



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3423

Introduced 2/14/2020, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.930 new

55 ILCS 5/5-1186 new

65 ILCS 5/11-42-17 new

Creates the Carryout Bag Fee Act. Provides that a carryout bag fee of \$0.10 is imposed on each carryout bag used by a customer at retail establishments, except in municipalities with a population greater than 1,000,000, with \$0.03 being returned to the retail establishment, \$0.04 into the Carryout Bag Fee Fund, \$0.01 to the Prairie Research Institute of the University of Illinois, \$0.01 into the Solid Waste Management Fund, and \$0.01 into the Partners for Conservation Fund. Provides that the carryout bag fee does not apply to the retail sale or use of carryout bags that are used to carry items purchased under specified governmental food assistance programs. Repeals the new Act on January 1, 2026. Amends the State Finance Act making conforming changes. Amends the Counties Code and Illinois Municipal Code. Provides that a county or municipality may not ban, place a fee or tax on, or regulate in any other manner the use, disposition, content, taxation, or sale of carryout bags. Limits the applicability of the provisions as they relate to a county or municipality that charged a fee or tax on carryout bags on May 1, 2020 and specified recycling programs. Limits home rule powers.

LRB101 17232 AWJ 66636 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Carryout Bag Fee Act.

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

9 Section 10. Carryout Bag Fee Fund.

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

13 (b) Notwithstanding any other provision of law, the
14 Carryout Bag Fee Fund is not subject to sweeps, administrative
15 charges or chargebacks, or any other fiscal or budgetary
16 maneuver that would in any way transfer any funds from the
17 Carryout Bag Fee Fund into any other fund of the State.

18 Section 15. Payment of carryout bag fee required. A
19 carryout bag fee of \$0.10 is imposed on each carryout bag used
20 by a customer at retail establishments located within Illinois,
21 except in municipalities with a population greater than

1 1,000,000, that shall be paid by the customer. The ultimate
2 incidence and liability for payment of the fee is to be borne
3 by the customer. The fee shall be separately stated on the
4 receipt provided to the customer at the time of sale and shall
5 be identified as the Carryout Bag Fee. It is a violation of
6 this Section for the store to fail to separately itemize the
7 fee on a customer's purchase of such a bag, or to otherwise
8 absorb the fee on such sale. The retail establishment shall
9 retain \$0.03 of the fee. The retail establishment shall remit
10 the remaining \$0.07 of the fee to the Department of Revenue on
11 form ST-1. The Department shall deposit \$0.04 into the Carryout
12 Bag Fee Fund, \$0.01 to the Prairie Research Institute of the
13 University of Illinois, \$0.01 into the Solid Waste Management
14 Fund, and \$0.01 into Partners for Conservation Fund. The
15 Department of Revenue shall monthly remit the \$0.03 of the fee
16 from the Carryout Bag Fee Fund to the county where the retail
17 establishment is located, except that if a municipal joint
18 action agency is located within the county where the retail
19 establishment is located, the Department of Revenue shall
20 monthly remit to the municipal joint action agency a portion of
21 the fee to the municipal joint action agency based on the
22 location of retail establishments within the municipal joint
23 action agency.

24 Section 20. Use of the carryout bag fee by counties and
25 municipal joint action agencies. The county or municipal joint

1 action agency shall use the revenue received from the carryout
2 bag fee to fund:

3 (1) household hazardous waste collection one-day
4 events;

5 (2) collection centers, as defined in Section 3 of the
6 Household Hazardous Waste Collection Program Act;

7 (3) education programs to reduce contamination and
8 increase participation in recycling and composting
9 programs;

10 (4) programs to increase the collection and recycling
11 or composting of auxiliary containers;

12 (5) grants to encourage market development or
13 infrastructure development for recycling and composting;
14 and

15 (6) the implementation of solid waste management plans
16 developed pursuant to the Solid Waste Planning and
17 Recycling Act.

18 At least 25% of the revenue received from the carryout bag
19 fee shall be used as specified in items (1) and (2).

20 Section 25. Exemption. The carryout bag fee does not apply
21 to the retail sale or use of carryout bags that are used to
22 carry items purchased pursuant to the Supplemental Nutrition
23 Assistance Program or a similar governmental food assistance
24 program.

1 Section 30. Incorporation by reference. All of the
2 provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5j, 6,
3 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers'
4 Occupation Tax Act that are not inconsistent with this Act, and
5 all provisions of the Uniform Penalty and Interest Act shall
6 apply, as far as practicable, to the subject matter of this Act
7 to the same extent as if such provisions were included in this
8 Act.

9 Section 35. Repeal. This Act is repealed on January 1,
10 2026.

11 Section 900. The State Finance Act is amended by adding
12 Section 5.930 as follows:

13 (30 ILCS 105/5.930 new)

14 Sec. 5.930. The Carryout Bag Fee Fund.

15 Section 905. The Counties Code is amended by adding Section
16 5-1186 as follows:

17 (55 ILCS 5/5-1186 new)

18 Sec. 5-1186. Carryout bags.

19 (a) As used in this Section:

20 "Carryout bag" means a plastic, paper, or compostable bag
21 that is provided by a retail establishment at the checkout,

1 cash register, point of sale, or other point of departure to a
2 customer for the purpose of transporting goods out of the
3 retail establishment.

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

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

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

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 (d) A county that charged a fee or tax on carryout bags on
4 May 1, 2020 may continue to charge the fee or tax. The county
5 is prohibited from further regulating carryout bags and from
6 making further changes to the bag fee or bag tax ordinance in
7 effect on May 1, 2020. However, the county may change its
8 regulations to be consistent with this Section.

9 (e) No mistakes by the employee or retailer regarding the
10 charging of fees under this Section shall be the basis for
11 filing an action by a private person under the Illinois False
12 Claims Act.

13 (f) A home rule county may not ban, place a fee or tax on,
14 or regulate in any other manner the use, disposition, content,
15 taxation, or sale of carryout bags, except as provided for in
16 this Section. This Section is a denial and limitation of home
17 rule powers and functions under subsection (g) of Section 6 of
18 Article VII of the Illinois Constitution.

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

21 (65 ILCS 5/11-42-17 new)

22 Sec. 11-42-17. Carryout bags.

23 (a) As used in this Section:

24 "Carryout bag" means a plastic, paper, or compostable bag

1 that is provided by a retail establishment at the checkout,
2 cash register, point of sale, or other point of departure to a
3 customer for the purpose of transporting goods out of the
4 retail establishment.

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

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

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

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

26 (1) A curbside recycling program.

1 (2) A designated residential or commercial recycling
2 location.

3 (3) A commercial recycling program.

4 (d) A municipality that charged a fee or tax on carryout
5 bags on May 1, 2020 may continue to charge the fee or tax. The
6 municipality is prohibited from further regulating carryout
7 bags and from making further changes to the bag fee or bag tax
8 ordinance in effect on May 1, 2020. However, the municipality
9 may change its regulations to be consistent with this Section.

10 (e) No mistakes by the employee or retailer regarding the
11 charging of fees under this Section shall be the basis for
12 filing an action by a private person under the Illinois False
13 Claims Act.

14 (f) Except in municipalities with a population greater than
15 1,000,000, a home rule municipality may not ban, place a fee or
16 tax on, or regulate in any other manner the use, disposition,
17 content, taxation, or sale of carryout bags, except as provided
18 for in this Section. This Section is a denial and limitation of
19 home rule powers and functions under subsection (g) of Section
20 6 of Article VII of the Illinois Constitution.