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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 3322

March 4, 2010

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The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; imposing an excise tax on disposable bags; amending
1.3 Minnesota Statutes 2008, sections 289A.01; 289A.02, subdivision 5; 289A.12,
1.4 by adding a subdivision; 289A.18, by adding a subdivision; 289A.19, by adding
1.5 a subdivision; 289A.20, by adding a subdivision; 289A.56, subdivision 3;
1.6 Minnesota Statutes 2009 Supplement, section 270C.56, subdivision 1; proposing
1.7 coding for new law as Minnesota Statutes, chapter 297J.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2009 Supplement, section 270C.56, subdivision 1, is
1.10 amended to read:

1.11 Subdivision 1. **Liability imposed.** A person who, either singly or jointly with
1.12 others, has the control of, supervision of, or responsibility for filing returns or reports,
1.13 paying taxes, or collecting or withholding and remitting taxes and who fails to do so, or a
1.14 person who is liable under any other law, is liable for the payment of taxes arising under
1.15 chapters 295, 296A, 297A, 297F, ~~and~~ 297G, and 297J, or sections 256.9658, 290.92, and
1.16 297E.02, and the applicable penalties and interest on those taxes.

1.17 **EFFECTIVE DATE.** This section is effective the day following final enactment
1.18 and applies to disposable bags transferred after September 30, 2010.

1.19 Sec. 2. Minnesota Statutes 2008, section 289A.01, is amended to read:

1.20 **289A.01 APPLICATION OF CHAPTER.**

1.21 This chapter applies to laws administered by the commissioner under chapters 290,
1.22 290A, 291, ~~and~~ 297A, and 297J, and sections 298.01 and 298.015.

2.1 **EFFECTIVE DATE.** This section is effective the day following final enactment
2.2 and applies to disposable bags transferred after September 30, 2010.

2.3 Sec. 3. Minnesota Statutes 2008, section 289A.02, subdivision 5, is amended to read:

2.4 Subd. 5. **Other words.** Unless specifically defined in this chapter, or unless the
2.5 context clearly indicates otherwise, the words used in this chapter have the same meanings
2.6 as they are defined in chapters 290, 290A, 291, ~~and~~ 297A, and 297J.

2.7 **EFFECTIVE DATE.** This section is effective the day following final enactment
2.8 and applies to disposable bags transferred after September 30, 2010.

2.9 Sec. 4. Minnesota Statutes 2008, section 289A.12, is amended by adding a subdivision
2.10 to read:

2.11 Subd. 4a. **Disposable bag tax returns.** For taxes imposed under chapter 297J, a
2.12 return for the preceding taxable period must be filed with the commissioner in the form
2.13 the commissioner prescribes. The return must be verified by a written declaration that
2.14 it is made subject to criminal penalties for filing a false return and must also contain a
2.15 confession of judgment for the amount of the tax shown due to the extent it is not timely
2.16 paid.

2.17 **EFFECTIVE DATE.** This section is effective the day following final enactment
2.18 and applies to disposable bags transferred after September 30, 2010.

2.19 Sec. 5. Minnesota Statutes 2008, section 289A.18, is amended by adding a subdivision
2.20 to read:

2.21 Subd. 6. **Disposable bag tax returns.** A return under section 289A.12, subdivision
2.22 4a, is due on or before the 20th day of the month following the month in which the tax
2.23 liability is incurred.

2.24 **EFFECTIVE DATE.** This section is effective the day following final enactment
2.25 and applies to disposable bags transferred after September 30, 2010.

2.26 Sec. 6. Minnesota Statutes 2008, section 289A.19, is amended by adding a subdivision
2.27 to read:

2.28 Subd. 8. **Disposable bag tax returns.** The commissioner may extend the time for
2.29 filing a disposable bag tax return by up to 60 days for good cause.

3.1 **EFFECTIVE DATE.** This section is effective the day following final enactment
 3.2 and applies to disposable bags transferred after September 30, 2010.

3.3 Sec. 7. Minnesota Statutes 2008, section 289A.20, is amended by adding a subdivision
 3.4 to read:

3.5 Subd. 6. **Disposable bag tax.** Disposable bag taxes are due on or before the 20th
 3.6 day of the month following the month in which the tax liability is to be incurred.

3.7 **EFFECTIVE DATE.** This section is effective the day following final enactment
 3.8 and applies to disposable bags transferred after September 30, 2010.

3.9 Sec. 8. Minnesota Statutes 2008, section 289A.56, subdivision 3, is amended to read:

3.10 Subd. 3. **Withholding tax, entertainer withholding tax, withholding from**
 3.11 **payments to out-of-state contractors, estate tax, disposable bag tax, and sales tax**
 3.12 **overpayments.** When a refund is due for overpayments of withholding tax, entertainer
 3.13 withholding tax, disposable bag tax, or withholding from payments to out-of-state
 3.14 contractors, interest is computed from the date of payment to the date the refund is paid or
 3.15 credited. For purposes of this subdivision, the date of payment is the later of the date the
 3.16 tax was finally due or was paid.

3.17 For the purposes of computing interest on estate tax refunds, interest is paid from
 3.18 the later of the date of overpayment, the date the estate tax return is due, or the date the
 3.19 original estate tax return is filed to the date the refund is paid.

3.20 For purposes of computing interest on sales and use tax refunds, interest is paid from
 3.21 the date of payment to the date the refund is paid or credited, if the refund claim includes a
 3.22 detailed schedule reflecting the tax periods covered in the claim. If the refund claim
 3.23 submitted does not include a detailed schedule reflecting the tax periods covered in the
 3.24 claim, interest is computed from the date the claim was filed.

3.25 **EFFECTIVE DATE.** This section is effective the day following final enactment
 3.26 and applies to disposable bags transferred after September 30, 2010.

3.27 Sec. 9. **[297J.01] DEFINITIONS.**

3.28 Subdivision 1. **Scope.** For purposes of this chapter, the following terms have the
 3.29 meanings given.

3.30 Subd. 2. **Consumer.** "Consumer" means any person who purchases from a retailer a
 3.31 product that is placed in a disposable carryout bag at the time of sale.

4.1 Subd. 3. **Retailer.** "Retailer" means any person making sales of products who
 4.2 provides or sells disposable carryout bags to a consumer at the point of sale to carry
 4.3 purchases.

4.4 Subd. 4. **Disposable carryout bag.** "Disposable carryout bag" means a bag of any
 4.5 material, commonly plastic or kraft paper, which is provided to a consumer at the point of
 4.6 sale to carry purchases. Disposable carryout bag does not include:

4.7 (1) a reusable bag as defined in subdivision 5;

4.8 (2) bags used by consumers inside stores to package bulk items such as fruit,
 4.9 vegetables, nuts, candy, grains, or small hardware items, such as nails and bolts;

4.10 (3) bags used to contain or wrap frozen foods; meat or fish, whether prepackaged or
 4.11 not; or flowers or potted plants or other items where dampness may be a problem;

4.12 (4) bags used to protect prepared foods or bakery goods;

4.13 (5) bags provided by pharmacists to contain prescription drugs;

4.14 (6) newspaper bags, door-hanger bags, laundry or dry cleaning bags; or

4.15 (7) bags sold in packages containing multiple bags intended for use as garbage, pet
 4.16 waste, or yard waste bags.

4.17 Subd. 5. **Reusable bag.** "Reusable bag" means a durable plastic bag that is at least
 4.18 2.25 mils thick, has handles, and is specifically designed and manufactured for multiple
 4.19 reuse, or a bag that is made of cloth or other machine-washable fabric and has handles.

4.20 **EFFECTIVE DATE.** This section is effective the day following final enactment
 4.21 and applies to disposable bags transferred after September 30, 2010.

4.22 **Sec. 10. [297J.02] DISPOSABLE BAG TAX.**

4.23 Subdivision 1. **Imposition.** A tax is imposed on the sale or transfer of disposable
 4.24 carryout bags by a retailer to a consumer equal to five cents per bag. The tax must be paid
 4.25 by the consumer at the time of purchase and retailers may not pay the tax on behalf of
 4.26 consumers. All retailers must indicate on the consumer transaction receipt the number of
 4.27 disposable carryout bags provided and the total amount of tax imposed.

4.28 Subd. 2. **Distribution.** (a) From each five-cent tax collected, one cent remains with
 4.29 the retailer. However, a retailer that chooses to offer a carryout bag credit program to its
 4.30 customers may retain an additional one cent from each five cents collected. For a retailer to
 4.31 retain the additional one cent from the five-cent tax, the carryout bag credit program must:

4.32 (1) credit the consumer a minimum of five cents for each carryout bag provided
 4.33 by the consumer for packaging their purchase, regardless of whether the bag is paper,
 4.34 plastic, or reusable;

4.35 (2) be prominently advertised at each checkout register; and

5.1 (3) reflect the total credit amount on the consumer transaction receipt.

5.2 (b) The fees retained by the establishment under this section must not be classified
5.3 as revenue and are not subject to tax.

5.4 **EFFECTIVE DATE.** This section is effective the day following final enactment
5.5 and applies to disposable bags transferred after September 30, 2010.

5.6 Sec. 11. **[297J.03] TAX PERMIT.**

5.7 Subdivision 1. **Permit required.** Every retailer must apply to the commissioner, on
5.8 a form prescribed by the commissioner, for a disposable bag tax identification number and
5.9 disposable bag tax permit. A permit is not assignable and is valid only for the retailer in
5.10 whose name it is issued.

5.11 Subd. 2. **Inclusion on invoice.** The retailer's disposable bag tax identification
5.12 number must be included on every invoice where the disposable bag tax is collected.

5.13 **EFFECTIVE DATE.** This section is effective the day following final enactment
5.14 and applies to disposable bags transferred after September 30, 2010.