

2017-2018 Regular Sessions

I N S E N A T E

(PREFILED)

January 4, 2017

Introduced by Sen. FELDER -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the general city law, in relation to prohibiting the imposition of any tax, fee or local charge on carry out merchandise bags in certain cities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general city law is amended by adding a new section
2 13-d to read as follows:

3 S 13-D. PROHIBITION ON THE IMPOSITION OF ANY TAX, FEE OR LOCAL CHARGE
4 ON CARRY OUT MERCHANDISE BAGS. 1. DEFINITIONS. FOR PURPOSES OF THIS
5 SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

6 A. "CARRY OUT MERCHANDISE BAG" SHALL MEAN ANY PLASTIC, PAPER OR OTHER
7 BAG OR CARRYING CONTAINER, PROVIDED BY A RETAIL STORE, TO A CUSTOMER OF
8 THAT STORE, FOR THE PURPOSE OF CARRYING AND/OR TRANSPORTING MERCHANDISE
9 LAWFULLY OBTAINED AT SUCH STORE. A CARRY OUT MERCHANDISE BAG SHALL
10 INCLUDE ANY PLASTIC CARRYOUT BAG AS DEFINED BY SUBDIVISION FOUR OF
11 SECTION 27-2701 OF THE ENVIRONMENTAL CONSERVATION LAW, AS ADDED BY CHAP-
12 TER SIX HUNDRED FORTY-ONE OF THE LAWS OF TWO THOUSAND EIGHT.

13 B. "RETAIL STORE" SHALL MEAN ANY BUSINESS ESTABLISHMENT, INCLUDING,
14 BUT NOT LIMITED TO, A GROCERY STORE, CONVENIENCE STORE, DAIRY PRODUCTS
15 STORE, PRODUCE MARKET, DEPARTMENT STORE, GENERAL MERCHANDISE STORE,
16 CLOTHING STORE, HARDWARE STORE, PHARMACY, DRUG STORE, HOTEL, RESTAURANT,
17 SODA FOUNTAIN, GASOLINE STATION, OR ANY OTHER SIMILAR MERCANTILE ESTAB-
18 LISHMENT OFFERING GOODS AND/OR SERVICES AT RETAIL TO INDIVIDUAL CONSUM-
19 ERS, AND/OR ANY OTHER ESTABLISHMENT WHICH IN THE REGULAR COURSE OF BUSI-
20 NESS SELLS OR RENTS GOODS OR SERVICES DIRECTLY TO THE PUBLIC.

21 2. PROHIBITION ON THE IMPOSITION OF A TAX, FEE OR LOCAL CHARGE ON ANY
22 CARRY OUT MERCHANDISE BAG. NO CITY WITH A POPULATION OF ONE MILLION OR
23 MORE SHALL IMPOSE ANY TAX, FEE OR ANY OTHER LOCAL CHARGE ON ANY CARRY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

1 OUT MERCHANDISE BAG AS DEFINED IN PARAGRAPH A OF SUBDIVISION ONE OF THIS
2 SECTION. THIS PROHIBITION SHALL APPLY TO ANY CITY WITH A POPULATION OF
3 ONE MILLION OR MORE, REGARDLESS OF WHETHER SUCH TAX, FEE OR OTHER LOCAL
4 CHARGE IS ATTEMPTED TO BE ASSESSED OR CHARGED BY THE CITY INDIRECTLY
5 AGAINST THE WHOLESALER PROVIDING ANY CARRY OUT MERCHANDISE BAG TO THE
6 RETAIL STORE, OR INDIRECTLY AGAINST THE RETAIL STORE PROVIDING ANY CARRY
7 OUT MERCHANDISE BAG TO THE CUSTOMER, OR DIRECTLY AGAINST THE CUSTOMER
8 RECEIVING THE CARRY OUT MERCHANDISE BAG FROM THE RETAIL STORE.

9 3. PROHIBITION ON THE COLLECTION OF A TAX, FEE OR LOCAL CHARGE ON ANY
10 CARRY OUT MERCHANDISE BAG. NO WHOLESALER OR RETAILER MAY COLLECT ANY
11 CHARGE, TAX OR ANY OTHER FEE THAT HAS BEEN ASSESSED OR DIRECTED TO BE
12 IMPOSED UPON CUSTOMERS BY A CITY WITH A POPULATION OF ONE MILLION OR
13 MORE FOR THE PROVISION OF ANY CARRY OUT MERCHANDISE BAG. NOTHING IN THIS
14 SUBDIVISION SHALL BE DEEMED TO PREVENT A WHOLESALER FROM COLLECTING A
15 CHARGE FROM A RETAILER FOR THE SALE OF A CARRY OUT MERCHANDISE BAG, OR
16 PREVENT A RETAILER FROM COLLECTING A CHARGE FROM A CUSTOMER FOR A CARRY
17 OUT MERCHANDISE BAG, IF SUCH CHARGE WAS NOT ASSESSED OR DIRECTED TO BE
18 IMPOSED UPON CUSTOMERS BY A CITY WITH A POPULATION OF ONE MILLION OR
19 MORE.

20 S 2. This act shall take effect immediately.