

Bill No. 24-24  
Concerning: Taxation – Paper Carryout  
Bags and Prohibition on  
Plastic Carryout Bags  
("Bring Your Own Bag")  
Revised: 2/11/2025 Draft No. 11  
Introduced: October 15, 2024  
Enacted: February 11, 2025  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**AN ACT** to:

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

By amending

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

By adding

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

Chapter 52, Taxation  
Section 52-78A

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*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 carryout bag.

14           Plastic 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]]:
  - 19           (A) an occasional farmers market[[,]];
  - 20           (B) a full-time retail operation located on a farm;
  - 21           (C) a street fair[[,]]; or
  - 22           (D) a yard sale;
- 23           (4) a bag used to package bulk items, including fruit, vegetables, nuts,  
 24 grains, candy, ice, or small hardware items;
- 25           (5) a bag that contains hanging garments or dry-cleaned clothes, including  
 26 suits, jackets, or dresses;

27           (6)    a bag or plastic bag sleeve used to contain or wrap a perishable item,  
 28                   including meat or fish, or unwrapped prepared foods or bakery goods;  
 29                   [[or]]

30           (7)    a bag used to take live fish, insects, mollusks, crustaceans, or  
 31                   amphibians away from the retail establishment[.]; or

32           (8)    a bag used to package items for the purpose of charitable distribution.  
 33           Point of sale means the physical [[or virtual]] place where a customer executes  
 34                   payment for goods or services or receives goods or services.

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

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

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

39                   (1)    cloth or other washable fabric; or

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

42           [[Retail establishment has the meaning stated in Section 52-77.]]

43    **48-67. Plastic carryout bag – prohibited.**

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

47    **48-68. Penalty and enforcement.**

48           (a)    Civil citation. A retail establishment in violation of this Section is  
 49                   subject to a Class [[A]] B civil citation, if:

50                   (1)    an enforcement officer witnesses one or more plastic carryout  
 51                           bags provided to a customer at a single point of sale.

52                   (2)    The distribution of one or more bags in connection with a single  
 53                           transaction constitutes a single violation.

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

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

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

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

62 (d) The [[Office of the County Attorney]] County may [[file an action in  
 63 Circuit Court]] seek injunctive or other appropriate relief from any court  
 64 with jurisdiction against a retail establishment for any repeated  
 65 violations of this [[Section]] Article.

66 **48-69. Regulations.**

67 The County Executive may adopt and establish regulations to implement and  
 68 enforce this [[Section]] Article.

69

70 **ARTICLE IX. Carryout Bag Tax.**

71 **52-77. Definitions.**

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

73 Department means the Department of Finance.

74 Director means the Director of the Department of Finance.

75 Food assistance program means any federal, state, or local program that  
 76 provides monetary benefit to low-income individuals and families used at a  
 77 store to purchase food. Food assistance program include Supplemental  
 78 Nutrition Assistance Program (SNAP) or Women, Infants, and Children  
 79 Program (WIC).

80 Paper carryout bag means a paper bag provided by a retail establishment to a  
 81 customer at the point of sale, pickup, or delivery. Paper carryout bag does not  
 82 include:

83 (1) a paper bag provided by a pharmacist that contains a prescription drug;

84 (2) a bag used to take live fish, insects, mollusks, or crustaceans away from  
 85 a retail establishment;

86 (3) a paper bag that a restaurant gives a customer to take prepared or  
 87 leftover food or drink from a restaurant;

88 (4) a paper bag containing prepared food provided at the drive-through  
 89 window of a restaurant;

90 (5) a paper bag provided at a mobile food truck that contains prepared food;  
 91 [[or]]

92 (6) a paper bag provided for food delivery that is collected by a third party  
 93 delivery service to carry the purchased item[.];

94 (7) any paper bag intended for garbage, pet waste, or yard waste;

95 (8) a bag used to package bulk items, including fruit, vegetables, nuts,  
 96 grains, candy, ice, or small hardware items;

97 (9) a bag that contains hanging garments or dry-cleaned clothes, including  
 98 suits, jackets, or dresses;

99 (10) a bag or paper bag sleeve used to contain or wrap a perishable item,  
 100 including meat or fish, or unwrapped prepared foods or bakery goods;

101 (11) a bag used to package items for the purpose of charitable food  
 102 distribution; or

103 (12) a bag provided at the point of sale at seasonal event, such as:

104 (A) an occasional farmer's market;

105 (B) a full-time retail operation located on a farm;

106 (C) a street fair; or

107            (D) a yard sale.

108            Point of sale has the same meaning as stated under Chapter 48-66.

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

- 112            (1) a bag provided by a pharmacist that contains a prescription drug;  
113            (2) any newspaper bag or bag intended for initial use as a dry cleaning,  
114            garbage, pet waste, or yard waste bag;  
115            (3) a bag provided at the point of sale at a seasonal event, such as a farmers  
116            market, street fair, or yard sale, or by an occasional retailer;  
117            (4) a paper bag that a restaurant gives a customer to take prepared or  
118            leftover food or drink from the restaurant; or  
119            (5) a bag used to package a bulk item or to contain or wrap a perishable  
120            item.

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

123            *Restaurant* means any lunchroom, café, or other establishment located in a  
124 permanent building for the accommodation of the public, equipped with a  
125 kitchen containing facilities and utensils for preparing and serving meals to the  
126 public, and outfitted with or without a public dining area. A *restaurant* does  
127 not include any area of a supermarket, department store, or other retail  
128 establishment beyond the kitchen and public dining area.

129            *Retail establishment* means any person engaged in the retail sale of  
130 goods. *Retail establishment* includes any supermarket, convenience store,  
131 shop, service station, mobile food truck, or restaurant, and any other sales  
132 outlet where a customer can buy goods.

133            **52-78. Tax imposed – Countywide and municipalities.**

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

137 (b) Applicability to municipalities. Unless a municipality adopts County  
 138 law or enacts an ordinance that prohibits single-use plastic carryout bag  
 139 as required under Section 48-67, it must levy and impose a 10-cent tax  
 140 on each customer for each plastic carryout bag provided by a retail  
 141 establishment. A retail establishment in a municipality is required to  
 142 collect, exempt, remit, report, and adhere to all the requirements under  
 143 this Chapter for a single-use plastic carryout bag as it would for a paper  
 144 carryout bag.

145 (c) Except as provided in Section 52-78A, [Each] each retail establishment  
 146 that provides a paper carryout bag, and if a plastic single-use carryout  
 147 bag is provided within [[in]] a municipality, to a customer must collect  
 148 the amount of the tax imposed under [[subsection]] subsections (a) and  
 149 (b) when the customer makes any payment for goods in person,  
 150 [[through the Internet,]] by telephone, by facsimile, or by any other  
 151 means. The retail establishment must hold the taxes required to be  
 152 collected under this Section in trust for the County until remitted as  
 153 required under Section 52-79.

154 [[(c)] (d) Each retail establishment may retain [1 cent] 5 cents from each  
 155 [5-cent] 10-cent tax that the retail establishment collects to cover the  
 156 administrative expense of collecting and remitting the tax to the County.

157 [[(d)] (e) A retail establishment must indicate on the customer's transaction  
 158 receipt:

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

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

164        ~~[(e)]~~ (f)    A retail establishment must post a notice at the public entrance to  
 165                    the retail establishment or at each point of sale that reads: [[advises  
 166                    customers to bring reusable carryout bags or to skip the bag and that  
 167                    all]] “All carryout bags provided by the retailer are subject to a charge.  
 168                    A customer who brings their own reusable carryout bag or who does not  
 169                    use a carryout bag will not be subject to a charge.” The notice must be  
 170                    posted in English and Spanish. The Department of Environment  
 171                    Protection must post an example of a notice in English and Spanish on  
 172                    the County website.

173    **52-78A. Recipients of food assistance program – exemption.**

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

176    **52-79. Remittance.**

177            (a)    [Except as provided in subsection (b), on or before the 25th of each  
 178                    month, each] Each retail establishment must remit the full amount of the  
 179                    tax collected for all paper carryout bags provided to a customer during  
 180                    the previous [month] quarter, less the amount retained under Section 52-  
 181                    78(c).

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

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

- 190 (1) the number of paper bags supplied or provided to customers[,];
- 191 (A) for which a tax was collected; and
- 192 (B) for which a tax was not collected;
- 193 (2) the amount of tax required by this Section to be collected;
- 194 (3) for an owner of more than one retail establishment must identify  
 195 the remittance for each location by name and address; and
- 196 (4) any other information the Director requires to [assure] ensure that  
 197 the proper tax has been remitted to the County.

198 (d) (1) If the retail establishment does not file a required report by the  
 199 deadline established under subsection (a), the Director may  
 200 estimate the amount of tax due. The Director may base the  
 201 estimate on a reasonable projection of paper carryout bags, or  
 202 where applicable plastic carryout bags, supplied or provided and  
 203 may consider taxes reported by other retail establishments.

204 (2) The Director may send a notice of the estimated tax due,  
 205 including interest and penalty, to the retail establishment’s last  
 206 known address. The retail establishment must pay the estimated  
 207 tax, including any interest and penalty assessed by the Director,  
 208 within 10 days after the notice is sent.

209 \* \* \*

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

211 A retail establishment must not:

- 212 (a) neglect or refuse to collect or remit the tax levied under this Article;
- 213 (b) file an incomplete, false, or fraudulent report to the Director;

- 214 (c) neglect or refuse to keep complete and accurate records; [or]  
215 (d) refuse to allow the Director to inspect and audit the retail  
216 establishment's records[.]; or  
217 (e) misrepresent, advertise, hold out, collect, or state to the public or to a  
218 customer [[, directly or indirectly,]] an amount that exceeds the  
219 allowable tax established under Section 52-78(a).

220 **Sec. 2. Effective date.**

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

*Approved:*



February 11, 2025

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Kate Stewart, President, County Council

Date

*Approved:*

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Marc Elrich, County Executive

Date

*This is a correct copy of Council action.*

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Sara R. Tenenbaum, Clerk of the Council

Date