
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.

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First Regular Session 117th General Assembly (2011)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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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:

1 SECTION 1. IC 6-2.5-14 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2012]:

4 **Chapter 14. Fee for Disposable Carryout Bags**

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

9 **(b) The term does not include the following:**

10 **(1) Bags used by purchasers inside stores:**

11 **(A) to package bulk items, such as fruit, vegetables, nuts,**
12 **grains, candy, or small hardware items;**

13 **(B) to contain or wrap frozen foods, meat, or fish, whether**
14 **prepackaged or not;**

15 **(C) to contain or wrap flowers, potted plants, or other**
16 **items where dampness may be a problem; or**

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



- 1 (2) Bags provided by pharmacists to contain prescription
- 2 drugs.
- 3 (3) Newspaper bags, door hanger bags, laundry dry cleaning
- 4 bags, or bags sold in packages containing multiple bags
- 5 intended for use as garbage, pet waste, or yard waste bags.
- 6 (4) Paper carryout bags that a restaurant provides to
- 7 customers to take food away from the restaurant.
- 8 (5) Reusable carryout bags.

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

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

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

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

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

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

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

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

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

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

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

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

6 (b) The allowance equals:

- 7 (1) the retail merchant's liability for the fees imposed by this
- 8 chapter determined under section 5 of this chapter; multiplied
- 9 by
- 10 (2) the collection allowance percentage applicable to the retail
- 11 merchant under IC 6-2.5-6-10(b).

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

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

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

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

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

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1 gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1)
 2 (repealed); the utility receipts and utility services use taxes (IC 6-2.3);
 3 the state gross retail and use taxes (IC 6-2.5); **the fee for disposable**
 4 **carryout bags (IC 6-2.5-14)**; the adjusted gross income tax (IC 6-3);
 5 the supplemental net income tax (IC 6-3-8) (repealed); the county
 6 adjusted gross income tax (IC 6-3.5-1.1); the county option income tax
 7 (IC 6-3.5-6); the county economic development income tax
 8 (IC 6-3.5-7); the auto rental excise tax (IC 6-6-9); the financial
 9 institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative
 10 fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor
 11 carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a
 12 reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax
 13 (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the excise
 14 tax imposed on recreational vehicles and truck campers (IC 6-6-5.1);
 15 the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax
 16 (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax
 17 (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax
 18 (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum
 19 severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the
 20 various food and beverage taxes (IC 6-9); the county admissions tax
 21 (IC 6-9-13 and IC 6-9-28); the regional transportation improvement
 22 income tax (IC 8-24-17); the oil inspection fee (IC 16-44-2); the
 23 emergency and hazardous chemical inventory form fee (IC 6-6-10); the
 24 penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the
 25 fees and penalties assessed for overweight vehicles (IC 9-20-4 and
 26 IC 9-30); the underground storage tank fee (IC 13-23); the solid waste
 27 management fee (IC 13-20-22); and any other tax or fee that the
 28 department is required to collect or administer.

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