

GOVERNMENT OF THE DISTRICT OF COLUMBIA

District Department of the Environment



Implementing the Bag Law At Your Business



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I. Introduction

The Anacostia River Clean Up and Protection Act of 2009, commonly known as the “Bag Law,” requires District businesses that sell food or alcohol to charge a \$0.05 fee for each paper and plastic disposable bag distributed with any purchase, with certain exemptions. When a business is required to charge the \$0.05 for distributing a disposable bag, that bag must also meet the District’s material and labeling requirements (see Section V). Businesses that are required to collect bag fees must remit a portion of those fees to the Office of Tax and Revenue (OTR). Businesses that fail to meet these requirements may be subject to enforcement by the District Department of the Environment (DOEE) or OTR.

The Bag Law aims to reduce trash pollution by incentivizing District residents to not use disposable bags, which are often washed or blown into the District’s water bodies. Disposable bag use by District residents has decreased by 60% since the fee took effect. The number of plastic bags in District waterways has declined by 72%.

Bag fee revenue is deposited into the Anacostia River Clean Up and Protection Fund, a special-purpose fund managed by DOEE. The sole purpose of the fund is to support watershed protection initiatives, including education programs, stream restoration efforts, trash capture projects, and community outreach including the distribution of reusable bags.

This guide explains the requirements of the Bag Law for regulated District businesses.

II. Fee for Plastic Bags

District businesses that sell food or alcohol must charge a \$0.05 fee for each plastic bag distributed with any purchase.¹² All plastic bags must meet the District’s material and labeling requirements, which are described in Section V. The fee must be listed as a separate line item on the customer’s receipt.

III. Fee for Paper Bags

District businesses that sell food or alcohol and are not restaurants with seating must charge a \$0.05 fee for each paper bag distributed with any purchase.¹² These paper bags must meet the District’s material and labeling requirements (see Section V). The fee must be listed as a separate line item on the customer’s receipt.

¹ Food is defined as any raw, prepared, or prepackaged food product, including but not limited to candy, gum, granola bars, and bottled drinks.

² Regulated businesses include but are not limited to brick-and-mortar businesses, mobile vendors such as food trucks, and online delivery services.

Restaurants with seating are not required to charge the fee for paper bags. Paper bags distributed at restaurants with seating do not need to meet the District's material and labeling requirements.

IV. Fee Exemptions

Businesses are not required to charge a fee for disposable bags distributed for certain purposes. Paper and plastic disposable bags distributed for the purposes listed below do not need to meet the District's material and labeling requirements.

Exempt bags include:

- Bags that package bulk items, such as fruits, vegetables, nuts, grains, or candy
- Bags that wrap frozen foods, meat, or fish to prevent contamination
- Bags that contain or wrap flowers, potted plants, or other items where dampness may be a problem
- Bags that contain unwrapped prepared foods or bakery goods
- Bags distributed by a pharmacist to contain prescription drugs
- Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in a package intended for use as garbage, pet waste, or yard waste bags
- Bags for transporting partially-consumed bottles of wine

As mentioned above, restaurants with seating are not required to charge the fee for paper bags. Paper bags distributed at restaurants with seating do not need to meet the District's material and labeling requirements.

V. Material and Labeling Requirements

When a business is required to charge the \$0.05 for distributing a disposable bag, that bag must also meet the District's material and labeling requirements.

The District's material and labeling requirements are as follows:

- All **paper** and **plastic** disposable bags must be made from one hundred percent (100%) recyclable materials.
- All **paper** disposable bags must display the phrase "Please Recycle This Bag" or a substantially similar phrase (See Appendix).
- All disposable **paper** bags must contain a minimum of forty percent (40%) post-consumer recycled content.
- All disposable **plastic** carryout bags must be made of #2 HDPE plastic or #4 LDPE plastic.
- All disposable bags must meet the above requirements, even if they are biodegradable or compostable.

VI. Remitting Bag Fees

Businesses are required to report and remit their net bag fee collections to OTR by completing the “Disposable Carryout Bag Fee (Net of discount)” line item on their [FR-800 series sales and use tax return forms](#). **Businesses are authorized to keep \$0.01 of each \$0.05 fee collected and must remit the remaining \$0.04 for each bag distributed.**

Businesses may establish a customer credit program in which the customer is credited at least \$0.05 for each bag that the customer provides to package their purchase. The credit program must be prominently advertised at each checkout register and the total credit amount must be reflected on a customer’s transaction receipt. The *number* of customer credits awarded during a filing period does not affect a business’ required net remittance. Businesses that offer customer credit programs are authorized to keep an additional \$0.01 of each \$0.05 disposable bag fee, for a total of \$0.02. These businesses must remit the remaining \$0.03 for each disposable bag distributed.

A business can calculate its required remittance to OTR by multiplying the number of disposable bags distributed by the amount per bag that the business must remit. For example, a business that distributes 1,000 bags and does not offer a credit to customers who bring their own bags must remit \$40 (1,000 bags x \$0.04 = \$40). A business that distributes 1,000 bags and offers a credit must remit \$30 (1,000 bags x \$0.03 = \$30). Please note that the amounts retained by a business are not considered revenue and are tax exempt.

VII. Inspection and Enforcement

DOEE inspects over 500 businesses per year for compliance with the requirements of the Bag Law. In order to ensure that the inspector is being treated the same as other customers; an inspector will not identify him or herself during or after an inspection.

Non-compliant businesses will first be issued a **Notice of Violation (NOV)**, a formal warning letter. Businesses must come into compliance with the requirements of the law by the corrective action deadline specified in the NOV. After the corrective action deadline passes, a business is subject to additional enforcement actions for continued noncompliance.

A business found to be in noncompliance after having been issued an NOV will next be issued a **Notice of Infraction (NOI)**, which carries a fine. A business’ first NOI will carry a fine of \$100. Fine amounts double for each additional NOI, up to \$800. If a business contests an NOI or does not respond to an NOI, DOEE will file the case at the Office of Administrative Hearings (OAH), an external administrative court that functions as a neutral arbiter. When an NOI is filed with OAH, it will receive a new identification number and the business will have the opportunity to file a new plea with the court.

Additionally, OTR regularly audits businesses for compliance with the District's tax laws, including the remittance of bag fees. Businesses that fail to remit the appropriate amount of bag fees may be subject to enforcement action by OTR. Businesses should retain documentation justifying their bag fee remittance amount in case of an audit.

VIII. More Information

For more information on the Bag Law, please visit DOEE.dc.gov/bags. Additional questions can be directed to Lillian Power at (202) 671-0080 or Lillian.Power@dc.gov.