



Legislation Text

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Preconsidered Int. No. 1527

By Council Member Lander, the Speaker (Council Member Johnson), and Council Members Chin, Treyger, Reynoso, Constantinides, Kallos, Ayala, Rivera, Rosenthal and Levin

A Local Law to amend the administrative code of the city of New York, in relation to a paper carryout bag reduction fee, and to repeal chapter 4-F of title 16 of such code, relating to carryout bag reduction

Be it enacted by the Council as follows:

Section 1. Chapter 4-F of title 16 of the administrative code of the city of New York is REPEALED and a new chapter 4-F is added to read as follows:

CHAPTER 4-F: PAPER CARRYOUT BAG REDUCTION FEE

§ 16-490 Definitions

§ 16-491 Paper carryout bag reduction fee

§ 16-492 Exemptions

§ 16-490 Definitions. As used in this chapter:

Exempt bag. The term “exempt bag” means: (i) a bag used solely to contain or wrap uncooked meat, fish or poultry; (ii) a bag used by a customer solely to package bulk items such as fruits, vegetables, grains or candy; (iii) a bag used solely to contain food sliced or prepared to order; (iv) a bag used solely to contain a newspaper for delivery to a subscriber of such newspaper; (v) a bag sold in bulk to a consumer at the point of sale; (vi) a trash bag; (vii) a bag used for food storage; (viii) a garment bag; (ix) a bag prepackaged for sale to a customer; (x) a plastic carryout bag provided by a restaurant, tavern or similar food service establishment, as defined in section 14-1.20 of title 10 of the New York codes, rules and regulations, to carry out or deliver food; or (xi) a bag provided by a pharmacy to carry prescription drugs.

Paper carryout bag. The term “paper carryout bag” means a paper bag, other than an exempt bag, that is

provided to a customer by a person required to collect tax to be used by the customer to carry tangible personal property, regardless of whether such person required to collect tax sells any tangible personal property or service to the customer, and regardless of whether any tangible personal property or service sold is exempt from tax under article 28 of the tax law.

Person required to collect tax. The term “person required to collect tax” means any vendor of tangible personal property subject to the tax imposed by subdivision (a) of section 1105 of the tax law.

§ 16-491 Paper carryout bag reduction fee. a. On and after March 1, 2020, there shall be a paper carryout bag reduction fee of five cents imposed on each paper carryout bag provided by any person required to collect tax to a customer.

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

c. Pursuant to paragraph (c) of subdivision 1 of section 27-2805 of the environmental conservation law, the transfer of a paper carryout bag to a customer by a person required to collect tax shall not constitute a retail sale and the fee imposed on paper carryout bags pursuant to this section shall not constitute a receipt for the sale of tangible personal property.

d. Pursuant to subdivision 4 of section 27-2805 of the environmental conservation law, the paper carryout bag reduction fee shall be reported and paid by a person required to collect tax to the New York state commissioner of taxation and finance, accompanied by a return in the form and containing the information prescribed by such commissioner, 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.

§ 16-492 Exemptions. a. Pursuant to subdivision 3 of section 27-2805 of the environmental conservation law, the paper carryout bag reduction fee imposed pursuant to section 16-491 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.

b. Pursuant to subparagraph (1) of paragraph (b) of subdivision 6 of section 27-2805 of the environmental conservation law, the exemptions provided for in section 1116 of the tax law, other than the exemptions in paragraphs (1), (2) and (3) of subdivision (a) of such section, shall not apply to the paper carryout bag reduction fee imposed pursuant to section 16-491.

§ 2. Within five days of the enactment of this local law, the commissioner of sanitation shall mail a certified copy of this local law by registered or certified mail to the New York state commissioner of taxation and finance and file a certified copy of this local law with the New York state tax commission, the city clerk, the secretary of state and the New York state comptroller pursuant to subdivisions (d) and (e) of section 1210 of the tax law.

§ 3. This local law takes effect on March 1, 2020, except that the commissioner of sanitation and the commissioner of finance may take such measures as are necessary for its implementation prior to such effective date.

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