Meeting Minutes
Thursday, July 30, 2026

Virginia Litter Tax Study Group
DEQ Piedmont Regional Office
4949-A Cox Road, Glen Allen, Virginia

Members Present:	Dan Baxter, Jenyla Brown, Greg Cross, Jay Ford, Kim Hynes, Mike O'Connor, Tad Phillips, Kate Vasquez, Elly Wilson
Members Absent:	Jack DeBell, Teresa Sweeney
Other Attendees:	Delegate Paul Krizek
Public Attendees:	Jennifer Walle Boyd, Brad Copenhaver, Rick Galliher, KerriLynn Miller, Mike Mullin
DEQ Staff Attendees:	Brandon Bull, Prina Chudasama, Kathryn Perszyk, Rebecca Rathe, Sanjay Thirunagari, Brent Williams
TAX Staff Attendees:	Bezawit Agiro, Ishraq Ahmed, Anaysiah Bailey, Charles Kennington, Joe Mayer, James Savage

The Virginia Department of Environmental Quality (DEQ) facilitated a meeting of the Virginia Litter Tax Study Group on July 30, 2026. The meeting was convened at 9:48 AM and adjourned at 3:04 PM. A break for lunch occurred from 12:13 PM until 1:20 PM.

1. Welcome and Introductions [Kathryn Perszyk, DEQ]

    a. Ms. Perszyk welcomed the Study Group members and other attendees, introduced herself, stated the purpose of the meeting, and facilitated member introductions, reviewed the meeting agenda, and some general logistics. The tentative agenda for the meeting had been previously emailed to members. (Attachment 1).

    b. Ms. Perszyk gave an overview of the Freedom of Information Act (FOIA) guidelines for the Group. The FOIA guidelines had been previously e-mailed to the members, and copies were available in the room upon request. (Attachment 2).

    c. Ms. Perszyk reviewed the meeting group rules, including being on time, being prepared, and participating. She explained the use of the public chair, and reminded the Group of the decision from the September 16, 2025, meeting regarding tallying votes.

    d. Ms. Perszyk turned the floor over to Delegate Paul Krizek.

2. Opening Remarks by Del. Krizek [Delegate Paul Krizek]

    a. Delegate Paul Krizek thanked the members and attendees for participating. Del. Krizek expressed his intention to introduce legislation during the 2027 General Assembly session to revise the litter tax. Del. Krizek shared his view that the goal of this meeting is to listen to and hear the Group define the problem, establish factual record, and commit to changes he can incorporate in his bill. Del. Krizek expressed a need to modernize the litter tax, due to the current tax being outdated and no longer reflecting modern waste streams. Del. Krizek stated his concern that the current tax not only fails to raise enough money to address modern litter issues but also fails to give options to businesses. Del. Krizek expressed the need to remain fair and transparent, and shared some ideas with the Group.

   b. Del. Krizek turned the floor back over to Ms. Perszyk.

3. Review of Purpose [Kathryn Perszyk, DEQ]

   a. Ms. Perszyk reviewed House Joint Resolution 448 (HJ448) (Attachment 3) with the Group, including what the Group is tasked to do, the analysis to be conducted, and HJ448's request to consider the efficacy of the Litter Tax and potential small business exemptions. A copy of HJ448 had been previously e-mailed to the members, and copies were available in the room upon request.

   b. Ms. Perszyk reviewed the minutes from the first meeting of the Group on September 16, 2025. The minutes had been posted in draft form on the Virginia Regulatory Town Hall website and were previously shared with Group members. The minutes covered discussions had during the first meeting, as well as two items voted on by the Group.

   c. Ms. Perszyk called for consensus from the Group regarding finalizing the meeting minutes from the first Group meeting on Tuesday, September 16, 2025. All Group members agreed with finalizing the minutes with no changes.

4. Virginia Department of Taxation (TAX) Presentation [James Savage, TAX; Ishraq Ahmed, TAX]

   a. Mr. Savage introduced himself and his colleague Mr. Ahmed and provided an overview of the role of the Virginia Department of Taxation. Mr. Savage informed the Group that some of the information requested from the first meeting was unable to be shared due to confidentiality laws.

   b. Mr. Savage provided information to the Group regarding historical context and legislative adjustments to the litter tax rate, how and when the tax is assessed, penalty structure for late payments, and revenue trends. Mr. Savage noted that the Litter Tax relies on a voluntary self-reporting system.

   c. Mr. Savage addressed several clarifying questions from the Group regarding the topics above.

   d. Mr. Savage turned the floor over to Mr. Ahmed.

   e. Mr. Ahmed provided information regarding litter tax payer demographics by business sector.

   f. Mr. Ahmed addressed several questions from the Group regarding uncategorized payers, NAICS codes, data verification, e-filing options, and the number of entities required to pay the litter tax that are not filing.

   g. Mr. Savage addressed the scope of agricultural exemptions, availability of guidance, and modeled revenue as well as cost projections if a cigarette litter abatement fee were imposed. Tax staff noted that any increase in taxes on cigarettes reduces demand, therefore imposing a tax to generate revenue for the Litter Fund would reduce existing tax revenue generated for the Health Fund. That tax revenue is matched by federal funds, so the negative effect to the Health Fund would be double the amount of the reduced tax revenue.

h. Mr. Savage noted that Virginia's litter tax, imposed as a per establishment fee, appears to be unique. In other states that Tax staff have looked at, revenue for litter reduction comes from either a general appropriation or a tax on receipts.

i. The Tax Department's presentation was not provided to the Group prior to the meeting but is included in these minutes. (Attachment 4).

j. Mr. Savage thanked the Group for the opportunity to present and invited the Group to let him know if they had any additional questions he could address.

k. With no additional questions posed by the Group, Mr. Savage turned the floor back over to Ms. Perszyk. Ms. Perszyk utilized a presentation to aid with Group discussion. (Attachment 5).

5. Group Discussion [Kathryn Perszyk, DEQ]

a. Generally, the Group members discussed several changes to the litter tax that could be beneficial, but did not vote on any of the following during the meeting:

    i. The majority of the Group agreed with the first meeting recommendations that the litter tax revenue should be increased and the list of applicable products subject to the litter tax should be modernized.

    ii. Del. Krizek indicated a desire to focus on problematic litter and not litter that was highly recyclable or not as toxic or damaging to the environment and health.

    iii. Multiple Group members stated that focus should be timeless and focus on the material and containers that make up litter, rather than a specific product. Soft drinks were given as an example, where the product of soft drinks was taxed, but the litter originates from the container in which the product is sold. The Group reviewed and discussed material included in the Keep America Beautiful 2026 National Litter Study Appendix: Table 1: List of Visible Litter Study Materials and Products. (Attachment 6).

    iv. Some Group members stated that a focus should be given to education and community outreach.

    v. Group members discussed quantity and volume of litter, the correlation between litter volume and population density, personal responsibility, and the issue of retailer size correlating to the amount of litter generated from sold products.

    vi. The Group discussed retailer versus consumer behavior, and options to reduce the amount of single use plastic, plastic bags, and other materials contributing to litter at the point of sale.

vii. One Group member expressed concern with simply raising the tax in response to more litter and stated a preferable option would be to reduce the amount of litter generated, not increase the fund to address an assumed future of more litter.

viii. The Group discussed the cigarette tax and its impact on the Health Fund.

ix. The Group discussed an overarching goal of trying to reduce litter while raising enough money through the fund for viable clean-up, education, and outreach options.

x. The Group focused on two possible models. The first model was a tiered system in which establishments pay based on the size of the retailer by volume of product sold. The second model was based on a gross receipt tax, charged per item instead of as a flat establishment fee.

b. During Group Discussion, no members of the public spoke to the Group by utilizing the public chair and being recognized by the facilitator.

c. The Group voted on one item:

i. Does the Group agree with finalizing the first meeting's minutes in their current state?

9 In favor; 0 Not in favor
Nine members of the Study Group agreed the first meeting's minutes should be finalized.

6. Next steps [Kathryn Perszyk, DEQ]

a. DEQ Staff will distribute minutes to the Group and post them to the Virginia Regulatory Town Hall.

b. DEQ Staff will schedule an additional meeting for the fall of 2026.

c. Department of Taxation Staff will provide requested information regarding the two model systems proposed by the Group, including how these models would look using the Commonwealth's tax data and the estimated number of full-time employees required to administer them. The Department of Taxation will also provide information at the next meeting with data showing whether there are any savings if the tax is collected annually within pre-existing tax structures.

d. The Group requested the attendance of representatives from Virginia Association of Counties (VACo) and Virginia Municipal League (VML) at the next meeting to provide information.

e. Group members should direct any material for dissemination to Ms. Rebecca Rathe, who will distribute them to the Group.

f. DEQ Staff will compile an executive summary and findings report for submission to the Virginia General Assembly by January 14, 2027.

Attachments:

1. Tentative Meeting Agenda
2. House Joint Resolution 448
3. FOIA Guidelines for Public Bodies
4. Department of Taxation Meeting Presentation
5. Facilitator Discussion Presentation
6. Keep America Beautiful 2026 National Litter Study Appendix: Table 1: List of Visible Litter Study Materials and Products

Attachment 1 - Tentative Meeting Agenda

Tentative Agenda

Virginia Litter Tax Study Group

Thursday, July 30, 2026

Virginia Department of Environmental Quality, Piedmont Regional Office Training Room

4949-A Cox Road, Glen Allen Virginia, 23060

Start Time: 9:30 AM

Welcome/Introductions

Opening Remarks by Del. Krizek

Review of Purpose

Presentation by Department of Taxation

Group Discussion

Next Steps

Attachment 2 - House Joint Resolution 448

HOUSE JOINT RESOLUTION NO. 448

Requesting the Department of Environmental Quality to study tax policy options for reforming the litter tax. Report.

Agreed to by the House of Delegates, February 3, 2025
Agreed to by the Senate, February 20, 2025

WHEREAS, the Commonwealth's litter tax has benefited Virginians for decades; and

WHEREAS, the production of plastic has grown by more than 744 percent since the litter tax was enacted; and

WHEREAS, according to a study performed by Clean Virginia Waterways, the Virginia litter tax generates the lowest revenue per capita of any state using a litter tax system; and

WHEREAS, modernization of the litter tax could better promote recycling, reduce landfill waste, and advance environmental stewardship; and

WHEREAS, it is appropriate to perform a full review of the application and utilization of the litter tax to assess how it meets current and anticipated needs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Environmental Quality be requested to study tax policy options for reforming the litter tax. Such study shall review how the litter tax could better promote recycling, reduce landfill waste, and advance environmental stewardship in the Commonwealth.

In conducting its study, the Department of Environmental Quality (the Department) shall (i) conduct an analysis of the Commonwealth's current solid waste streams, including solid waste generated by jurisdiction, by type, and by material, and the disposal methods by material and amount, with the costs and revenues for such solid waste disposal programs; (ii) conduct an analysis of the Commonwealth's current recycling streams, including (a) recycling materials and amounts processed by jurisdiction; (b) processing methods by material and amount; (c) the associated revenues and costs for recycling programs; (d) estimated amounts of recyclable materials not currently being recycled; (e) current recycling infrastructure capacity, need, and costs; (f) access and availability to recycling throughout the Commonwealth; (g) the collection, hauling, and composting of materials within the Commonwealth; and (h) the processing or composting of recyclable materials in the Commonwealth; (iii) conduct an analysis of market conditions and other opportunities for increasing recycling in the Commonwealth, including (a) coordination between local governments, consumer education regarding recycling, and organics recycling and contamination recycling; (b) opportunities in the recycling system for women and minorities; (c) worker conditions, wages, and benefits; and (d) reuse and organics recycling infrastructure; (iv) conduct an analysis of the economic opportunities in the Commonwealth's recycling system, including (a) revenue lost by the Commonwealth and localities when materials are not recycled, (b) opportunities to increase employment in the recycling industry by material type and the current jobs associated with the solid waste and recycling industries, (c) business opportunities and barriers associated with recycling, (d) barriers to increasing use of recyclables as feedstock of principal processors and manufacturers and means of eliminating those barriers, (e) incentives for stimulating job growth and business opportunities in the recycling industry, (f) methods for improving equitable outcomes for underserved populations within the recycling system, and (g) the efficacy of the current litter tax; (v) develop options for implementing an additional cigarette litter abatement fee to compensate for the frequent occurrence of cigarette litter; and (vi) consider creating litter tax exemptions for small businesses. In conducting this study, the Department shall utilize an independent, trained facilitator and ensure that a representative of an organization that is a recipient of the litter tax and a member of the Litter Control and Recycling Fund Advisory Board established pursuant to § 10.1-1422.02 of the Code of Virginia are included as members of the study. The Department shall provide study members with at least two weeks' notice of the agenda and background materials for all meetings. Any policy recommended in the final report shall pass by a motion with a recorded vote, and dissenting views may be included in such report.

Technical assistance shall be provided to the Department by the Department of Taxation and the Department of Planning and Budget. All agencies of the Commonwealth shall provide assistance to the Department for this study, upon request.

The Department shall complete its meetings for the first year by November 30, 2025, and for the second year by November 30, 2026, and the Department shall submit to the Governor and the General Assembly an executive summary and report of its findings and recommendations for publication as a House or Senate document for each year. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the next Regular Session of the General Assembly and shall be posted on the General Assembly's website.

Attachment 3 - FOIA Guidelines for Public Bodies

A Guide to the Freedom of Information Act for Members of Boards, Councils, Commissions, and Other Deliberative Public Bodies

Prepared by the Virginia Freedom of Information Advisory Council

Policy Statement of the Virginia Freedom of Information Act (FOIA)

> *By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to public records in the custody of a public body or its officers and employees and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government.*
>
> *Unless a public body or its officers and employees specifically elect to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.*[1]

Public Records

What is a public record?

For the purposes of FOIA, a public record is all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostatting, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by or in the possession of a public body or its officers, employees, or agents in the transaction of public business.[2]

All public records are open to the public unless a specific exemption in law allows the record to be withheld and a public body invokes such exemption.

What about retention of public records?

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[1] See Subsection B of § 2.2-3700 of the Code of Virginia, the first section of the Virginia Freedom of Information Act.

[2] See the definition of "public records" in § 2.2-3701.

Public records must be retained according to retention schedules set by the Library of Virginia pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.). The length of retention depends on the content of the record. After expiration of the applicable retention period, the records may be destroyed or discarded.

What about electronic mail?

Emails that relate to public business are public records, regardless of whether a home or office computer or phone is used and regardless of whether the communication is through text or a form of social media or other electronic application. It is the content of the record, not the equipment or account that is used, that controls.

Emails that qualify as public records must be retained as required by the Virginia Public Records Act. For additional information, see the Freedom of Information Advisory Council handout entitled "Email: Use, Access, and Retention" available on the FOIA Council website.

Public Meetings[3]

What is considered a meeting under FOIA for public bodies?

For the purposes of FOIA, a public meeting of a public body is any gathering, including work sessions, of the constituent membership of the public body convened physically or through electronic communication means pursuant to § 2.2-3708.2 or 2.2-3708.3 where the members discuss or transact public business of the public body. This meaning applies:

- To the public body or to an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership;
- Wherever the gathering is held; and
- Regardless of whether minutes are taken or votes are cast.

NOTE: This requirement also applies to any meeting, including work sessions, of any subgroup of the public body, regardless of how the subgroup is designated (e.g., a committee, subcommittee, task force, work group, panel, etc.).

What is public business under FOIA?

For purposes of public meetings, public business means any activity a public body has undertaken or proposes to undertake on behalf of the people it represents.[4]

*What is **not** a meeting under FOIA?*

- The gathering of employees of the public body; or
- The gathering or attendance of two or more public body members at:
    - Any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, and no discussion or transaction of public business takes place among the members of the public body; or

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[3] See the definition of "meeting" in § 2.2-3701.
[4] *Id.*

- A public forum, informational gathering, candidate appearance, meeting of another public body, or debate, the purpose of which is to inform the electorate or to gather information from the public and not to transact public business or to hold discussions relating to the transaction of public business, where no discussion or transaction of public business takes place among the members of the public body, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or, debate, or question presented by others at such public meeting.

Specific Aspects of Public Meetings

Minutes: Minutes are required for any meeting of the public body or a subgroup of the public body.

Voting: No secret or written ballots are allowed. Votes must be taken at a public meeting conducted in accordance with FOIA.

Polling: Individual members may be contacted separately (one-on-one) to ascertain their positions by phone, letter, or email, so long as the contact is done on a basis that does not constitute a meeting.

Closed Meetings: A closed meeting is allowed only for certain limited purposes as specifically authorized by FOIA in § 2.2-3711 or other law and requires a motion stating the purpose, the subject of the closed meeting, and the specific Code section that authorizes the closed meeting. See § 2.2-3711 of FOIA for allowable purposes for closed meetings and §§ 2.2-3711 and 2.2-3712 of FOIA for procedures for holding a closed meeting.

Electronic Meetings: Meetings held through electronic communication means are allowed for public bodies under heightened procedural and reporting requirements depending on the type of electronic meeting (i.e., a meeting during a declared state of emergency, an in-person meeting with individual member(s) using remote participation, or an all-virtual public meeting). See §§ 2.2-3708.2 and 2.2-3708.3 of FOIA for specific requirements for meetings held under these circumstances.

Email and Meetings: The Virginia Supreme Court has held that emails may constitute a "meeting" as defined under FOIA if there is simultaneous email communication between three or more members of a public body.[5] Avoid "reply all" as a general rule. For additional information, see the FOIA Council handout entitled "Email and Meetings" available on the FOIA Council's website.

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Virginia Freedom of Information Advisory Council
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[5] See *Hill v. Fairfax Cnty. Sch. Bd.*, 284 Va. 306, 727 S.E.2d 75 (2012); *Beck v. Shelton*, 267 Va. 482, 494, 593 S.E.2d 195 (2004).

foiacouncil.dls.virginia.gov

Updated July 2024

Attachment 4 - Department of Taxation Meeting Presentation

2025 HJR 448 Workgroup

Virginia Tax Presentation

July 30, 2026

HJR 448 First Mandate

Litter Tax

Historical Context & Legislative Adjustments to the Litter Tax Rate

1976

The **Virginia Litter Control Act** was enacted. The act levied an annual tax of **$2.50** per establishment.

1977

The annual litter tax was doubled to **$5.00.**

1981-84

The base tax was increased to **$10** per establishment. A new additional tax of **$15** was introduced for businesses handling:

1. Groceries;
2. Soft drinks & Carbonated waters; or
3. Beer & other malt beverages.

2020

The base tax was increased from **$10** to **$20**. The additional tax for groceries, soft drinks, and beer increased from **$15** to **$30.**

Assessed Annually by Establishment, Not by Product

BASE TIER

$20 Annually

The tax applies to every Virginia establishment that deals in any of the 15 categories of products: Food products and groceries, pet food, newspapers and magazines, paper and household products, motor vehicle parts, soft drinks and carbonated beverages, beer and malt beverages, wine, glass containers, metal containers, and plastic or fiber containers.

January 1st — Based on business operations as of this date.

ADDITIONAL TIER

+$30 Annually ($50 Total)

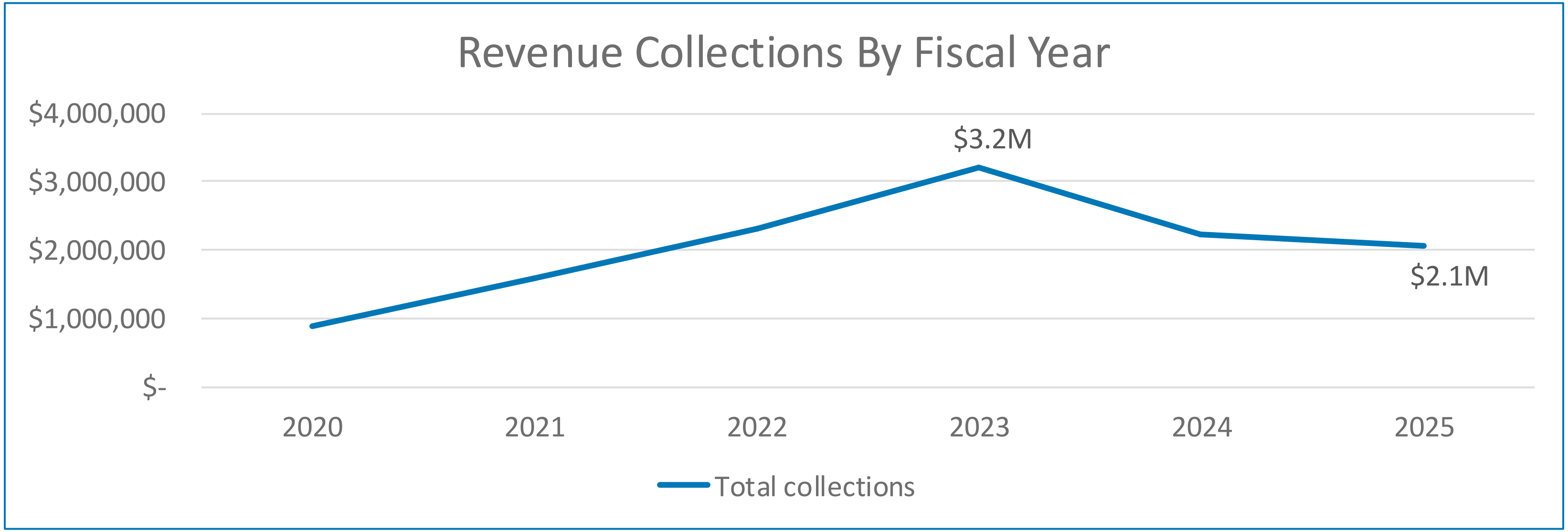
An extra $30 (for a total of $50) for establishments handling: soft drinks, beer, other malt beverages, groceries, carbonated beverages, and waters.

May 1st — A business must pay the tax if it was in operation on January 1 of the current year (Form 200).

Penalty Structure for Late Payment

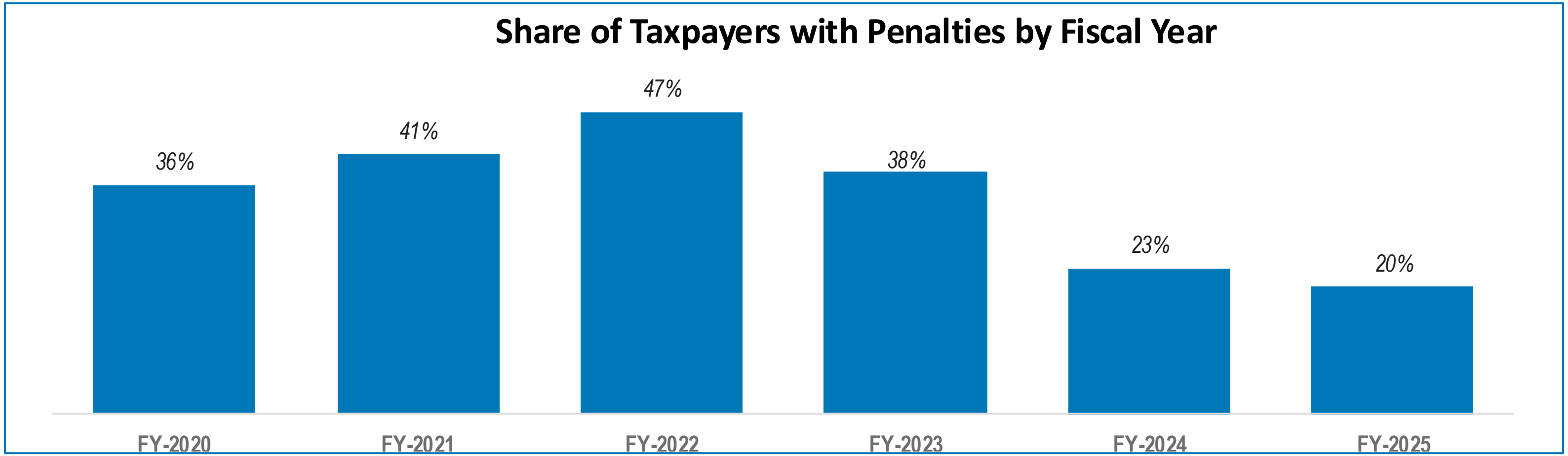
- Taxpayers who miss the May 1 deadline owe a penalty equal to **100% of the tax due**, plus a **flat $100**. Interest accrues separately under § 58.1-15.
- **2020 (HB 502, effective May 1, 2021):** Added the flat $100 to the existing 100% penalty.
- **2023 (HB 1645/SB 996):** Prohibited Virginia Tax from imposing any penalty or interest without first notifying taxpayers at least 30 days in advance.

Litter Tax Revenue Trends



* *Figures from Virginia Tax Annual Reports.*

Share of Taxpayers with Penalties



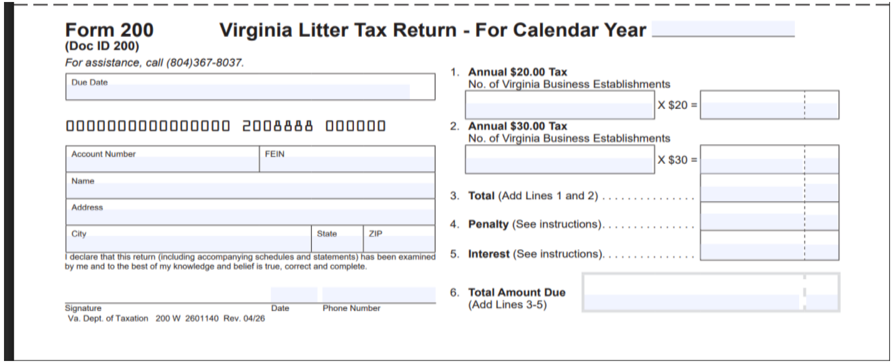
* *Figures are from Form 200 returns and do not include non-filers assessments.*

- Following the 2021 penalty structure change, the share of taxpayers with penalties remained elevated from FY 2021 through FY 2023, reaching 47% in FY 2022.
- The share dropped to 20% in FY 2025.

- FY 2023 revenue spike reflects a one-time enforcement effect from 2021 penalty structure change, rather than underlying growth in tax base.
  - In 2020, the Virginia General Assembly added a $100 penalty to the existing delinquent tax and collection costs owed by taxpayers who fail to pay the litter tax within the time limits established by regulations.
  - In 2023, the Virginia General Assembly added a requirement that before imposing penalties or interest, Virginia Tax must first provide taxpayers with at least 30 days' notice that a return is due.

- **Payer Demographics by Business Sector:** Breakdown of litter tax filers by business category — including manufacturers, wholesalers, distributors, and retailers — and the number of establishments paying in each sector.
- **Compliance of Specific Business Populations and Taxpayers Generally:** Assess whether identified business populations — including ABC stores and VDH-permitted restaurants — that deal in litter-prone products are filing and paying and determine whether "everyone who should be paying is paying."
- **Scope of Agricultural Exemptions:** Clarify whether agricultural business exemptions apply to any of the specific populations identified.
- **Availability of Guidance:** Identify what guidance or clarifications Virginia Tax has issued to the public regarding who is required to pay the tax.

- Form 200 captures **only two data** points:
  - Establishments in the **$20** tier
  - Establishments in the **$50** tier.
- There is no field to mark whether you are a manufacturer, wholesaler, distributor, or retailer.


Form 200 **Virginia Litter Tax Return - For Calendar Year**
(Doc ID 200)
For assistance, call (804)367-8037.

Due Date

0000000000000000 2008888 000000

Account Number	FEIN
Name	
Address	
City	State / ZIP

I declare that this return (including accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is true, correct and complete.

Signature Date Phone Number
Va. Dept. of Taxation 200 W 2601140 Rev. 04/26

1. **Annual $20.00 Tax** No. of Virginia Business Establishments X $20 =
2. **Annual $30.00 Tax** No. of Virginia Business Establishments X $30 =
3. **Total** (Add Lines 1 and 2)
4. **Penalty** (See instructions)
5. **Interest** (See instructions)
6. **Total Amount Due** (Add Lines 3-5)

- Virginia Tax can provide instead: a sector-level breakdown of filers, derived by industry codes reported when a business sets up an account with Virginia Tax. The following slides show who appears to be filing by industry sector.

Question 1: Payer Demographics by Business Sector

Number of Establishments Remitting Tax by Fiscal Year

	2020	2021	2022	2023	2024	2025
Retail Trade	17,601	19,284	19,209	23,128	23,379	22,122
Food Service & Accommodations	17,096	19,098	19,226	23,931	22,912	22,074
Wholesale Trade	1,483	1,694	1,677	2,389	2,025	2,089
Manufacturing & Construction	2,009	1,447	2,072	2,913	2,457	2,448
Information, Real Estate, Finance, Insurance & Prof. Svcs	3,641	4,070	4,694	6,275	5,061	4,929
Other*	1,653	2,054	2,103	3,085	2,432	2,488
Total	43,483	47,647	48,981	61,721	58,266	56,150

** The category "Other" includes unclassified and missing NAICS codes.*

Key Takeaways

- Retail Trade and Food Service & Accommodations together account for approximately 80% of establishments, consistent across all six fiscal years.
- Total Establishments peaked in FY 2023 at 61,721, coinciding with increased enforcement and outreach activity following the 2020 penalty changes.
- Establishments declined modestly in FY 2024 and FY 2025, to 56,150.
  - This may reflect Virginia Tax's 2023 outreach effort, which clarified which businesses actually owe the tax.
  - It is possible that some businesses that had been filing in error stopped after realizing they were not liable.

Drilling Down: Establishments Breakdown by Specific Business Type

- The previous slide shows establishment counts grouped into broad sectors using 2-digit NAICS codes.
- To identify specific business types within those sectors, Virginia Tax used more granular 6-digit NAICS codes. At this level, self-reported codes can often be missing, incorrect and sometimes too broad to identify a specific business type.
- Because more than half of establishments cannot be classified at the 6-digit level, the following slide presents findings as shares of the classifiable population.
- As a result, these figures cover all litter tax establishments but cannot identify the business type of roughly half.

Question 1: Payer Demographics by Business Sector

Estimated Share of Identifiable Establishments by Business Type

	FY-2020	FY-2021	FY-2022	FY-2023	FY-2024	FY-2025
Supermarkets & Grocery retailers	3.3%	3.0%	3.0%	2.8%	2.7%	2.7%
Specialty Food retailers & other specialty food retailers*	0.5%	0.4%	0.5%	0.6%	0.6%	0.7%
Pet & Pet supplies retailers	0.1%	0.0%	0.3%	0.2%	0.1%	0.2%
Convenience stores**	3.9%	4.5%	3.2%	3.3%	4.6%	4.2%
Tobacco products wholesalers	0.1%	0.1%	0.2%	0.2%	0.2%	0.3%
Breweries manufacturers	0.3%	0.2%	0.3%	0.4%	0.4%	0.4%
Beer, Wine & Liquor retailers	0.1%	0.1%	0.2%	0.2%	0.1%	0.1%
Wineries manufacturers	0.3%	0.3%	0.3%	0.5%	0.3%	0.4%
Pharmacies & drug retailers	0.2%	0.2%	0.3%	0.3%	0.3%	0.2%
Special Food services***	1.5%	2.7%	2.0%	1.9%	2.4%	2.3%
All restaurants (full and limited)	29.7%	29.6%	28.0%	29.0%	28.7%	28.8%
Beauty salons	0.7%	1.0%	1.0%	1.1%	1.0%	1.0%
Hotels and motels excl. casino hotels	1.1%	0.9%	1.1%	1.2%	0.9%	1.1%
Gas stations	3.7%	3.8%	5.2%	4.5%	5.4%	5.2%
Automotive mechanical and electrical repair	2.1%	2.1%	2.5%	2.8%	2.4%	2.3%
Unclassified/remaining	52.5%	51.0%	51.9%	51.0%	49.9%	50.2%

*Specialty food includes retail sale of meat and poultry. Other food retailers excl. meat and poultry. ** Excludes fuel. ***Caterers, food trucks, food provided at commercial and government locations.

The remaining businesses at the 6-digit level comprise either missing NAICS and thus cannot be classified, or they comprise few businesses that cannot be disclosed due to taxpayer confidentiality reasons.

Virginia Tax

A Closer Look at the Unclassified Category

- The unclassified/remaining share — roughly 50% in recent years — reflects two distinct issues that are worth separating:
  - **Missing or incomplete NAICS codes.** NAICS codes are self-reported when setting up a Virginia Tax business account. Many filers provide a 2-digit code but not a 6-digit code, and some provide no code at all. Virginia Tax cannot classify what was never reported.
  - **Confidentiality suppression.** Virginia Tax policy prohibits releasing data for any category with fewer than four establishments, because a small enough group could allow identification of individual taxpayers — which is prohibited under § 58.1-3.

Why Virginia Tax Can't Answer the Specific Question

- The workgroup asked specifically about ABC stores and VDH-permitted restaurants. TAX can't provide that answer directly for two reasons:
  - Capability: Form 200 was designed to collect a flat per-establishment payment, not to build a compliance database. It captures location counts but does not capture entity type or sector. Identifying whether specific business populations are filing would require cross-referencing Form 200 against external licensing databases like VDH or ABC registries, a connection not currently built into the litter tax system.
  - Confidentiality: § 58.1-3 prohibits TAX from disclosing individual taxpayer filing status or any data that could identify a particular taxpayer.

What Virginia Tax Can Show Instead

- By matching Form 200 accounts to NAICS codes reported on taxpayers' business account, Virginia Tax has just provided a sector-level breakdown of establishments, the closest available view given current system constraints.
- The analysis focuses on Food Service & Accommodations, Manufacturing & Wholesale, and Retail Trade, which are the sectors most likely to include businesses liable for the Virginia Litter Tax.
- Note that Census data includes many businesses not required to pay the litter tax, so gaps between Census counts and Form 200 filers do not necessarily indicate noncompliance.

Estimated Virginia Share of Establishments Remitting the Litter Tax

	Establishments in Virginia (2023 CBP and NES)*	Litter Tax Establishments (2025)	Estimated Share of Establishments Paying Litter Tax
Food Service & Accommodations	35,402	22,074	62%
Manufacturing, Construction & Wholesale	117,477	4,537	4%
Retail Trade	80,836	22,122	27%

**Statistics from County Business Patterns (CBP) and Nonemployer Statistics (NES)*

Understanding This Data

- The gaps across all three sectors primarily reflect that Census counts include businesses not primarily engaged in dealing in covered products and therefore not liable under the primary business purpose standard in Tax Commissioner rulings.*
  - Furthermore, in Manufacturing, Construction and Wholesale – Most Virginia manufacturers produce goods not in the statutory product list.
- In addition to the above, some noncompliance could be a factor but cannot be confirmed.

*See PD 25-17 and PD 16-216.

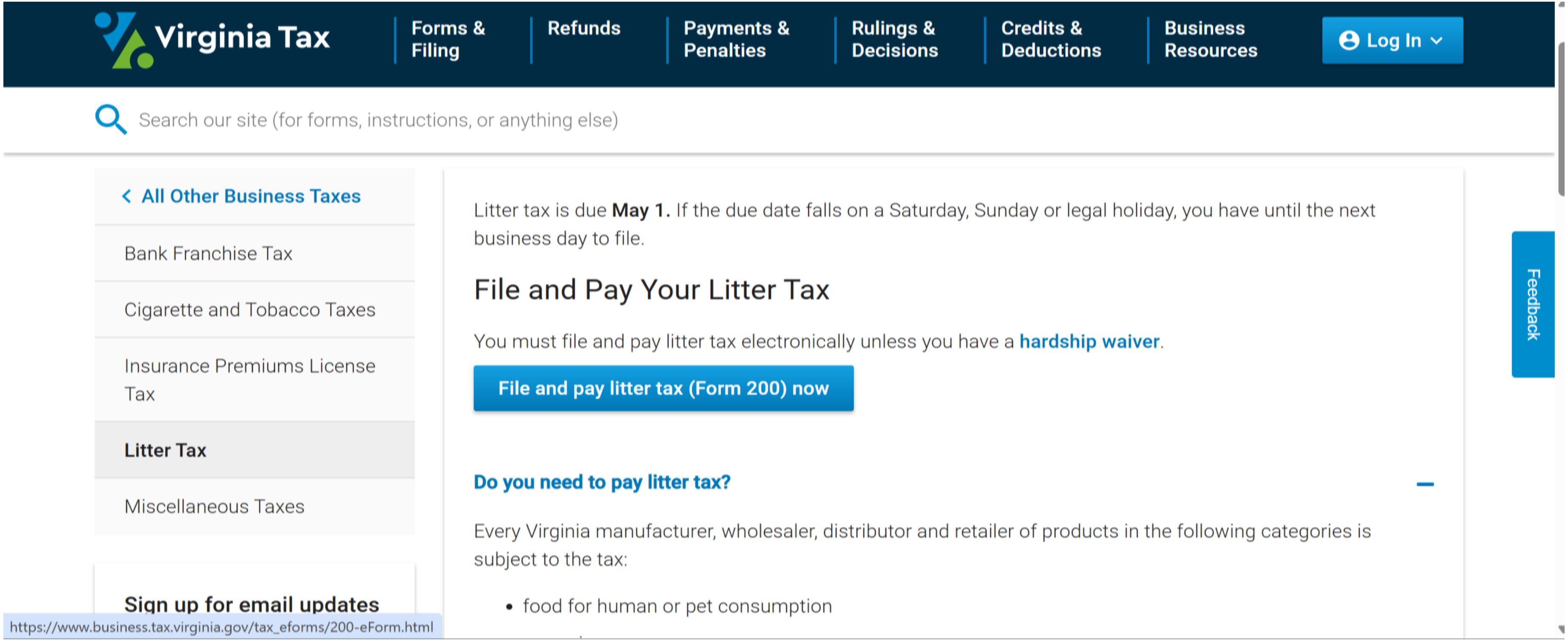
Question 3: Scope of Agricultural Exemptions

- 2011 HB 1942 created a limited exemption from the litter tax for individual sellers at farmers markets and roadside stands.
- To qualify, all three conditions must be met:
  - The seller personally raises the fruits, vegetables, or eggs being sold,
  - Annual income from those sales does not exceed $1,000, and
  - Any container provided to the customer was previously used.

- This is a narrow exemption. It applies only to individuals selling their own produce — not farms, cooperatives, or other agricultural businesses dealing in enumerated product categories such as food for human or pet consumption or groceries.
- None of the specific business populations identified in this study — including ABC stores, VDH-permitted restaurants, gas stations, and convenience stores — qualify for this exemption. Each operates as a commercial business, not as an individual seller of personally raised produce.

- The primary guidance is the statute itself: §§ 58.1-1707 and 58.1-1708 define who owes the tax.
- Virginia Tax supplements that with the following, all of which directly address the threshold question of who must pay:
  - The Form 200 instructions,
  - A dedicated webpage at tax.virginia.gov/litter-tax, and
  - Notices sent to approximately 30,000 taxpayers annually at least 30 days prior to the May 1 due date, consistent with 2023 legislation (HB 1645/SB 996).
- Formal rulings have addressed specific edge cases but have been issued on a case-by-case basis as taxpayers have requested guidance or appealed an assessment.

Question 4: Availability of Guidance



Virginia Tax

Forms & Filing | Refunds | Payments & Penalties | Rulings & Decisions | Credits & Deductions | Business Resources | Log In

Search our site (for forms, instructions, or anything else)

< All Other Business Taxes

- Bank Franchise Tax
- Cigarette and Tobacco Taxes
- Insurance Premiums License Tax
- **Litter Tax**
- Miscellaneous Taxes

Sign up for email updates

https://www.business.tax.virginia.gov/tax_eforms/200-eForm.html

Litter tax is due **May 1.** If the due date falls on a Saturday, Sunday or legal holiday, you have until the next business day to file.

File and Pay Your Litter Tax

You must file and pay litter tax electronically unless you have a **hardship waiver**.

File and pay litter tax (Form 200) now

Do you need to pay litter tax?

Every Virginia manufacturer, wholesaler, distributor and retailer of products in the following categories is subject to the tax:

- food for human or pet consumption

Feedback

What Virginia Tax is Doing Now

- Notices and web guidance have been updated to clearly identify which of the 15 statutory product categories trigger liability, helping businesses self-determine whether they owe the tax.
- As part of a cross-divisional effort, information on the litter tax filing requirement is being incorporated into income tax instructions to increase awareness among newly formed businesses.
- Virginia Tax is currently going through a multi-year system update that will expand technical capabilities for tax administration across programs, including the litter tax.

HJR 448 Second Mandate

Cigarette Litter Abatement Fee

Cigarette Litter Abatement Fee

- HJR 448 specifically directs the study group to "develop options for implementing an additional cigarette litter abatement fee" to compensate for the frequent occurrence of cigarette litter across the Commonwealth.
- Virginia Tax has modeled revenue and elasticity impacts at increments of $0.01 to $0.05 per pack on top of the existing $0.60 excise tax. The following slides present those findings.

Estimating the Fee Revenue

- A per-pack cigarette litter fee generates net new revenue for the Litter Control and Recycling Fund on top of the existing $0.60 excise tax.
- Higher consumer prices reduce total pack demand. Virginia Tax's model accounts for this elasticity effect (-0.1% to -0.6% demand reduction depending on fee level). This means:
  - Primary positive impact: Net new revenue flows exclusively to the Litter Control and Recycling Fund.
  - Offsetting impact: Reduced pack volume produces marginal revenue losses primarily to the existing Health Care Fund, which is tied to cigarette volume sold.

Estimating the Fee Revenue

- At $0.01/pack: Generates approximately $2.6M in new Litter Control Fund revenue in FY 2025 — roughly matching current total litter tax collections — with an estimated $0.36M reduction in Health Care Fund revenue from elasticity effects.
- At $0.05/pack: Generates approximately $13.1M in new revenue — a roughly 6x increase over current litter tax collections — with an estimated $0.92M Health Care Fund reduction.
- Revenue projections decline year over year as baseline cigarette consumption trends downward independently of any fee addition.
- Estimates are preliminary, based on FY 2025 collections and the October 2025 Health Care Fund forecast.

Appendix

- No neighboring state administers a standalone litter tax comparable to Virginia's. Neighboring states generally fund litter control and recycling through one of two approaches:
  - **Slice of an existing tax** — a defined portion of an existing tax on covered products is redirected to a litter or recycling fund, or
  - **Direct budget appropriation** — litter programs are funded through a general agency operating budget with no dedicated tax mechanism

Virginia's Slice-of-Tax Precedents

- Virginia has used the slice-of-tax model in other contexts:
    - **Tire Recycling Fee** ($0.50 per new tire collected through the existing sales tax process; proceeds to the Waste Tire Trust Fund);
    - **Game Protection Fund** (2% sales tax on hunting and fishing gear redirected to a dedicated fund); and
    - **Historic Triangle** (additional sales tax increment split between regional tourism and localities).

Text of HJR 448 Resolution

HOUSE JOINT RESOLUTION NO. 448 : WHEREAS, the Commonwealth's litter tax has benefited Virginians for decades; and WHEREAS, the production of plastic has grown by more than 744 percent since the litter tax was enacted; and WHEREAS, according to a study performed by Clean Virginia Waterways, the Virginia litter tax generates the lowest revenue per capita of any state using a litter tax system; and WHEREAS, modernization of the litter tax could better promote recycling, reduce landfill waste, and advance environmental stewardship; and WHEREAS, it is appropriate to perform a full review of the application and utilization of the litter tax to assess how it meets current and anticipated needs; now, therefore, be it RESOLVED by the House of Delegates, the Senate concurring, That the Department of Environmental Quality be requested to study tax policy options for reforming the litter tax. Such study shall review how the litter tax could better promote recycling, reduce landfill waste, and advance environmental stewardship in the Commonwealth.

Text of HJR 448 Resolution

In conducting its study, the Department of Environmental Quality (the Department) shall (i) conduct an analysis of the Commonwealth's current solid waste streams, including solid waste generated by jurisdiction, by type, and by material, and the disposal methods by material and amount, with the costs and revenues for such solid waste disposal programs; (ii) conduct an analysis of the Commonwealth's current recycling streams, including (a) recycling materials and amounts processed by jurisdiction; (b) processing methods by material and amount; (c) the associated revenues and costs for recycling programs; (d) estimated amounts of recyclable materials not currently being recycled; (e) current recycling infrastructure capacity, need, and costs; (f) access and availability to recycling throughout the Commonwealth; (g) the collection, hauling, and composting of materials within the Commonwealth; and (h) the processing or composting of recyclable materials in the Commonwealth; (iii) conduct an analysis of market conditions and other opportunities for increasing recycling in the Commonwealth, including (a) coordination between local governments, consumer education regarding recycling, and organics recycling and contamination recycling; (b) opportunities in the recycling system for women and minorities; (c) worker conditions, wages, and benefits; and (d) reuse and organics recycling infrastructure;

Text of HJR 448 Resolution

(iv) conduct an analysis of the economic opportunities in the Commonwealth's recycling system, including (a) revenue lost by the Commonwealth and localities when materials are not recycled, (b) opportunities to increase employment in the recycling industry by material type and the current jobs associated with the solid waste and recycling industries, (c) business opportunities and barriers associated with recycling, (d) barriers to increasing use of recyclables as feedstock of principal processors and manufacturers and means of eliminating those barriers, (e) incentives for stimulating job growth and business opportunities in the recycling industry, (f) methods for improving equitable outcomes for underserved populations within the recycling system, and (g) the efficacy of the current litter tax; (v) develop options for implementing an additional cigarette litter abatement fee to compensate for the frequent occurrence of cigarette litter; and (vi) consider creating litter tax exemptions for small businesses. In conducting this study, the Department shall utilize an independent, trained facilitator and ensure that a representative of an organization that is a recipient of the litter tax and a member of the Litter Control and Recycling Fund Advisory Board established pursuant to § 10.1-1422.02 of the Code of Virginia are included as members of the study. The Department shall provide study members with at least two weeks' notice of the agenda and background materials for all meetings. Any policy recommended in the final report shall pass by a motion with a recorded vote, and dissenting views may be included in such report.

Text of HJR 448 Resolution

Technical assistance shall be provided to the Department by the Department of Taxation and the Department of Planning and Budget. All agencies of the Commonwealth shall provide assistance to the Department for this study, upon request.

The Department shall complete its meetings for the first year by November 30, 2025, and for the second year by November 30, 2026, and the Department shall submit to the Governor and the General Assembly an executive summary and report of its findings and recommendations for publication as a House or Senate document for each year. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the next Regular Session of the General Assembly and shall be posted on the General Assembly's website.

Attachment 5 - Facilitator Discussion Presentation

Litter Tax Study Group

House Resolution 448 (2025)

Virginia Department of Environmental Quality

July 30, 2026

Agenda

- Welcome / Introductions
- Opening Remarks by Del. Krizek
- Review of Purpose, Reminders
  - Approve Minutes from Meeting 1
- Presentation by Dept of Taxation
- Group Discussion
- Next Steps

Welcome / Introductions

Name

Organization / Affiliation

Ground Rules

- Be on time
- Come prepared
- Stay present and focused
- Everyone participates
- FOIA reminder
- Record votes by # count

- Use of a Public Chair

House Resolution 448 (HJ448)

HJ 448 Overview – Study Request

- Requested DEQ study tax policy options for reforming the litter tax

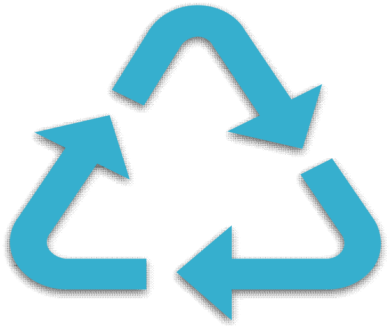
- Review how the litter tax could better promote recycling, reduce landfill waste, and advance environmental stewardship in the Commonwealth

HJ 448 Overview – Conduct Analyses

Solid Waste

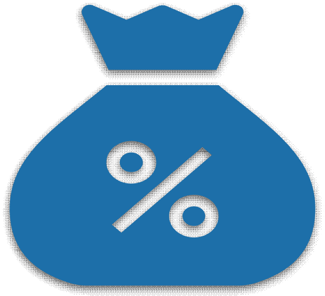
- Waste streams analysis
- Cost / revenues of disposal

Recycling



- Recycling streams analysis
- Market conditions
- Economic opportunities

Litter Tax



- Current efficacy
- Cigarette fee
- Small business exemptions

HJ 448 Overview – Timeline of Outputs

2025
- Convene Study Group
- Hold Meeting before Nov 30, 2025

2026
- Exec Summary + Findings Report* due by Jan 14, 2026
- Hold Meeting(s) before Nov 30, 2026

2027
- Exec Summary + Findings Report* due by Jan 13, 2027

** Any policy recommended in the final report shall pass by a motion with a recorded vote, and dissenting views may be included in such report.*

Goals of Today's Meeting

- Approve Minutes from Meeting 1
- Presentation by Dept of Taxation
- Discuss Policy Recommendations
    - Tax policy options for reforming the litter tax

DEQ

First Meeting Recommendations

The litter tax fund revenue should be increased.

The list of applicable products subject to the litter tax should be modernized.

Litter Tax (§ 58.1-1707)

Applies to manufacturers, wholesalers, distributors or retailers of certain products

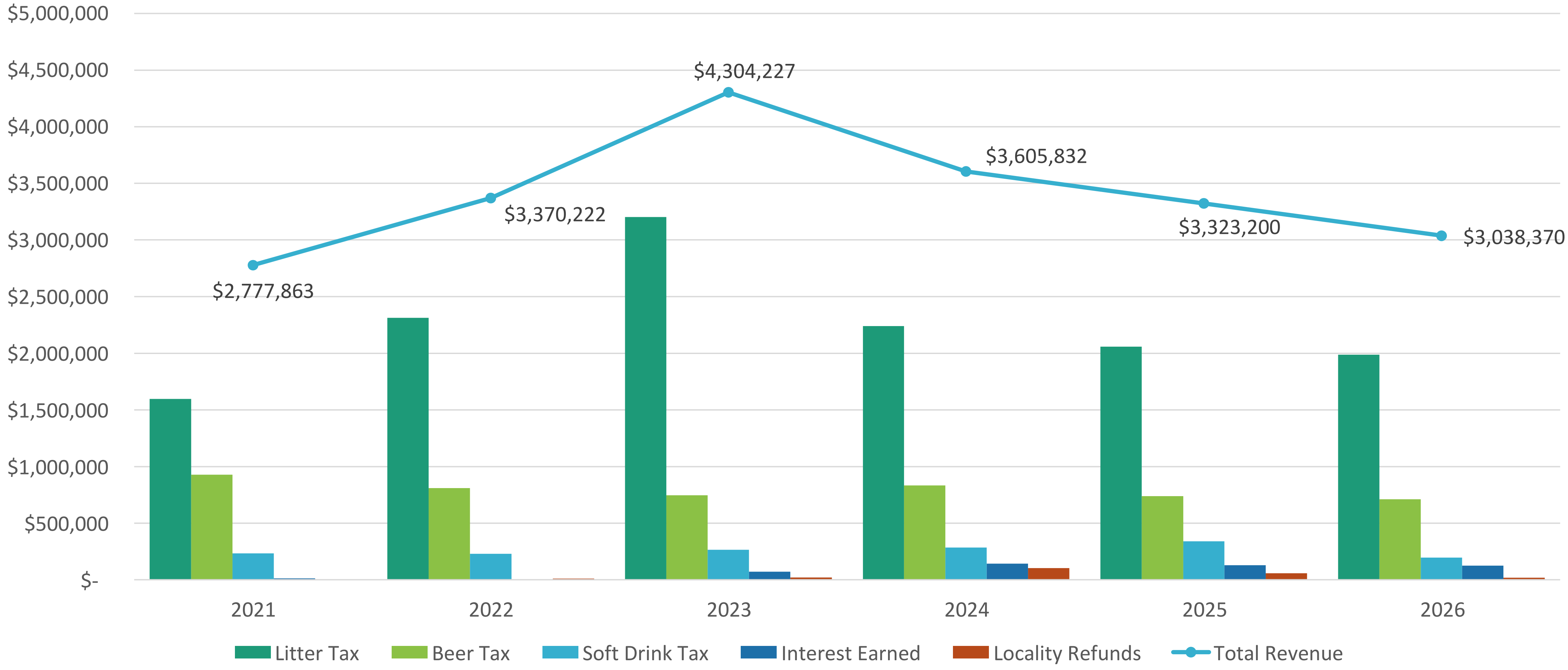
$20 for each establishment dealing with products 1-15

+ $30 for each establishment dealing with products 2, 4, or 5

Applicable Products:

1. Food for human or pet consumption
2. Groceries
3. Cigarettes and tobacco products
4. Soft drinks and carbonated waters
5. Beer and other malt beverages
6. Wine
7. Newspapers and magazines
8. Paper products and household paper
9. Glass containers
10. Metal containers
11. Plastic or fiber containers made of synthetic material
12. Cleaning agents and toiletries
13. Nondrug drugstore sundry products
14. Distilled spirits
15. Motor vehicle parts

Litter Fund Revenues, FY2021 – FY2026



DEQ

Next Steps

- Distribute minutes to group & post to Town Hall
- Schedule next meeting – Fall 2026
    - Aug 25
    - Sept 8, 10, 23, 25
- Compile executive summary & findings report, submit to General Assembly by Jan 13, 2027

DEQ

Attachment 6 - Keep America Beautiful 2026 National Litter Study Appendix: Table 1: List of Visible Litter Study Materials and Products

Appendix

Table 1: List of Visible Litter Study Materials and Products

A comprehensive list of the littered items we tracked for the 2026 National Litter Study.

Material		
PAPER	Fast-food paper bags	Office paper/ mail
	Fast-food paper cups	Newspaper/ inserts
	Other paper fast-food service items	Magazines
	Cardboard	Books
	Kraft bags	Aseptic/ gable top containers
	Receipts	Beverage carriers/ cartons
	Political signs	Paper home food packaging
	Other advertising signs	Wine or liquor container
	Other cup	Napkin
	Other paper	
PLASTIC	Soda	Utensil
	Single-serve wine & liquor	Plastic trash bags
	Other wine & liquor	Other plastic bags
	Sports & energy drinks	Food-packaging film
	Juice	Other film
	Tea & coffee	Other fast food service items
	Still water	Expanded polystyrene food service items
	Other water	Other expanded polystyrene
	Other plastic beverage bottles	Other expanded plastic
	Fast-food plastic cups	Other plastic food packaging
	Other jug or container	Buoy or float
	Loose cap	Fishing line or lure
	Loose tab	Rope or net
	Beverage ring	Personal care product
	Straw or stirrer	Other plastic
	Other beverage packaging	
METAL	Beer	Other beverage bottles
	Soda	Loose cap
	Other wine or liquor	Loose tab
	Hard seltzer and pre-mixed cocktails	Other beverage packaging
	Sports & energy drinks	Aerosol can
	Juice	Other food packaging
	Tea & coffee	Other metal

Appendix

GLASS	Beer	Tea & coffee
	Soda	Still water
	Single-serve wine & liquor	Other water
	Other wine & liquor	Other glass beverage bottles
	Hard seltzer and pre-mixed cocktails	Broken glass or ceramic
	Sports & energy drinks	Other glass food packaging
	Juice	Other glass
ORGANICS	Pet waste	Other food waste
	Human waste	Other organics
	Confection	
SMOKING OR TOBACCO	Cigarette butt	Smokeless tobacco pouch
	Electronic cigarettes cartridge	Disposable lighter
	Other electronic cigarettes related product	Other smokeless tobacco-related product or packaging
	Cigar tip	Other smoking or tobacco
TIRES & VEHICLE DEBRIS	Vehicle debris	Tire tread
	Tire	
TEXTILES	Clothing or shoe	Natural fiber rope or net
	Towel or rag	Other textile
OTHER	Medical waste	Personal sanitary product
	PPE gloves	Entertainment items
	PPE masks	Flat screen TVs and computer monitors
	Hazardous waste	CRT televisions and computer monitors
	Construction and demolition debris	Portable electronics
	Other camping item	Electronic cords
	Bulky items	Other electronics
	Balloon	Other items
	Explosive	