



Sen. Terry Link

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10000SB1597sam003

LRB100 08906 AWJ 38677 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 1. Short title. This Act may be cited as the
6 Carryout Bag Fee Act.

7 Section 5. Definition. As used in this Act, "carryout bag"
8 has the meaning given to that term in Section 5-1184 of the
9 Counties Code.

10 Section 10. Carryout Bag Fee Fund.

11 (a) The Carryout Bag Fee Fund is created as a new fund in
12 the State treasury. Moneys in the Fund shall be used as
13 provided in this Act.

14 (b) Notwithstanding any other provision of law, the
15 Carryout Bag Fee Fund is not subject to sweeps, administrative

1 charges or chargebacks, or any other fiscal or budgetary
2 maneuver that would in any way transfer any funds from the
3 Carryout Bag Fee Fund into any other fund of the State.

4 Section 15. Payment of carryout bag fee required. A
5 carryout bag fee of \$0.05 is imposed on each carryout bag used
6 by a customer at retail establishments located within Illinois.
7 The retail establishment shall retain \$0.02 of the fee. The
8 retail establishment shall remit the remaining \$0.03 of the fee
9 to the Department of Revenue on form ST-1. The Department shall
10 deposit \$0.02 into the Carryout Bag Fee Fund and \$0.01 into the
11 General Revenue Fund. The Department of Revenue shall monthly
12 remit the \$0.02 of each fee from the Carryout Bag Fee Fund to
13 the county where the retail establishment is located, except
14 that if a municipal joint action agency is located within the
15 county where the retail establishment is located, the
16 Department of Revenue shall monthly remit to the municipal
17 joint action agency a portion of the fee to the municipal joint
18 action agency based on the location of retail establishments
19 within the municipal joint action agency.

20 Section 20. Use of the carryout bag fee by counties and
21 municipal joint action agencies. The county or municipal joint
22 action agency shall use the revenue received from the carryout
23 bag fee to fund the implementation of the county's or municipal
24 joint action agency's solid waste management plan developed and

1 approved pursuant to the Solid Waste Planning and Recycling
2 Act, which may include entering into a contract with a person
3 who can assist the county with implementing its solid waste
4 management plan. If funds are available after implementing the
5 solid waste management plan, then the fee may also be used for
6 funding grants to encourage market development for recyclables
7 and compost, to collect and manage household hazardous waste,
8 to develop a carryout bag and plastic film recycling program,
9 and to educate residents and businesses on source reduction,
10 reuse, recycling, and composting programs.

11 Section 25. Exemption. The carryout bag fee does not apply
12 to the retail sale or use of carryout bags that are used to
13 carry items purchased pursuant to the Supplemental Nutrition
14 Assistance Program or a similar governmental food assistance
15 program.

16 Section 30. Incorporation by reference. All of the
17 provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 6,
18 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers'
19 Occupation Tax Act that are not inconsistent with this Act, and
20 all provisions of the Uniform Penalty and Interest Act shall
21 apply, as far as practicable, to the subject matter of this Act
22 to the same extent as if such provisions were included in this
23 Act.

1 Section 900. The State Finance Act is amended by adding
2 Section 5.886 as follows:

3 (30 ILCS 105/5.886 new)

4 Sec. 5.886. The Carryout Bag Fee Fund.

5 Section 905. 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,
17 containing, or protecting merchandise, food, or beverages from
18 a food service or retail establishment.

19 "Carryout bag" means a plastic, paper, or compostable bag
20 that is provided by a retail establishment at the checkstand,
21 cash register, point of sale, or other point of departure to a
22 customer for the purpose of transporting goods out of the
23 retail establishment. "Carryout bag" does not include bags used

1 by customers inside stores: to package bulk items, such as
2 fruit, vegetables, nuts, grains, candy; that are used for
3 greeting cards or small hardware items, such as nails and
4 bolts; to contain or wrap frozen foods, meat, or fish, whether
5 prepackaged or not; to contain or wrap flowers or potted
6 plants, or other items where dampness may be a problem; to
7 contain unwrapped prepared foods or bakery goods; to contain
8 prescription drugs; to safeguard public health and safety
9 during the transportation of prepared take-out foods and
10 prepared liquids intended for consumption away from the retail
11 establishment; that are newspaper bags, door-hanger bags,
12 reusable bags, laundry-dry cleaning bags; or that are bags with
13 a retail price of at least \$0.50 each.

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

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

1 establishment" does not include food banks and other food
2 assistance programs, mobile food delivery, or restaurants.

3 "Reusable bag" means a carryout bag with handles that is
4 provided by a retail establishment at the checkstand, cash
5 register, point of sale, or other point of departure to a
6 customer for the purpose of transporting goods out of the
7 establishment that is specifically designed and manufactured
8 for multiple reuse, has a minimum lifetime capability of 125 or
9 more uses carrying 22 or more pounds over a distance of at
10 least 175 feet, and is capable of being washed so as to be
11 cleaned and disinfected at least 100 times.

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

16 (c) Subsection (b) may not be construed to prohibit or
17 restrict any of the following:

18 (1) A curbside recycling program.

19 (2) A designated residential or commercial recycling
20 location.

21 (3) A commercial recycling program.

22 (4) The use of auxiliary containers on property owned
23 by a unit of local government.

24 (d) A county that charged a fee or tax on auxiliary
25 containers on February 1, 2018 may continue to charge the fee
26 or tax. The county is prohibited from further regulating

1 auxiliary containers, including bags and carryout bags, and
2 from making further changes to the bag fee or bag tax ordinance
3 in effect on February 1, 2018. However, the county may change
4 its regulations to be consistent with this Section or eliminate
5 the fee or tax altogether.

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

12 Section 910. The Illinois Municipal Code is amended by
13 adding Section 11-42-17 as follows:

14 (65 ILCS 5/11-42-17 new)

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

16 (a) As used in this Section:

17 "Auxiliary container" means a bag, carryout bag, cup,
18 bottle, or other packaging that is designed to be reusable or
19 for single use; that is made of cloth, paper, plastic,
20 cardboard, corrugated material, aluminum, glass, extruded
21 polystyrene, postconsumer recycled material, or similar
22 material or substrates, including coated, laminated, or
23 multi-layer substrates; and that is designed for transporting,
24 containing, or protecting merchandise, food, or beverages from

1 a food service or retail establishment.

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

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

23 "Retail establishment" means any person, corporation,
24 partnership, business venture, public sports, or entertainment
25 facility, government agency, or organization that sells or
26 provides merchandise, goods, or materials including, but not

1 limited to, clothing, food, beverages, household goods, or
2 personal items of any kind directly to a customer. "Retail
3 establishment" includes, but is not limited to, department
4 stores, clothing stores, jewelry stores, grocery stores,
5 pharmacies, home improvement stores, liquor stores,
6 convenience stores, gas stations, and farmers markets. "Retail
7 establishment" does not include food banks and other food
8 assistance programs, mobile food delivery, or restaurants.

9 "Reusable bag" means a carryout bag with handles that is
10 provided by a retail establishment at the checkstand, cash
11 register, point of sale, or other point of departure to a
12 customer for the purpose of transporting goods out of the
13 establishment that is specifically designed and manufactured
14 for multiple reuse, has a minimum lifetime capability of 125 or
15 more uses carrying 22 or more pounds over a distance of at
16 least 175 feet, and is capable of being washed so as to be
17 cleaned and disinfected at least 100 times.

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

23 (c) Subsection (b) may not be construed to prohibit or
24 restrict any of the following:

25 (1) A curbside recycling program.

26 (2) A designated residential or commercial recycling

1 location.

2 (3) A commercial recycling program.

3 (4) The use of auxiliary containers on property owned
4 by a unit of local government.

5 (d) A municipality that charged a fee or tax on auxiliary
6 containers on February 1, 2018 may continue to charge the fee
7 or tax. The municipality is prohibited from further regulating
8 auxiliary containers, including bags and carryout bags, and
9 from making further changes to the bag fee or bag tax ordinance
10 in effect on February 1, 2018. However, the municipality may
11 change its regulations to be consistent with this Section or
12 eliminate the fee or tax altogether.

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