§ 27-2805. Paper carryout bag reduction fee.

1. (a) Notwithstanding any other provision of law to the contrary, any city and any county, other than a county wholly within such a city, acting through its local legislative body, is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing a paper carryout bag reduction fee within the territorial limits of such city or county, to take effect on or after March first, two thousand twenty. Notwithstanding the foregoing, if a county and a city wholly within such county both impose such fee, the fee imposed by such county shall not apply within the territorial limits of such city.

(b) Such paper carryout bag reduction fee, whether or not any tangible personal property is sold therewith, shall be imposed at a rate of five cents on each paper carryout bag provided by a person required to collect tax to a customer in this state; provided, however, that such paper carryout bag reduction fee shall not be imposed on paper carryout bags that are subject to a fee on the provision of such paper carryout bag pursuant to a local law or ordinance that was adopted prior to the effective date of this section. The paper carryout bag reduction fee must be reflected and made payable on the sales slip, invoice, receipt, or other statement of the price rendered to the customer.

(c) Such paper carryout bag reduction fee shall not constitute a receipt for the sale of tangible personal property subject to tax pursuant to article twenty-eight and pursuant to the authority of article twenty-nine of the tax law, and transfer of a bag to a customer by a person required to collect tax shall not constitute a retail sale.

(d) It shall be unlawful for a municipal corporation to adopt or amend a local law, ordinance or resolution requiring the imposition of any fee on the provision of a paper carryout bag except as expressly authorized by this section. Where a municipal corporation that adopted such a local law, ordinance or resolution prior to the effective date of this section is, or is located in, a county that has imposed a paper carryout bag reduction fee pursuant to this section, such municipal corporation shall be prohibited from requiring the imposition of a fee on any provision of paper carryout bags that occurs more than one year after such county paper carryout bag reduction fee takes effect.

2. Any such local law, ordinance or resolution adopted pursuant to this section shall state the amount of the paper carryout bag reduction fee and the date on which a person required to collect tax shall begin to add such paper carryout bag reduction fee to the sales slip, invoice, receipt, or other statement of the price rendered to its customers. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner of taxation and finance in accordance with the provisions of subdivisions (d) and (e) of section twelve hundred ten of the tax law.

3. The paper carryout bag reduction fee imposed by this section shall not apply to any customer using the supplemental nutritional assistance program, special supplemental nutrition program for women, infants and children, or any successor programs used as full or partial payment for the items purchased.

4. The paper carryout bag reduction fee must be reported and paid to the commissioner of taxation and finance on a quarterly basis on or before the twentieth day of the month following each quarterly period ending on the last day of February, May, August and November, respectively. The payments must be accompanied by a return in the form and containing the information the commissioner of taxation and finance may prescribe.

5. Any sales slip, invoice, receipt, or other statement of price furnished by a person required to collect tax to a customer shall separately state the paper carryout bag reduction fee and shall state the number of bags provided to the customer.

6. (a) Except as otherwise provided in this section, any paper carryout bag reduction fee imposed under the authority of this section shall be administered and collected by the commissioner of taxation and finance in a like manner as the taxes imposed by articles twenty-eight and twenty-nine of the tax law. All the provisions of articles twenty-eight and twenty-nine of the tax law, including the provisions relating to definitions, exemptions, returns, personal liability for the

tax, collection of tax from the customer, payment of tax and the administration of the taxes imposed by such article, shall apply to the paper carryout bag reduction fee imposed under the authority of this section, with such modifications as may be necessary in order to adapt the language of those provisions to the paper carryout bag reduction fee imposed under the authority of this section. Those provisions shall apply with the same force and effect as if the language of those provisions had been set forth in full in this section, except to the extent that any of those provisions is either inconsistent with a provision of this section or is not relevant to the paper carryout bag reduction fee imposed under the authority of this section. For purposes of this section, any reference in this chapter to a tax or the taxes imposed by articles twenty-eight and twenty-nine of the tax law shall be deemed also to refer to the paper carryout bag reduction fee imposed under the authority of this section unless a different meaning is clearly required.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision:

(1) the exemptions provided for in section eleven hundred sixteen of the tax law, other than the exemptions in paragraphs one, two and three of subdivision (a) of such section, shall not apply to the paper carryout bag reduction fees imposed under the authority of this section;

(2) the credit provided in subdivision (f) of section eleven hundred thirty-seven of the tax law shall not apply to this section.

(c) Notwithstanding the provisions of paragraph (a) of this subdivision or subdivision (a) of section eleven hundred forty-six of the tax law, the commissioner of taxation and finance may, in his or her discretion, permit the commissioner or his or her authorized representative to inspect any return related to the paper carryout bag reduction fee filed under this section, or may furnish to the commissioner or his or her authorized representative any such return or supply him or her with information concerning an item contained in any such return, or disclosed by any investigation of a liability under this section.

7. All paper carryout bag reduction fee monies and any related penalties and interest remitted to the commissioner of taxation and

finance under this section, except as hereinafter provided, shall be deposited daily with such responsible banks, banking houses, or trust companies as may be designated by the state comptroller. Of the revenues deposited, the comptroller shall retain in the comptroller's hands such amount as the commissioner of taxation and finance may determine to be necessary for refunds or reimbursements of the fees collected or received pursuant to this section, out of which the comptroller shall pay any refunds or reimbursements of such fees to which persons shall be entitled under the provisions of this section. The comptroller, after reserving such refund and reimbursement fund shall, on or before the twelfth day of each month, pay to the appropriate fiscal officers of the counties or cities imposing tax under subdivision one of this section an amount equal to forty percent of the paper carryout bag reduction fee monies and any related penalties and interest collected by the commissioner of taxation and finance in respect of each such county or city in the preceding calendar month to be used for the purpose of purchasing and distributing reusable bags, with priority given to low- and fixed-income communities. Provided further that at the end of each fiscal year, any funds which have not been used for the purpose defined in this section shall be returned to the comptroller and be deposited into the general fund to be used for the purpose of purchasing and distributing reusable bags with priority given to low- and fixed-income communities. Any remaining amount of paper carryout bag reduction fee monies and any related penalties and interest shall be deposited monthly into the environmental protection fund established pursuant to section ninety-two-s of the state finance law.