



Sen. Terry Link

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10000SB1597sam002

LRB100 08906 MJP 26066 a

1 AMENDMENT TO SENATE BILL 1597

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1597, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Counties Code is amended by adding Section  
6 5-1184 as follows:

7 (55 ILCS 5/5-1184 new)

8 Sec. 5-1184. Auxiliary containers.

9 (a) As used in this Section:

10 "Auxiliary container" means a bag, carryout bag, cup,  
11 bottle, or other packaging that is designed to be reusable or  
12 for single use; that is made of cloth, paper, plastic,  
13 cardboard, corrugated material, aluminum, glass, extruded  
14 polystyrene, postconsumer recycled material, or similar  
15 material or substrates, including coated, laminated, or  
16 multi-layer substrates; and that is designed for transporting,

1 containing, or protecting merchandise, food, or beverages from  
2 a food service or retail establishment.

3 "Biodegradable bag" means a bag that allows microbes, in a  
4 controlled environment, to break down the material and meets  
5 industry standard specifications according to ASTM D6400 or  
6 ASTM D6868 or any bag that claims to break down through any  
7 means.

8 "Carryout bag" means a plastic, paper, compostable, or  
9 biodegradable bag that is provided by a retail establishment at  
10 the checkstand, cash register, point of sale, or other point of  
11 departure to a customer for the purpose of transporting goods  
12 out of the retail establishment. "Carryout bag" does not  
13 include bags used by customers inside stores: to package bulk  
14 items, such as fruit, vegetables, nuts, grains, candy; that are  
15 used for greeting cards or small hardware items, such as nails  
16 and bolts; to contain or wrap frozen foods, meat, or fish,  
17 whether prepackaged or not; to contain or wrap flowers or  
18 potted plants, or other items where dampness may be a problem;  
19 to contain unwrapped prepared foods or bakery goods; to contain  
20 prescription drugs; to safeguard public health and safety  
21 during the transportation of prepared take-out foods and  
22 prepared liquids intended for consumption away from the retail  
23 establishment; that are newspaper bags, door-hanger bags,  
24 reusable bags, laundry-dry cleaning bags; or that are bags with  
25 a retail price of at least \$0.50 each.

26 "Compostable" means that the product completely breaks

1 down into a stable product due to the action of microorganisms  
2 in a controlled, aerobic commercial process that results in a  
3 material safe and desirable as a soil amendment, meets the  
4 compost standards under 35 Ill. Adm. Code 830.503, has been  
5 found to degrade satisfactorily at the composting facility  
6 receiving the material, meets industry standard specification  
7 ASTM D6400, and has been certified as compostable by the  
8 Biodegradable Products Institute or a similar national or  
9 international certification authority.

10 "Restaurant" means any business having sales of  
11 ready-to-eat food for immediate consumption comprising at  
12 least 51% of total sales excluding the sale of liquor.

13 "Retail establishment" means any person, corporation,  
14 partnership, business venture, public sports or entertainment  
15 facility, government agency, or organization that sells or  
16 provides merchandise, goods, or materials, including, but not  
17 limited to, clothing, food, beverages, household goods, or  
18 personal items of any kind directly to a customer. "Retail  
19 establishment" includes, but is not limited to, department  
20 stores, clothing stores, jewelry stores, grocery stores,  
21 pharmacies, home improvement stores, liquor stores,  
22 convenience stores, gas stations, and farmers markets. "Retail  
23 establishment" does not include food banks and other food  
24 assistance programs, mobile food delivery, or restaurants.

25 "Reusable bag" means a carryout bag with handles that is  
26 provided by a retail establishment at the checkstand, cash

1 register, point of sale, or other point of departure to a  
2 customer for the purpose of transporting goods out of the  
3 establishment that is specifically designed and manufactured  
4 for multiple reuse, has a minimum lifetime capability of 125 or  
5 more uses carrying 22 or more pounds over a distance of at  
6 least 175 feet, and is capable of being washed so as to be  
7 cleaned and disinfected at least 100 times.

8 (b) Except as otherwise provided in this Section, a county  
9 may not ban, place a fee or tax on, or regulate in any other  
10 manner the use, disposition, content, taxation, or sale of  
11 auxiliary containers.

12 (c) A county may regulate carryout bags by imposing a \$0.05  
13 fee on each carryout bag used by a customer at retail  
14 establishments. The retail establishment shall retain \$0.02 of  
15 the fee. The retail establishment shall remit the remaining  
16 \$0.03 of the fee to the Department of Revenue on form ST-1 and  
17 the Department of Revenue shall remit the \$0.03 to the county  
18 where the retailer is located.

19 If a county imposes a fee under this subsection, the county  
20 shall use its \$0.03 of the fee to contract with: (i) a  
21 governmental entity whose primary function is environmental  
22 protection and that operates permanent or temporary household  
23 hazardous waste facilities; or (ii) a vendor whose primary  
24 function is to collect and process permanent or temporary  
25 household hazardous waste. If a governmental entity or vendor  
26 receives any part of the county's portion of a fee imposed

1 under this Section and contracts with the county to provide a  
2 household hazardous waste collection program, the governmental  
3 entity or vendor must take back at least the following items:  
4 oil-based paints, latex paints, paint thinners, herbicides,  
5 insecticides, pesticides, gasoline, pool chemicals, cleaning  
6 products, mercury, household batteries, used motor oil, oil  
7 filters, drain cleaners, lawn chemicals, solvents, antifreeze,  
8 hobby chemicals, aerosol paints, fluorescent lamp bulbs,  
9 pharmaceuticals, carpets, and mattresses.

10 (d) A county that charged a fee or tax on auxiliary  
11 containers on February 1, 2017 may continue to charge the fee  
12 or tax. The county is prohibited from further regulating  
13 auxiliary containers, including bags and carryout bags, and  
14 from making further changes to the bag fee or bag tax ordinance  
15 in effect on February 1, 2017. However, the county may change  
16 its regulations to be consistent with this Section or eliminate  
17 the fee or tax altogether.

18 (e) A home rule county may not regulate or impose fees or  
19 taxes on auxiliary containers in a manner inconsistent with  
20 this Section. This Section is a limitation under subsection (i)  
21 of Section 6 of Article VII of the Illinois Constitution on the  
22 concurrent exercise by home rule units of powers and functions  
23 exercised by the State.

24 Section 10. The Illinois Municipal Code is amended by  
25 adding Section 11-42-17 as follows:

1 (65 ILCS 5/11-42-17 new)

2 Sec. 11-42-17. Auxiliary containers.

3 (a) As used in this Section:

4 "Auxiliary container" means a bag, carryout bag, cup,  
5 bottle, or other packaging that is designed to be reusable or  
6 for single use; that is made of cloth, paper, plastic,  
7 cardboard, corrugated material, aluminum, glass, extruded  
8 polystyrene, postconsumer recycled material, or similar  
9 material or substrates, including coated, laminated, or  
10 multi-layer substrates; and that is designed for transporting,  
11 containing, or protecting merchandise, food, or beverages from  
12 a food service or retail establishment.

13 "Biodegradable bag" means a bag that allows microbes, in a  
14 controlled environment, to break down the material and meets  
15 industry standard specifications according to ASTM D6400 or  
16 ASTM D6868 or any bag that claims to break down through any  
17 means.

18 "Carryout bag" means a plastic, paper, compostable, or  
19 biodegradable bag that is provided by a retail establishment at  
20 the checkstand, cash register, point of sale, or other point of  
21 departure to a customer for the purpose of transporting goods  
22 out of the retail establishment. "Carryout bag" does not  
23 include bags used by customers inside stores: to package bulk  
24 items, such as fruit, vegetables, nuts, grains, candy; that are  
25 used for greeting cards or small hardware items, such as nails

1 and bolts; to contain or wrap frozen foods, meat, or fish,  
2 whether prepackaged or not; to contain or wrap flowers or  
3 potted plants, or other items where dampness may be a problem;  
4 to contain unwrapped prepared foods or bakery goods; to contain  
5 prescription drugs; to safeguard public health and safety  
6 during the transportation of prepared take-out foods and  
7 prepared liquids intended for consumption away from the retail  
8 establishment; that are newspaper bags, door-hanger bags,  
9 reusable bags, laundry-dry cleaning bags; or that are bags with  
10 a retail price of at least \$0.50 each.

11 "Compostable" means that the product completely breaks  
12 down into a stable product due to the action of microorganisms  
13 in a controlled, aerobic commercial process that results in a  
14 material safe and desirable as a soil amendment, meets the  
15 compost standards under 35 Ill. Adm. Code 830.503, has been  
16 found to degrade satisfactorily at the composting facility  
17 receiving the material, meets industry standard specification  
18 ASTM D6400, and has been certified as compostable by the  
19 Biodegradable Products Institute or a similar national or  
20 international certification authority.

21 "Restaurant" means any business having sales of  
22 ready-to-eat food for immediate consumption comprising at  
23 least 51% of total sales excluding the sale of liquor.

24 "Retail establishment" means any person, corporation,  
25 partnership, business venture, public sports, or entertainment  
26 facility, government agency, or organization that sells or

1 provides merchandise, goods, or materials including, but not  
2 limited to, clothing, food, beverages, household goods, or  
3 personal items of any kind directly to a customer. "Retail  
4 establishment" includes, but is not limited to, department  
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10 "Reusable bag" means a carryout bag with handles that is  
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13 customer for the purpose of transporting goods out of the  
14 establishment that is specifically designed and manufactured  
15 for multiple reuse, has a minimum lifetime capability of 125 or  
16 more uses carrying 22 or more pounds over a distance of at  
17 least 175 feet, and is capable of being washed so as to be  
18 cleaned and disinfected at least 100 times.

19 (b) Except as otherwise provided in this Section, a  
20 municipality may not ban, place a fee or tax on, or regulate in  
21 any other manner the use, disposition, content, taxation, or  
22 sale of auxiliary containers except as provided for in this  
23 Section.

24 (c) A municipality may regulate carryout bags by imposing a  
25 \$0.05 fee on each carryout bag used by a customer at retail  
26 establishments. The retail establishment shall retain \$0.02 of



1 the fee. The retail establishment shall remit the remaining  
2 \$0.03 of the fee to the Department of Revenue on form ST-1 and  
3 the Department of Revenue shall remit the \$0.03 to the  
4 municipality where the retailer is located.

5 If a municipality imposes a fee under this subsection, the  
6 municipality shall use its \$0.03 of the fee to contract with:

7 (i) a governmental entity whose primary function is  
8 environmental protection and that operates permanent or  
9 temporary household hazardous waste facilities; or (ii) a  
10 vendor whose primary function is to collect and process  
11 permanent or temporary household hazardous waste. If a  
12 governmental entity or vendor receives any part of the  
13 municipality's portion of a fee imposed under this Section and  
14 contracts with the municipality to provide a household  
15 hazardous waste collection program, the governmental entity or  
16 vendor must take back at least the following items: oil-based  
17 paints, latex paints, paint thinners, herbicides,  
18 insecticides, pesticides, gasoline, pool chemicals, cleaning  
19 products, mercury, household batteries, used motor oil, oil  
20 filters, drain cleaners, lawn chemicals, solvents, antifreeze,  
21 hobby chemicals, aerosol paints, fluorescent lamp bulbs,  
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23 (d) A municipality that charged a fee or tax on auxiliary  
24 containers on February 1, 2017 may continue to charge the fee  
25 or tax. The municipality is prohibited from further regulating  
26 auxiliary containers, including bags and carryout bags, and

1 from making further changes to the bag fee or bag tax ordinance  
2 in effect on February 1, 2017. However, the municipality may  
3 change its regulations to be consistent with this Section or  
4 eliminate the fee or tax altogether.

5 (e) A home rule municipality may not regulate or impose  
6 fees or taxes on auxiliary containers in a manner inconsistent  
7 with this Section. This Section is a limitation under  
8 subsection (i) of Section 6 of Article VII of the Illinois  
9 Constitution on the concurrent exercise by home rule units of  
10 powers and functions exercised by the State."