



## **Bill 24-24 Taxation – Paper Carryout Bags and Prohibition on Plastic Carryout Bags (“Bring Your Own Bag”)**

### **Transportation and Environment Committee Montgomery County Council**

#### **Position: Favorable With Amendments**

The Maryland Retailers Alliance (MRA) is favorable with amendments on Bill 24-24. We appreciate that the sponsor shared this proposal with us during the drafting stages, that several of our recommendations were incorporated into the bill as introduced, and that her staff has been responsive to our questions about some of the language. Unfortunately, we do continue to seek amendments to this bill regarding the tax exemption for customers using Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children (WIC) funds.

Our position on every carryout bag proposal in the state has been that ban-and-fee structures that allow retailers to retain some if not all of the fee for paper bags are the most effective way to encourage customers to bring their own bags while addressing the impact on businesses, and that consistent expectations should be set across the board for the entire industry. Applying that structure consistently for all customers in all retail settings is an effective approach to achieve compliance. The consistency ensures that both customers and employees know what to expect no matter where they shop or who is shopping.

Our primary concern about the tax exemption for customers using food assistance programs centers around how to identify those customers. Retail employees are prohibited by the federal government from asking customers if they are shopping with any food assistance program benefits. Businesses do not all use the same point of sale system, and these systems are not identical. Based on feedback from our food retail members, we can share with certainty that some point-of-sale systems do **not** visibly indicate to the cashier the method of payment being used during a transaction, and only print that information on the receipt after a transaction has been completed. In the event that a customer needs to utilize multiple forms of payment, whether that be because they are paying with SNAP or gift cards with insufficient funds, or for any other reason, the computer system is still not necessarily programmed to indicate that specific items were unpaid for – it may only indicate the remaining amount that must be paid to complete the transaction. Should Bill 24-24 pass with the tax exemption, this means that each time a customer utilizes benefits and then has any remaining balance for bags or any other disqualified items, it may suddenly be up to the discretion of the cashier to determine in the moment whether that shopper has swiped an EBT card. This is why MRA’s oral testimony cautioned that customers may need to self-identify as utilizing food benefits when purchasing groceries in order to be exempted from paying the tax for bags.

In addition to the difficulty that identifying these customers presents for businesses, MRA would also note that exempting certain customers from paying the bag tax presents an issue of unavoidable competition between grocery stores. Every store has a different general demographic of customers, with some catering to very few customers using benefits assistance on average and others processing upwards of 50% of their weekly transactions utilizing SNAP or WIC. Implementing a tax exemption for one subset of customers that may in actuality make up the majority of a store's clientele puts that store at a competitive disadvantage to cover the cost of paper bags. Customers need only bring their own bag or skip bagging in order to avoid the proposed tax in Bill 24-24, but the only way for businesses to avoid the increased costs of compliance would be to stop providing any single-use bags to anyone – meaning that even the \$0.10 option would not be available should someone forget their bags. At this time, basic paper grocery bags cost an average of \$0.10 to \$0.12 each for even the largest chains in the state, so customers will be paying for the mandated transition to paper elsewhere on their grocery bill if the cost is not directly offset for the choice of using a paper bag.

For these reasons, MRA would respectfully ask the Council to amend the bill and remove the tax exemption, thereby applying the law consistently for all shoppers in all retail settings just like every other jurisdiction that has applied a tax or fee to bags, including Anne Arundel, Howard, Prince George's, and Baltimore Counties and the cities of Baltimore, Annapolis, Laurel, Easton, Centreville, and Salisbury.

Additionally, we would express support for other areas of the bill as introduced. The clarifying "exemption" for plastic bags used to dispense pharmaceuticals is appropriate and necessary as some pharmacies utilize a central fill model that fills prescriptions in one central location before transporting them to community stores for dispensing; the use of plastic in these situations helps to ensure that medications are not lost in transit, as plastic is more durable than typical paper dispensing bags. Allowing plastic bags to be provided for hanging garments is also appropriate to protect costly clothing items like gowns and suits, and this clarifying language is consistent with the other jurisdictions that have passed local carryout bag laws.

Thank you for your consideration.