
HOUSE BILL No. 1521

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-14; IC 6-8.1-1-1.

Synopsis: Fee for disposable carryout bags. Provides that a retail merchant who furnishes disposable carryout bags to a customer for carrying merchandise purchased in a retail transaction shall collect a fee of ten cents for each disposable carryout bag accepted by the customer. Provides that a retail merchant who furnishes disposable carryout bags to customers for use in carrying merchandise purchased in a retail transaction shall also offer reusable carryout bags for sale to customers. Appropriates 25% of the fees for disposable carryout bags collected by retail merchants to the Indiana economic development corporation for the green industries fund. Appropriates 75% of the fees for disposable carryout bags collected by retail merchants to the department of education for supplemental distributions to school corporations, including charter schools, for use by school corporations for any lawful purpose.

Effective: January 1, 2012.

VanDenburgh

January 20, 2011, read first time and referred to Committee on Commerce, Small Business and Economic Development.

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

HOUSE BILL No. 1521

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SOURCE: IC 6-2.5-14; (11)IN1521.1.1. --> SECTION 1. IC 6-2.5-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]:

Chapter 14. Fee for Disposable Carryout Bags

Sec. 1. (a) As used in this chapter, "disposable carryout bag" means a bag made of any material, commonly plastic or kraft paper, that is provided to a purchaser in a retail transaction to carry purchases.

(b) The term does not include the following:

(1) Bags used by purchasers inside stores:

- (A) to package bulk items, such as fruit, vegetables, nuts, grains, candy, or small hardware items;**
- (B) to contain or wrap frozen foods, meat, or fish, whether prepackaged or not;**
- (C) to contain or wrap flowers, potted plants, or other items where dampness may be a problem;**

or

(D) to contain unwrapped prepared foods or bakery goods.

(2) Bags provided by pharmacists to contain prescription drugs.

(3) Newspaper bags, door hanger bags, laundry dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

(4) Paper carryout bags that a restaurant provides to customers to take food away from the restaurant.

(5) Reusable carryout bags.

Sec. 2. As used in this chapter, "reusable carryout bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth, fiber, other machine washable fabric, or durable plastic that is at least two and twenty-five hundredths (2.25) millimeters thick.

Sec. 3. (a) A person who accepts a disposable carryout bag furnished by a retail merchant for use in carrying property acquired in a retail transaction shall pay to the retail merchant a fee of ten cents (\$0.10) for each disposable carryout bag accepted. The retail merchant shall collect the fee as an agent for the state.

(b) Gross retail income excludes the fee imposed by this chapter.

(c) For each retail transaction, a retail merchant shall indicate on the retail transaction receipt the number of disposable carryout bags provided to the purchaser and the total fee collected.

(d) A retail merchant may not advertise, hold out, or state to the public or to a customer that the retail merchant will pay or reimburse a customer for all or part of the fee imposed by this chapter.

Sec. 4. A retail merchant who furnishes disposable carryout bags to purchasers for use in carrying property acquired in a retail transaction must also offer reusable carryout bags for sale to purchasers.

Sec. 5. A retail merchant is liable to the state for an amount equal to:

(1) the number of disposable carryout bags accepted by purchasers from the retail merchant for the carrying of property acquired by purchasers in a retail transaction; multiplied by

(2) the fee imposed by section 3(a) of this chapter.

Sec. 6. A retail merchant shall file returns and remit the fee imposed by this chapter electronically through the department's online tax filing system at the times the retail merchant is required to file returns and make remittances under IC 6-2.5-6.

Sec. 7. (a) In order to compensate retail merchants for collecting

and timely remitting the fee imposed by this chapter, every retail merchant that timely remits the fees imposed by this chapter is entitled to deduct and retain a collection allowance from the amount of those fees otherwise required to be remitted under this chapter.

(b) The allowance equals:

(1) the retail merchant's liability for the fees imposed by this chapter determined under section 5 of this chapter; multiplied by

(2) the collection allowance percentage applicable to the retail merchant under IC 6-2.5-6-10(b).

(c) The fees imposed by this chapter and collected by a retail merchant are excluded from the determination of the retail merchant's collection allowance percentage under IC 6-2.5-6-10(b).

Sec. 8. (a) There is annually appropriated to the Indiana economic development corporation twenty-five percent (25%) of the fees collected by the department under this chapter during a state fiscal year for the Indiana economic development corporation's use in carrying out the purposes of the green industries fund.

(b) There is annually appropriated to the department of education seventy-five percent (75%) of the fees collected by the department under this chapter during a state fiscal year for the department of education's use in making supplemental distributions to each school corporation (as defined in IC 20-43-1-23). The amount each school corporation is to receive under this subsection during a state fiscal year is the amount that bears the same relationship to the amount equal to seventy-five percent (75%) of the fees collected by the department under this chapter during the state fiscal year as the school corporation's ADM (as defined in IC 20-43-1-6) bears to the total ADM of all school corporations.

(c) A school corporation shall deposit a distribution received under subsection (b) in the school corporation's general fund. A distribution received under subsection (b) may be used for any lawful purpose of the school corporation.

SOURCE: IC 6-8.1-1-1; (11)IN1521.1.2. --> SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.182-2009 (ss), SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II

gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); **the fee for disposable carryout bags (IC 6-2.5-14)**; the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the regional transportation improvement income tax (IC 8-24-17); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank

fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.