STATE OF NEW YORK

1750

2017-2018 Regular Sessions

IN ASSEMBLY

January 13, 2017

Introduced by M. of A. CUSICK, GJONAJ, WEPRIN, CYMBROWITZ, M. G. MILLER, SIMANOWITZ, PICHARDO, ABBATE, HIKIND, DenDEKKER, MOSLEY, DILAN, HEVESI, BARRON, TITONE, CRESPO, COLTON, FITZPATRICK, DAVILA, HARRIS, COOK, WILLIAMS, SIMOTAS, ARROYO, JOYNER, MALLIOTAKIS -- read once and referred 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:

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

§ 13-d. Prohibition on the imposition of any tax, fee or local charge on carry out merchandise bags. 1. Definitions. For purposes of this section the following terms shall have the following meanings:

a. "Carry out merchandise bag" shall mean any plastic, paper or other bag or carrying container, provided by a retail store, to a customer of that store, for the purpose of carrying and/or transporting merchandise lawfully obtained at such store. A carry out merchandise bag shall include any plastic carryout bag as defined by subdivision four of section 27-2701 of the environmental conservation law, as added by chapter six hundred forty-one of the laws of two thousand eight.

b. "Retail store" shall mean any business establishment, including, but not limited to, a grocery store, convenience store, dairy products store, produce market, department store, general merchandise store, clothing store, hardware store, pharmacy, drug store, hotel, restaurant, soda fountain, gasoline station, or any other similar mercantile establishment offering goods and/or services at retail to individual consumers, and/or any other establishment which in the regular course of business sells or rents goods or services directly to the public.

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

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2. Prohibition on the imposition of a tax, fee or local charge on any carry out merchandise bag. No city with a population of one million or more shall impose any tax, fee or any other local charge on any carry out merchandise bag as defined in paragraph a of subdivision one of this section. This prohibition shall apply to any city with a population of one million or more, regardless of whether such tax, fee or other local charge is attempted to be assessed or charged by the city indirectly against the wholesaler providing any carry out merchandise bag to the retail store, or indirectly against the retail store providing any carry out merchandise bag to the customer, or directly against the customer receiving the carry out merchandise bag from the retail store.

3. Prohibition on the collection of a tax, fee or local charge on any carry out merchandise bag. No wholesaler or retailer may collect any charge, tax or any other fee that has been assessed or directed to be imposed upon customers by a city with a population of one million or more for the provision of any carry out merchandise bag. Nothing in this subdivision shall be deemed to prevent a wholesaler from collecting a charge from a retailer for the sale of a carry out merchandise bag, or prevent a retailer from collecting a charge from a customer for a carry out merchandise bag, if such charge was not assessed or directed to be imposed upon customers by a city with a population of one million or more.

§ 2. This act shall take effect immediately.