

112TH CONGRESS  
1ST SESSION

# H. R. 1628

To amend the Internal Revenue Code of 1986 to impose a retail tax on disposable carryout bags, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. MORAN (for himself and Ms. NORTON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to impose a retail tax on disposable carryout bags, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trash Reduction Act  
5 of 2011”.

1 **SEC. 2. IMPOSITION OF TAX ON DISPOSABLE CARRYOUT**  
 2 **BAGS.**

3 (a) GENERAL RULE.—Chapter 31 of the Internal  
 4 Revenue Code of 1986 (relating to retail excise taxes) is  
 5 amended by inserting after subchapter C the following new  
 6 subchapter:

7 **“Subchapter D—Disposable Carryout Bags**

“Sec. 4056. Imposition of tax.

8 **“SEC. 4056. IMPOSITION OF TAX.**

9 “(a) GENERAL RULE.—There is hereby imposed on  
 10 any retail sale a tax on each disposable carryout bag.

11 “(b) AMOUNT OF TAX.—The amount of tax imposed  
 12 by subsection (a) shall be \$0.05 per disposable carryout  
 13 bag.

14 “(c) LIABILITY FOR TAX.—The retailer shall be liable  
 15 for the tax imposed by this section.

16 “(d) DEFINITIONS.—For purposes of this section—

17 “(1) DISPOSABLE CARRYOUT BAG.—

18 “(A) IN GENERAL.—The term ‘disposable  
 19 carryout bag’ means a bag of any material,  
 20 commonly plastic or kraft paper, which is pro-  
 21 vided to a consumer at the point of sale to  
 22 carry or cover purchases, merchandise, or other  
 23 items.

24 “(B) EXCEPTIONS.—Such term does not  
 25 include—

1 “(i) any reusable bag,

2 “(ii) any bag manufactured for use by  
3 a customer inside a store to package bulk  
4 items such as fruit, vegetables, nuts,  
5 grains, candy, or small hardware items,  
6 such as nails and bolts,

7 “(iii) any bag that contains or wraps  
8 frozen foods, prepared foods, or baked  
9 goods when not prepackaged,

10 “(iv) any bag manufactured for use by  
11 a pharmacist to contain prescription drugs,  
12 and

13 “(v) any bag manufactured to be sold  
14 at retail in packages containing multiple  
15 bags intended for use as garbage, pet  
16 waste, or yard waste bags.

17 “(2) REUSABLE BAG.—The term ‘reusable bag’  
18 means a bag that is—

19 “(A)(i) made of cloth or other machine  
20 washable fabric, or

21 “(ii) made of a durable plastic that is at  
22 least 2.25 millimeters thick, and

23 “(B) is specifically designed and manufac-  
24 tured for multiple use.

25 “(e) SPECIAL RULES.—



1 the customer for such bags pursuant to section  
2 4056(e),  
3 the Secretary shall pay (without interest) to such retailer  
4 an amount equal to the applicable amount for each such  
5 bag used by the retailer in connection with a point of sale  
6 transaction.

7 “(b) APPLICABLE AMOUNT.—For purposes of sub-  
8 section (a), the applicable amount is \$0.01.

9 “(c) QUALIFIED DISPOSABLE CARRYOUT BAG RECY-  
10 CLING PROGRAM.—For purposes of this section—

11 “(1) IN GENERAL.—The term ‘qualified carry-  
12 out bag recycling program’ means a recycling pro-  
13 gram under which the retailer—

14 “(A) to the extent the retailer provides dis-  
15 posable carryout bags (as defined in section  
16 4056) to customers—

17 “(i) passes through the tax imposed  
18 by section 4056 and tracks the total num-  
19 ber of bags purchased and amount of tax  
20 passed through pursuant to section  
21 6433(a),

22 “(ii) has printed or displayed on each  
23 such bag, in a manner clearly visible to a  
24 customer, the words ‘PLEASE RETURN

1 TO A PARTICIPATING STORE FOR  
2 RECYCLING’,

3 “(iii) uses bags that are 100 percent  
4 recyclable,

5 “(iv) uses bags that are made of high-  
6 density polyethylene film marked with the  
7 SPI resin identification code 2 or low-den-  
8 sity polyethylene film marked with the SPI  
9 resin identification code 4, and

10 “(v) uses bags that contain a min-  
11 imum of 40 percent post-consumer recycled  
12 content,

13 “(B) places at each place of business at  
14 which retail operations are conducted one or  
15 more carryout bag collection bins which are  
16 visible, easily accessible to the customer, and  
17 clearly marked as being for the purpose of col-  
18 lecting and recycling disposable carryout bags,

19 “(C) recycles the disposable carryout bags  
20 collected pursuant to subparagraph (B),

21 “(D) maintains for not less than 3 years  
22 records (which shall be available to the Sec-  
23 retary) describing the collection, transport, and  
24 recycling of disposable carryout bags collected,

1           “(E) makes available to customers within  
2           the retail establishment reusable bags (as de-  
3           fined in section 4056(c)(2)) which may be pur-  
4           chased and used in lieu of using a disposable  
5           carryout bag, and

6           “(F) meets the definition of 4056(d)(3).

7           “(2) RECYCLING PROGRAM.—The term ‘recy-  
8           cling program’ means a program that processes used  
9           materials or waste materials into new products to  
10          prevent waste of potentially useful materials; reduce  
11          raw materials consumption; reduce energy usage; re-  
12          duce air, water, or other pollution; or reduce the  
13          need for disposal.”.

14          (c) ESTABLISHMENT OF TRUST FUND.—Subchapter  
15          A of chapter 98 of such Code (relating to trust fund code)  
16          is amended by adding at the end the following:

17          **“SEC. 9512. DISPOSABLE CARRYOUT BAG TRUST FUND.**

18          “(a) CREATION OF TRUST FUND.—There is estab-  
19          lished in the Treasury of the United States a trust fund  
20          to be known as the ‘Disposable carryout bag Trust Fund’  
21          (referred to in this section as the ‘Trust Fund’), consisting  
22          of such amounts as may be appropriated or credited to  
23          the Trust Fund as provided in this section or section  
24          9602(b).

1       “(b) TRANSFERS TO TRUST FUND.—There is hereby  
2 appropriated to the Trust Fund an amount equivalent to  
3 the amounts received in the Treasury pursuant to section  
4 4056.

5       “(c) EXPENDITURES FROM TRUST FUND.—Amounts  
6 in the Trust Fund shall be available, as provided by appro-  
7 priation Acts, for making payments under section 6433.

8       “(d) TRANSFER TO LAND AND WATER CONSERVA-  
9 TION FUND.—

10           “(1) IN GENERAL.—The Secretary shall pay  
11 from time to time from the Trust Fund into the  
12 land and water conservation fund provided for in  
13 title I of the Land and Water Conservation Fund  
14 Act of 1965 amounts (as determined by the Sec-  
15 retary) equivalent to the aggregate of the trans-  
16 actions on which tax is imposed under section 4056  
17 aggregate amounts determined on the basis of  
18 \$0.01.

19           “(2) SPECIAL RULE REGARDING AMOUNTS  
20 TRANSFERRED.—Amounts transferred to the land  
21 and water conservation fund under paragraph (1)  
22 shall not be taken into account for purposes of de-  
23 termining amounts to be appropriated or credited to  
24 the fund under section 2(c) of the Land and Water

1 Conservation Fund Act of 1965 (16 U.S.C. 4601–  
2 5(c)).”.

3 (d) STUDY.—Not later than December 31, 2013, the  
4 Comptroller General of the United States shall conduct  
5 a study on the effectiveness of the provisions of this Act  
6 at reducing the use of disposable carryout bags and en-  
7 couraging recycling of such bags. The report shall—

8 (1) address measures that the Comptroller Gen-  
9 eral determines may increase the effectiveness of  
10 such provisions, including the amount of tax im-  
11 posed on each disposable carryout bag, and

12 (2) any effects, both positive and negative, on  
13 any United States businesses. The Comptroller Gen-  
14 eral shall submit a report of such study to the Com-  
15 mittee on Ways and Means of the House of Rep-  
16 resentatives and the Committee on Finance of the  
17 Senate.

18 (e) CLERICAL AMENDMENTS.—

19 (1) The table of subchapters for chapter 31 of  
20 such Code is amended by inserting after the item re-  
21 lating to adding at the end thereof the following new  
22 item:

“Subchapter D. Disposable carryout bags.”.

1           (2) The table of sections for subchapter B of  
2           chapter 65 of such Code is amended by adding at  
3           the end the following new item:

“Sec. 6433. Qualified disposable carryout bag recycling program.”.

4           (3) The table of sections for subchapter A of  
5           chapter 98 of such Code is amended by adding at  
6           the end the following new item:

“Sec. 9512. Disposable carryout bag trust fund.”.

7           (f) **EFFECTIVE DATE.**—The amendments made by  
8           this section shall take effect on January 1, 2011.

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