

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF TAX AND REVENUE



Beginning January 1, 2010, All Retailers Who Hold A Food and/or Alcohol License, Will Be Required To Collect 5 Cents For Each Paper And Plastic Bag

Effective January 1, 2010, District retailers that sell (1) food or (2) alcohol must charge a 5¢ fee for each paper or plastic disposable bag provided to customers at the point of sale. The proceeds of the fee are to be deposited in the Anacostia River Clean Up and Protection Fund and to be used for the purposes of cleaning and protecting the Anacostia River and other impaired waterways.

Retailers Required to Charge the Disposable Bag Fee - Two categories of retailers are required to charge the disposable bag fee:

- Any licensee under a Public Health: Food Establishment Retail endorsement to a basic business license under Chapter 28 of Title 47 of the D.C. Official Code
- Any licensee under an off-premises retailer's liquor license class A or B of D.C. Official Code §25-112

Bag Requirements - Retailers required to charge the disposable bag fee must use 100% recyclable bags which display the phrase, "Please Recycle This Bag" or a substantially similar phrase in a highly visible manner.

- Paper bags must contain a minimum of 40% post-consumer recycled content
- Disposable plastic bags must be made of high density polyethylene film marked with the SPI resin identification code 2 or low density polyethylene film marked with the SPI resin identification code 4

Application of the Fee - Every retailer required to charge the fee shall collect a fee of 5¢ for each disposable carryout bag. Once a retailer is required to collect the fee on any bag, the retailer must collect the fee on all bags provided at the point of sale regardless of the products sold, unless an express exemption applies. A retailer may not advertise that the fee will be assumed or absorbed by the retailer or refunded to the customer. The retailer must indicate on any customer transaction receipt the number of disposable carryout bags provided and the total amount of fees collected. The fees are not subject to the District of Columbia sales tax.

If a customer returns a purchase along with the bag, the vendor may return the 5¢ fee and deduct it from the current period collections.

Exemptions - The requirement to charge the disposable bag fee does not apply to:

- Bags used by consumers inside stores to:
 - Package bulk items, such as fruit, vegetables nuts, grains, candy, or small hardware items
 - Contain or wrap frozen foods, meat, or fish whether prepackaged or not

- Contain or wrap flowers, potted plants, or other items where dampness may be a problem
 - Contain unwrapped prepared foods or bakery goods
- Bags provided by pharmacists to contain prescription drugs
 - Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or yard waste bags
 - Paper carryout bags from a restaurant in which food or refreshments are served to customers to be eaten on premises.
 - Reusable carryout bags (such as fiber or cloth bags)
 - Bags provided to customers to transport partially consumed bottles of wine

Customer Credit Program - A retailer required to collect the fee may establish a customer credit program in which the customer is credited with 5¢ for each paper, plastic or reusable bag that the customer provides for packaging purchases. Retailers should create their own signage for this credit.

- The credit program must be prominently advertised at each checkout register
- The total credit amount must be reflected on any customer transaction receipt

Filing Requirements - Fees collected from customers shall be remitted on D.C. sales and use tax returns on a new line that has been added for periods beginning on or after January 1, 2010.

Retailers collecting the fee are authorized to keep 1¢ of each 5¢ fee collected. Retailers who collect the bag fee and offer the customer credit program described above are authorized to keep an additional 1¢ of the 5¢ fee, a total of 2¢. Retailers who participate in the customer credit program may not deduct the amount of customer credits from disposable bag fees collected. Their only compensation for participating in the customer credit program is the additional 1¢ allowance for having the credit program.

Retailers are to report only net bag fee collections on their sales and use tax returns. Reporting of total bags subject to the fee and the 1¢ and 2¢ allowances is not required. Retailers should retain records of the number of bags and the amount of fees collected to support their reports of net disposable bag fee collections in the event of audit.

Street Vendors - Street vendors who hold a license under a Public Health: Food Establishment Retail endorsement are required to collect the disposable bag fee where applicable. If they do not file D.C. sales and use tax returns because they pay the quarterly \$375 flat tax in lieu of collecting the tax from customers, they will need to apply for a sales and use tax account to remit the bag fee. Street vendors may apply for a sales and use tax account by filing a form FR-500, which can be found on OTR's Web site at www.taxpayerservicecenter.com. OTR will open these accounts on a quarterly basis, with returns due on the 20th day following the end of each calendar quarter. Street vendors will continue to report the \$375 flat tax as usual. Only the bag fee will be reported on the sales and use tax return.

Enforcement - OTR is responsible for enforcement of the requirements to remit the bag fee to the District Government. The District Department of the Environment (DDOE) is responsible for the enforcement of the requirement to charge the bag fee, the prohibition on the use of disposable bags that cannot be recycled and the specifications for disposable carry out bags. DDOE will mail an additional notice regarding these specifications and enforcement actions within the coming weeks. Decals, which advertise the program, will be included in the mailings.

Additional Information - Questions relating to remitting the fee may be directed to OTR at (202) 727-4TAX (4829). All other matters should be directed to the Mayor's Citywide Call Center at 311. You can find a frequently asked questions document, and posters you can download to educate your customers, at <http://green.dc.gov/bags>.