

114TH CONGRESS  
1ST SESSION

# H. R. 3977

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

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 5, 2015

Mr. LOWENTHAL (for himself, Mr. BEYER, Mr. BLUMENAUER, Mr. FARR, Ms. LEE, and Mr. TED LIEU of California) 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 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 2015”.

6 **SEC. 2. IMPOSITION OF TAX ON CARRYOUT BAGS.**

7 (a) GENERAL RULE.—Chapter 31 of the Internal  
8 Revenue Code of 1986 (relating to retail excise taxes) is

1 amended by inserting after subchapter C the following new  
2 subchapter:

3 **“Subchapter D—Carryout Bags**

“Sec. 4056. Imposition of tax.

4 **“SEC. 4056. IMPOSITION OF TAX.**

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

7 “(b) AMOUNT OF TAX.—The amount of tax imposed  
8 by subsection (a) shall be \$0.10 per carryout bag.

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

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

12 “(1) CARRYOUT BAG.—

13 “(A) IN GENERAL.—The term ‘carryout  
14 bag’ means a bag of any material, commonly  
15 plastic or kraft paper, which is provided to a  
16 consumer at the point of sale to carry or cover  
17 purchases, merchandise, or other items.

18 “(B) EXCEPTIONS.—Such term does not  
19 include—

20 “(i) any reusable bag that is distrib-  
21 uted to a customer without charge during  
22 a limited duration promotional event,

23 “(ii) any bag manufactured for use by  
24 a customer inside a store to package bulk

1 items such as fruit, vegetables, nuts,  
2 grains, candy, or small hardware items,  
3 such as nails and bolts,

4 “(iii) any bag that contains or wraps  
5 frozen foods, prepared foods, or baked  
6 goods when not prepackaged,

7 “(iv) any bag manufactured for use by  
8 a pharmacist to contain prescription drugs,  
9 and

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

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

16 “(A)(i) made of cloth or other machine  
17 washable fabric, or

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

20 “(B) is specifically designed and manufac-  
21 tured for multiple use.

22 “(3) LIMITED DURATION PROMOTIONAL  
23 EVENT.—A limited duration promotional event shall  
24 not be treated as including any day in a calendar  
25 year if limited duration promotional events taken

1 into account under paragraph (1)(B)(i) have oc-  
2 curred on 7 or more preceding days during such cal-  
3 endar year.

4 “(e) SPECIAL RULES.—

5 “(1) PASS THROUGH OF TAX.—The tax im-  
6 posed by subsection (a) shall be passed through to  
7 the customer and shall be separately stated on the  
8 receipt of sale provided to the customer.

9 “(2) 1ST RETAIL SALE; USE TREATED AS  
10 SALE.—For purposes of this section, rules similar to  
11 the rules of subsections (a) and (b) of section 4002  
12 shall apply.”.

13 (b) PLASTIC CARRYOUT BAG RECYCLING PRO-  
14 GRAM.—Subchapter B of chapter 65 of such Code is  
15 amended by adding at the end the following new section:

16 **“SEC. 6433. QUALIFIED PLASTIC CARRYOUT BAG RECY-  
17 CLING PROGRAM.**

18 “(a) ALLOWANCE OF CREDIT.—If—

19 “(1) tax has been imposed under section 4056  
20 on any carryout bag,

21 “(2) a retailer provides such bag to a customer  
22 in a point of sale transaction,

23 “(3) in the case of a carryout bag made of  
24 paper, such paper consists of not less than 40 per-  
25 cent post-consumer recycled content,

1           “(4) such retailer has in effect at the time of  
2 such transaction a qualified plastic carryout bag re-  
3 cycling program, and

4           “(5) such retailer has kept and can produce  
5 records for purposes of this section and section 4056  
6 that include the total number of carryout bags pur-  
7 chased and the amounts passed through to the cus-  
8 tomer for such bags pursuant to section 4056(e),  
9 the Secretary shall pay (without interest) to such retailer  
10 an amount equal to the applicable amount for each such  
11 bag used by the retailer in connection with a point of sale  
12 transaction.

13           “(b) APPLICABLE AMOUNT.—For purposes of sub-  
14 section (a), the applicable amount is \$0.04.

15           “(c) QUALIFIED PLASTIC CARRYOUT BAG RECY-  
16 CLING PROGRAM.—For purposes of this section—

17           “(1) IN GENERAL.—The term ‘qualified plastic  
18 carryout bag recycling program’ means a recycling  
19 program under which the retailer—

20           “(A) to the extent the retailer provides  
21 carryout bags (as defined in section 4056)  
22 made of plastic to customers—

23           “(i) passes through the tax imposed  
24 by section 4056 and tracks the total num-  
25 ber of bags purchased and amount of tax

1 passed through pursuant to section  
2 6433(a),

3 “(ii) has printed or displayed on each  
4 such bag, in a manner clearly visible to a  
5 customer, the words ‘PLEASE RETURN  
6 TO A PARTICIPATING STORE FOR  
7 RECYCLING’,

8 “(iii) uses bags that are 100-percent  
9 recyclable, and

10 “(iv) uses bags that are made of high-  
11 density polyethylene film marked with the  
12 SPI resin identification code 2 or low-den-  
13 sity polyethylene film marked with the SPI  
14 resin identification code 4,

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

21 “(C) recycles the plastic carryout bags col-  
22 lected pursuant to subparagraph (B),

23 “(D) maintains for not less than 3 years  
24 records (which shall be available to the Sec-

1           retary) describing the collection, transport, and  
2           recycling of plastic carryout bags collected,

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

8           “(F) meets the definition of section  
9           4056(d)(3).

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

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

20           **“SEC. 9512. CARRYOUT BAG TRUST FUND.**

21           “(a) CREATION OF TRUST FUND.—There is estab-  
22           lished in the Treasury of the United States a trust fund  
23           to be known as the ‘Carryout Bag Trust Fund’ (referred  
24           to in this section as the ‘Trust Fund’), consisting of such

1 amounts as may be appropriated or credited to the Trust  
2 Fund as provided in this section or section 9602(b).

3 “(b) TRANSFERS TO TRUST FUND.—There is hereby  
4 appropriated to the Trust Fund an amount equivalent to  
5 the amounts received in the Treasury pursuant to section  
6 4056.

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

10 “(d) TRANSFER TO LAND AND WATER CONSERVA-  
11 TION FUND.—

12 “(1) IN GENERAL.—The Secretary shall pay  
13 from time to time from the Trust Fund into the  
14 Land and Water Conservation Fund provided for in  
15 title I of the Land and Water Conservation Fund  
16 Act of 1965 amounts (as determined by the Sec-  
17 retary) equivalent to the aggregate of the trans-  
18 actions on which tax is imposed under section 4056  
19 aggregate amounts determined on the basis of  
20 \$0.06.

21 “(2) SPECIAL RULE REGARDING AMOUNTS  
22 TRANSFERRED.—Amounts transferred to the Land  
23 and Water Conservation Fund under paragraph (1)  
24 shall not be taken into account for purposes of de-  
25 termining amounts to be appropriated or credited to



1 the fund under section 2(c) of the Land and Water  
2 Conservation Fund Act of 1965 (16 U.S.C. 4601–  
3 5(c)).”.

4 (d) STUDY.—Not later than December 31, 2017, the  
5 Comptroller General of the United States shall conduct  
6 a study on the effectiveness of the provisions of this Act  
7 at reducing the use of carryout bags and encouraging re-  
8 cycling of such bags. The report shall address—

9 (1) measures that the Comptroller General de-  
10 termines may increase the effectiveness of such pro-  
11 visions, including the amount of tax imposed on each  
12 carryout bag, and

13 (2) any effects, both positive and negative, on  
14 any United States businesses.

15 The Comptroller General shall submit a report of such  
16 study to the Committee on Ways and Means of the House  
17 of Representatives and the Committee on Finance of the  
18 Senate.

19 (e) CLERICAL AMENDMENTS.—

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

“Subchapter D. 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 plastic 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. Carryout bag trust fund.”

7           (f) **EFFECTIVE DATE.**—The amendments made by  
8           this section shall take effect on July 1, 2016.

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