bags in the County, which would lower the County’s carbon footprint associated with plastic usage. However, it must be noted that enforcement of the current tax on plastic bags has not been consistent, so the impact of the proposed tax may be lower than expected if enforcement continues to be weak.¹⁷

ANTICIPATED IMPACTS

Taxes on single-use bags, whether plastic or paper, are generally found to decrease the number of bags used by consumers compared to bans that do not regulate substitutes. As this bill would both ban plastic bags and charge a 10-cent tax per paper bag used, it is likely that it would increase the amount of consumers that opt for reusable bags. It is also likely that the circulation of single-use plastic bags in the County would decrease, which would have a positive impact on the County's contribution to climate change as the consumption of plastic bags is associated with significant greenhouse gas emissions from manufacturing plastic products. OLO notes this impact would be affected by how strong this new tax is enforced as enforcement of the current bag tax was found to be inconsistent by the County's Office of Inspector General.¹⁸

OLO anticipates Bill 24-24 will have a positive impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.¹⁹ OLO does not offer recommendations or amendments as Bill 24-24 is likely to have a positive impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions

suggested by legislation could help improve the County’s adaptive capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ Muposhi, A., Mpinganjira, M., and Wait, M., "[Considerations, benefits and unintended consequences of banning plastic shopping bags for environmental sustainability: A systematic literature review](#)", 2022.

² Abate, T. G. and Elofsson, K., "[Environmental taxation of plastic bags and substitutes: Balancing marine pollution and climate change](#)", May 2024.

³ Fairfax County Office of Environmental and Energy Coordination "[Disposable Plastic Bag Tax in Fairfax County](#)" Accessed 10/23/2024; Loudoun County, VA "[Disposable Plastic Bag Tax](#)" Accessed 10/23/2024; Montgomery County, MD Department of Environmental Protection "[Bring Your Bag](#)", Accessed 10/23/2024

⁴ Montgomery County, MD Department of Environmental Protection, "[Water Quality Protection Charge](#)"; Montgomery County, MD Department of Environmental Protection "[Bring Your Bag](#)", Accessed 10/23/2024

⁵ Montgomery County Council, "[Staff Introduction Report for Bill 24-24, Taxation - Paper Carryout Bags and Prohibition on Plastic Carryout Bags](#)", Introduced October 15, 2024.

⁶ [Ibid.](#)

⁷ Homonoff, T. A., "[Can Small Incentives Have Large Effects? The Impact of Taxes versus Bonuses on Disposable Bag Use.](#)", 2018.

⁸ Simantiris, N., "[Single-use plastic or paper products? A dilemma that requires societal change.](#)", April 2024.

⁹ Wang, Q., Tweedy, A., and Wang, H. G., "[Reducing Plastic Waste Through Legislative Interventions in the United States: Development, Obstacles, Potentials, and Challenges](#)", March 2022.

¹⁰ Berkeley Lab: Energy Analysis and Environmental Impacts Division, "[Climate Impact of Primary Plastic Production](#)", April 2024.

¹¹ Wang, Q., Tweedy, A., and Wang, H. G., "[Reducing Plastic Waste Through Legislative Interventions in the United States: Development, Obstacles, Potentials, and Challenges](#)", March 2022.

¹² Stanford Magazine, "[Paper, Plastic or Reusable?](#)", September 2017.

¹³ Homonoff, T. A., et. al., "[Skipping the Bag: The Intended and Unintended Consequences of Disposable Bag Regulation](#)", February 2021.

¹⁴ Muposhi, A., Mpinganjira, M., and Wait, M., "[Considerations, benefits and unintended consequences of banning plastic shopping bags for environmental sustainability: A systematic literature review](#)", April 2021.

¹⁵ Penn Environment Research and Policy Center, "[Plastic Bag Bans Work](#)", January 17, 2024.

¹⁶ Homonoff, T. A., "[Can Small Incentives Have Large Effects? The Impact of Taxes versus Bonuses on Disposable Bag Use](#)", 2018.

¹⁷ Montgomery County, MD Office of the Inspector General, "[Carryout Bag Tax](#)", June 13, 2023.

¹⁸ [Ibid.](#)

¹⁹ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022