

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 905

Introduced by DeBoer, 10.

Read first time January 10, 2020

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
2 77-2701, Revised Statutes Supplement, 2019; to provide for a fee on
3 single-use checkout bags and for a program to distribute reusable
4 checkout bags; to define terms; to create a fund; to provide a duty
5 for the Department of Environment and Energy; to harmonize
6 provisions; and to repeal the original section.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Revised Statutes Supplement, 2019, is
2 amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
4 77-27,236, 77-27,238, and 77-27,239 and section 2 of this act shall be
5 known and may be cited as the Nebraska Revenue Act of 1967.

6 Sec. 2. (1) For purposes of this section:

7 (a) Single-use checkout bag means a plastic bag with a thickness of
8 less than four mils that is provided by a store to a customer at the
9 point of sale. Single-use checkout bag does not include (i) a bag
10 provided to contain meat, seafood, loose produce, or other unwrapped food
11 items, (ii) a newspaper bag, or (iii) a laundry or dry cleaning bag; and

12 (b) Store means any retailer, as defined in section 77-2701.32, that
13 maintains a retail store within the state and sells tangible personal
14 property directly to the public. Store does not include a nonprofit
15 organization that is exempt from sales and use taxes.

16 (2) Beginning January 1, 2021, each store shall charge a fee of five
17 cents for each single-use checkout bag provided to a customer at the
18 point of sale. The store shall indicate the number of single-use checkout
19 bags provided and the total amount of the fee charged on any transaction
20 receipt provided to a customer. Any fees collected pursuant to this
21 section shall be excluded from gross receipts as defined in section
22 77-2701.16.

23 (3) Each store shall report all fees collected pursuant to this
24 section to the Tax Commissioner with its return due under section 77-2708
25 and shall remit payment at the same time and in the same manner as
26 required under section 77-2708. Each store shall deduct and withhold,
27 from the fees otherwise due from the store on the store's return, one
28 cent of each fee remitted each month to reimburse such store for the cost
29 of collecting the fee.

30 (4) The Tax Commissioner shall remit all fees collected under this
31 section to the State Treasurer. The State Treasurer shall credit (a)

1 three cents of the fee to the General Fund and (b) one cent of the fee to
2 the Plastic Bag Reduction Fund.

3 (5) Any fees due and unpaid under this section shall be subject to
4 the penalties and interest established under sections 77-2701.04 to
5 77-2713 for unpaid sales and use taxes, and the amount of such fee,
6 penalty, or interest, due and unpaid, may be collected under the
7 provisions of such sections as if they were sales and use taxes due to
8 the state.

9 (6) The Tax Commissioner may adopt and promulgate rules and
10 regulations to carry out this section.

11 Sec. 3. (1) The Plastic Bag Reduction Fund is hereby created for
12 the purpose of providing reusable checkout bags to the public. The fund
13 shall be administered by the Department of Environment and Energy. The
14 fund shall consist of funds received pursuant to section 2 of this act.
15 Any money in the fund available for investment shall be invested by the
16 state investment officer pursuant to the Nebraska Capital Expansion Act
17 and the Nebraska State Funds Investment Act.

18 (2) The Department of Environment and Energy shall create a program
19 to provide reusable checkout bags to the public. The Director of
20 Environment and Energy may enter into agreements for the design,
21 creation, and distribution of such reusable checkout bags.

22 (3) The Department of Environment and Energy may adopt and
23 promulgate rules and regulations to carry out the provisions of this
24 section.

25 (4) For purposes of this section, reusable checkout bag means a bag
26 that (a) is provided by a store, as defined in section 2 of this act, to
27 a customer at the point of sale, (b) has handles and is designed and
28 manufactured for a minimum lifetime capability of at least one hundred
29 twenty-five uses carrying twenty-two pounds over a distance of at least
30 one hundred seventy-five feet, (c) is capable of being washed so as to be
31 cleaned and disinfected at least one hundred times, (d) is at least two

1 mils thick, and (e) contains recycled content materials.

2 Sec. 4. Original section 77-2701, Revised Statutes Supplement,
3 2019, is repealed.